

Temporary Access Agreement for the Shore Protection Project, Segment III

This Temporary Access Agreement ("Agreement") is entered and entered into this 10 day of February, between the City of Hallandale Beach, a municipal corporation of the State of Florida, whose address is 400 S Federal Hwy, Florida 33009 ("City"), and Broward County, a political subdivision of the State of Florida, whose address is 115 South Andrews Avenue, Fort Lauderdale, Florida 33301 ("County") (each a "Party" and collectively referred to as the "Parties").

RECITALS

A. City is the owner of the real properties located in Broward County, Florida described in Composite Exhibit A, consisting of the description and map of the properties, attached hereto and made a part hereof ("Property").

B. Florida Department of Environmental Protection issued the County Consolidated Joint Coastal Permit and Sovereign Submerged Lands Authorization (Permit number 0163435-015-JC) to perform beach tilling and escarpment removal, which are a component of the County's beach renourishment and restoration activities, at various locations, including City's Property.

C. County desires temporary access on, over, across, and through the Property for the purpose of facilitating the beach tilling and escarpment removal components of a federally authorized beach restoration project, commonly known as the "Shore Protection Project, Segment III."

D. City desires to grant such access to County in accordance with the terms set forth herein so that County may help facilitate and complete the Shore Protection Project, Segment III.

NOW, THEREFORE, in consideration of the sum of ONE AND NO/100 DOLLARS (\$1.00), the mutual promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The foregoing recitals are true and correct and such recitals are incorporated herein by reference.
2. Grant of Access. City hereby grants unto County, its contractors, subcontractors, consultants, and employees access on, over, across, and through the Property to perform beach tilling and escarpment removal as well as inspection and monitoring of the same and any incidental uses necessary thereto, during the term of this Agreement as such term is hereinafter described. Specifically, the County is authorized to till and remove the escarpment on the beach areas denoted by the green/blue/red lines on Exhibit A.
 - a. County and its contractors, subcontractors, consultants, and employees are authorized to access the beach at the beach access points designated in Exhibit A and marked on the accompanying map. These locations are locked at night. City shall provide County with keys to access the property. The County's Beach Program Manager shall work with the City to identify the number of keys necessary for it and its contractors, subcontractors, consultants, and employees to conduct the tilling and escarpment removal work.

- b. Storing and staging locations are not needed as of the Effective Date of this Agreement. However, if during the course of the project, County determines that storing and staging locations are necessary, the Parties may amend this Agreement, in accordance with Paragraph 13, to authorize County and its contractors, subcontractors, consultants, and employees to store and stage vehicles and equipment necessary for the tilling and escarpment removal at specified locations.
3. Term. The Agreement shall be effective as of the date it is fully executed by the Parties ("Effective Date") and shall continue until November 1, 2027, or the beach tilling is completed, whichever occurs first.
4. Obligation to Restore. If the Property or any property located thereon is damaged by County or County's contractors, subcontractors, consultants, or employees as a result of their entry upon or use of the Property, County shall, at its expense, promptly and with due diligence restore and repair the damaged portion(s) of the Property or property located thereon to the same condition as existed prior to County's use of the Property.
5. Termination. This Agreement may be terminated:
 - a. By either Party with at least sixty (60) calendar days advance written notice to the other Party.
 - b. For cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved Party identifying the breach. If County erroneously, improperly, or unjustifiably terminates this Agreement for cause, such termination shall be deemed a termination for convenience in accordance with Section 5(c).
 - c. For convenience by Broward County Board of County Commissioners with at least thirty (30) calendar days advance written notice to City. City acknowledges that it has received good, valuable, and sufficient consideration for County's right to terminate this Agreement for convenience including in the form of County's obligation to provide advance notice to City of such termination in accordance with this section.
 - d. By the Broward County Administrator ("County Administrator") upon such notice as the County Administrator deems appropriate under the circumstances if the County Administrator determines that termination is necessary to protect the public health, safety, or welfare.

Notice of termination shall be provided in accordance with the "Notices" section of this Agreement except that notice of termination by the County Administrator to protect the public, health, safety, or welfare may be oral notice that shall be promptly confirmed in writing.

In addition to any termination rights stated in this Agreement, County shall be entitled to seek any and all available contractual or other remedies available at law or in equity including recovery of costs incurred by County due to City's failure to comply with any term(s) of this Agreement.

6. Insurance. The Parties are entities subject to Section 768.28, Florida Statutes. County will maintain a fiscally sound and prudent risk management program with regard to its obligations under this Agreement in accordance with the provisions of Section 768.28, Florida Statutes. Upon request, County shall provide written verification of liability protection in accordance with state law. Prior to any County contractor, subcontractor, or consultant using the Property, County shall require such contractor, subcontractor, or consultant to provide insurance coverage with minimum limits of coverage indicated in Exhibit B, and naming County and City as additional insureds on the commercial general liability and business automobile liability policies.

7. Governmental Immunity and Liability. Except to the extent sovereign immunity may be deemed waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by either Party nor shall anything included herein be construed as consent by either Party to be sued by a third party in any matter arising out of this Agreement. Each Party is a state agency or political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible for the acts and omissions of its agents or employees to the extent required by applicable law. County will include indemnification language, substantially in the form below, in all contracts whereby County allows a party to access the Property pursuant to this Agreement:

Contractor shall at all times hereafter indemnify, hold harmless and, at the County Attorney's option, defend or pay for an attorney selected by the County Attorney to defend County and City, or their officers, agents, servants, and employees (collectively and individually "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by any intentional, negligent, or reckless act of, or omission of, Contractor, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against an Indemnified Party by reason of any such claim, cause of action, or demand, Contractor shall, upon written notice from County, resist and defend such lawsuit or proceeding by counsel satisfactory to County or, at County's option, pay for an attorney selected by County Attorney to defend County and City. The obligations of this section shall survive the expiration or earlier termination of this Agreement.

8. Disruption. County will require all contractors, subcontractors, and consultants to utilize their best efforts to minimize impacts and disruption to City's Property and surrounding areas.

9. Notice. Whenever either Party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following:

For County:

Real Property Section
Broward County Governmental Center, Room 326
115 South Andrews Avenue
Fort Lauderdale, Florida 33301

For City:

City Manager
400 S Federal Hwy
Hallandale Beach, Florida 33009

9. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Agreement are contained herein.
10. Joint Preparation. This Agreement has been jointly prepared by the Parties and shall not be construed more strictly against either Party.
11. Multiple Originals and Counterparts. This Agreement may be executed in multiple originals or in counterparts, whether signed physically or electronically; each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same agreement.
12. Further Assurances. The Parties shall execute all such instruments, and agree to take all such further actions, that may be reasonably required by any Party to fully effectuate the terms and provisions of this Agreement.
13. Amendments. The Contract Administrator is authorized to amend this Agreement to modify the access and staging locations if Parties reasonably determine the access and staging locations identified in Exhibit A are unsuitable. Unless expressly authorized herein, no modification, amendment, or alternation of any portion of this Agreement is effective unless contained in a written document executed with the same or similar formality as this Agreement and by duly authorized representatives of the City and County.
14. Survival. Either Party's right to monitor, evaluate, enforce, audit, and review, any obligations to indemnify and insure, any assurances and certifications, and items of financial responsibility shall survive the expiration or earlier termination of this Agreement but shall expire upon expiration of the statute of limitation as to that particular matter. Any provision of this Agreement which contains a restriction or requirement which extends beyond the date of termination or expiration set forth herein shall survive expiration or earlier termination of this Agreement and be enforceable but shall expire upon expiration of the statute of limitation as to that particular matter.
15. Independent Contractor. Each Party is an independent contractor under this Agreement, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing services, neither that Party nor its agents shall act as officers, employees, or agents of the other Party. The Parties shall not have the right to bind either Party to any obligation not expressly undertaken by that Party under this Agreement.

16. Third Party Beneficiaries. Neither Party intends to primarily or directly benefit a third party by this Agreement. Therefore, the Parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

17. Assignment. Neither this Agreement nor any right or interest herein may be assigned by either Party without the prior written consent of the other Party. This provision shall not be construed to prohibit County from allowing others performing services for County to use the Property; such use, however, shall not confer any right of the other Party to claim any rights under this Agreement. If a Party violates this provision, the other Party shall have the right to immediately terminate this Agreement.

18. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term. City's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or a modification of this Agreement. A waiver of any breach shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

19. Compliance with Laws. Each party shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations.

20. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

21. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated.

22. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision within an article or section of this Agreement, the article or section shall prevail and be given effect.

23. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of

Florida. **BY ENTERING INTO THIS AGREEMENT, CITY AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

24. Incorporation by Reference. The attached exhibits are incorporated into and made a part of this Agreement.

25. Force Majeure. If the performance of this Agreement, or any obligation hereunder, is prevented by reason of hurricane, earthquake, or other casualty caused by nature, epidemic, pandemic, or other public health emergency, or by labor strike, war, or by a law, order, proclamation, regulation, ordinance of any governmental agency (collectively, "Force Majeure Event"), the Party so affected, upon giving prompt notice to the other Party, shall be excused from such performance to the extent of such prevention, provided that the affected Party shall first have taken reasonable steps to avoid and remove such cause of non-performance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other Party in writing and resume performance hereunder whenever such causes are removed; provided, however, that if such inability to perform due to the Force Majeure Event exceeds sixty (60) consecutive days, the Party that was not prevented from performance by the Force Majeure Event has the right to terminate this Agreement upon written notice to the other Party. This section shall not supersede or prevent the exercise of any right either Party may otherwise have to terminate this Agreement.

26. Representation of Authority. Each individual executing this Agreement on behalf of a Party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such Party and does so with full legal authority.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: Broward County, through its Board of County Commissioners, signing by and through its County Administrator, authorized to execute same by Board action on the 28th day of January, 2025 and City of Hallandale Beach, signing by and through its duly authorized representative.

COUNTY

BROWARD COUNTY, by and through
its County Administrator

By: [Signature]
County Administrator

10th day of February, 2025

Approved as to form by
Andrew J. Meyers
Broward County Attorney
115 South Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

By Jennifer Brown Digitally signed by Jennifer Brown
Date: 2025.01.31
16:12:09 -05'00'
Jennifer D. Brown (Date)
Senior Assistant County Attorney

By MAITE AZCOITIA Digitally signed by MAITE AZCOITIA
Date: 2025.01.31
16:27:25 -05'00'
Maite Azcoitia (Date)
Deputy County Attorney



JDB/gmb
___/___/2024
#

Temporary Access Agreement for the Shore Protection Project, Segment III

CITY

City of Hallandale Beach, a
Florida Municipal Corporation

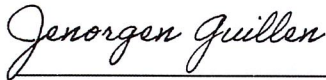


ATTEST:

By: Jeremy Earle (Jan 29, 2025 17:01 EST)

Dr. Jeremy Earle, CITY MANAGER

___ day of January, 2025



Jenorgen Guillen, CITY CLERK

I HEREBY CERTIFY that I have approved this
Agreement as to form and legal sufficiency
subject to execution by the parties:



Jennifer Merino, CITY ATTORNEY

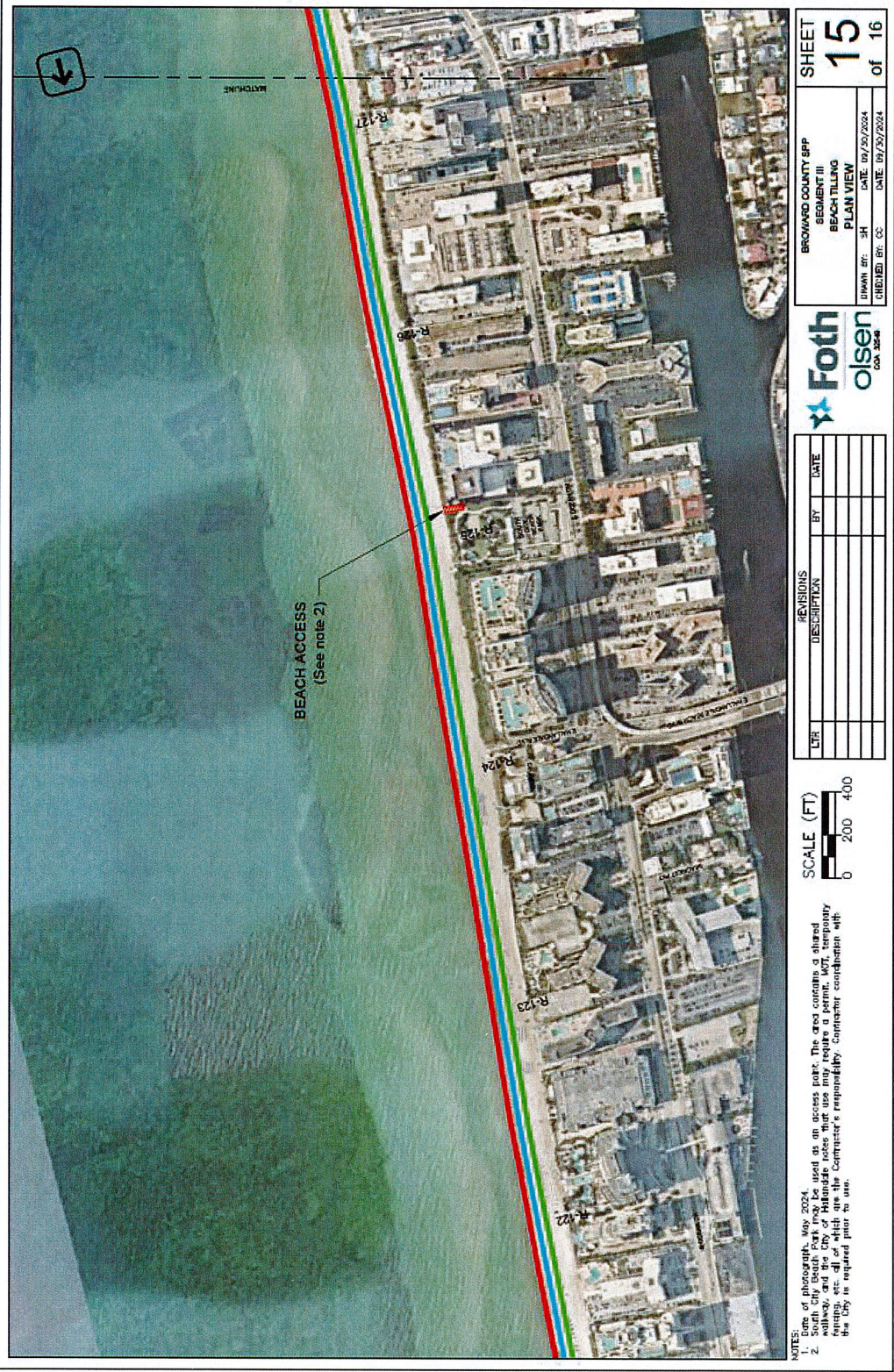
Exhibit A
Property

BEACH TILLING LOCATION:

The sandy beach above the mean high water line to the easternmost edge of the dune vegetation, seawall, or other structure from Florida Department of Environmental Protection FDEP Range Monument (R) 124 to R-128.

BEACH ACCESS LOCATIONS:

- Along the southern property line of South City Beach Park, located at 1870 South Ocean Drive, Hallandale Beach, Hallandale FL 33009.



NOTES:
1. Date of photograph: May 2024.
2. This map is intended to be used as an access plan. The area contains a shared roadway and the City of Hollywood does not have a permit to use the area for parking, etc. all of which are the Contractor's responsibility. Contractor coordination with the City is required prior to use.

SCALE (FT)
0 200 400

DATE	DESCRIPTION	BY	DATE

Foth
olsen
CDA 32546

BROWARD COUNTY SPP
SEGMENT III
BEACH TILLING
PLAN VIEW
DRAWN BY: JH
CHECKED BY: CC
DATE: 09/30/2024
DATE: 09/30/2024
SHEET
15
of 16

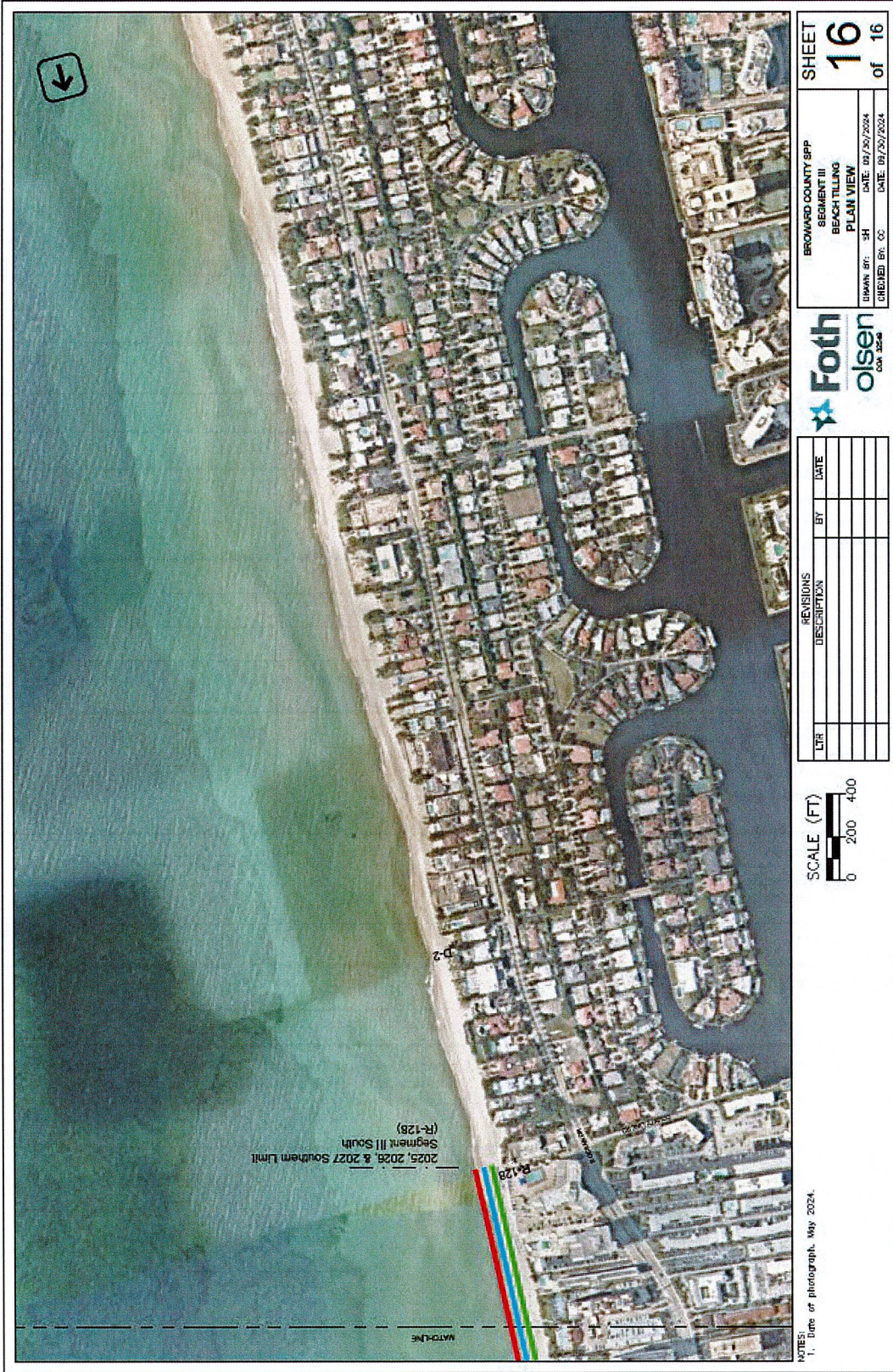


Exhibit B
Minimum Insurance Requirements

INSURANCE REQUIREMENTS

Project: Segments II and III Beach Tilling and Escarpment Removal
Agency: Resilient Environment Department

TYPE OF INSURANCE	ADDL INSD	SUBR WVD	MINIMUM LIABILITY LIMITS		
				Each Occurrence	Aggregate
GENERAL LIABILITY - Broad form ☒ Commercial General Liability ☒ Premises-Operations ☒ XCU - Explosion/Collapse/Underground ☒ Products/Completed Operations Hazard ☒ Contractual Insurance ☒ Broad Form Property Damage ☒ Independent Contractors ☒ Personal Injury ☒ Protection and Indemnity Per Occurrence or Claims-Made: ☒ Per Occurrence ☐ Claims-Made Gen'l Aggregate Limit Applies per: ☐ Project ☐ Policy ☐ Loc. ☐ Other _____	☒	☒	Bodily Injury		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$1,000,000	\$2,000,000
			Personal Injury		
			Products & Completed Operations		
AUTO LIABILITY ☒ Comprehensive Form ☒ Owned ☒ Hired ☒ Non-owned ☒ Any Auto, If applicable <i>Note: May be waived if no driving will be done in performance of services/project.</i>			Bodily Injury (each person)		
			Bodily Injury (each accident)		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$1,000,000	
☒ EXCESS LIABILITY / UMBRELLA Per Occurrence or Claims-Made: ☒ Per Occurrence ☐ Claims-Made <i>Note: May be used to supplement minimum liability coverage requirements.</i>				\$2,000,000	
☒ WORKER'S COMPENSATION <i>Note: U.S. Longshoremen & Harbor Workers' Act & Jones Act is required for any activities on or about navigable water.</i>	N/A	☒	Each Accident	STATUTORY LIMITS	
☒ EMPLOYER'S LIABILITY			Each Accident	\$500,000	
☒ POLLUTION/ENVIRONMENTAL LIABILITY			Each Claim:	\$1,000,000	
			*Maximum Deductible:	\$10,000	
Description of Operations: Broward County is additional insured for liability. Insured's insurance shall provide primary coverage and shall not require contribution from the County, self-insurance or otherwise. Waiver of subrogation applies in favor of Broward County. For Claims-Made policies insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work.					

CERTIFICATE HOLDER:

Broward County
115 South Andrews Avenue
Fort Lauderdale, Florida 33301

Digitally signed by
COLLEEN
POUNALL
Date: 2024.12.11
13:14:30 -05'00'
Risk Management Division

1
2 **RESOLUTION NO. 2025 - 001**

3
4 **A RESOLUTION OF THE MAYOR AND CITY**
5 **COMMISSION OF THE CITY OF HALLANDALE**
6 **BEACH, FLORIDA, AUTHORIZING EXECUTION OF**
7 **TEMPORARY ACCESS AGREEMENT WITH**
8 **BROWARD COUNTY FOR COMPLETION OF**
9 **SEGMENT III OF THE BROWARD COUNTY SHORE**
10 **PROTECTION PROJECT; AND PROVIDING FOR AN**
11 **EFFECTIVE DATE.**
12

13
14 **WHEREAS,** the Broward County Shore Protection Project ("Project") is a
15 federal public works project administered by Broward County and funded by federal,
16 county, and municipal governments to restore the county's beaches and protect the
17 shoreline; and
18

19 **WHEREAS,** Segment III of the Project will place sand along the shoreline of
20 Dr. Von D. Mizell-Eula Johnson State Park, Dania, Hollywood, and Hallandale
21 beaches to provide protection to upland properties from storm waves, ensure
22 adequate recreational beach space, and enhance environmental and aesthetic
23 functions, including increasing sea turtle nesting habitat; and
24

25 **WHEREAS,** the design and full completion of Segment III is expected to last
26 approximately two years; and
27

28
29 **WHEREAS,** for the construction to proceed, Broward County will need access
30 to bring sand and equipment onto the beach and has requested a temporary access
31 agreement for this Project; and
32

33
34 **WHEREAS,** it is in the best interest of the City to execute the attached
35 Temporary Access Agreement for Shore Projection Project, Segment III, incorporated
36 herein as Exhibit "A," to facilitate advancement of the project.

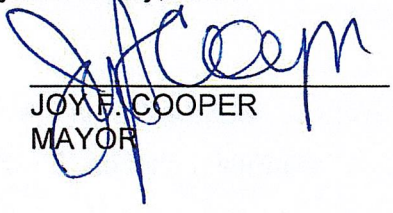
37 NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY
38 COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA:

39
40 **SECTION 1.** The foregoing "Whereas" clauses are incorporated herein.

41
42 **SECTION 2.** The Mayor and City Commission hereby authorize execution of
43 Temporary Access Agreement for Shore Protection Project, Segment III, with Broward
44 County, together with such changes as may be subsequently agreed to by the City
45 and County, and approved as to form and legal sufficiency by the City Attorney.

46
47 **SECTION 3.** This Resolution shall take effect immediately upon its passage
48 and adoption.

49 APPROVED AND ADOPTED this 8th day of January, 2025.

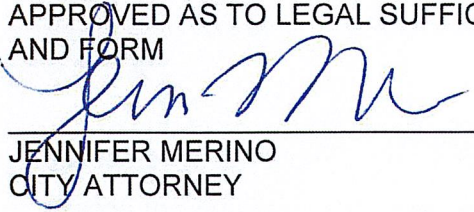
50
51
52 
53 JOY F. COOPER
54 MAYOR

55 SPONSORED BY: CITY ADMINISTRATION

56 ATTEST: 

57
58
59 JENORGEN GUILLEN
60 CITY CLERK

61
62 APPROVED AS TO LEGAL SUFFICIENCY
63 AND FORM

64 
65
66 JENNIFER MERINO
67 CITY ATTORNEY
68

FINAL VOTE ON ADOPTION

Mayor Cooper	<u>Yes</u>
Vice Mayor Lazarow	<u>Yes</u>
Commissioner Adams	<u>Yes</u>
Commissioner Butler	<u>Yes</u>
Commissioner Lima-Taub	<u>Absent</u>

2025-01-29 Shore Protection Project, Segment III- Access Agreement

Final Audit Report

2025-01-29

Created:	2025-01-29
By:	Alejandro Macias (amacias@cohb.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAABTfhj6PDOY_3FL3THtaiflBMKm-jW-0j

"2025-01-29 Shore Protection Project, Segment III- Access Agreement" History

-  Document created by Alejandro Macias (amacias@cohb.org)
2025-01-29 - 8:23:56 PM GMT
-  Document emailed to Jeremy Earle (jearle@cohb.org) for signature
2025-01-29 - 8:24:07 PM GMT
-  Email viewed by Jeremy Earle (jearle@cohb.org)
2025-01-29 - 10:01:14 PM GMT
-  Document e-signed by Jeremy Earle (jearle@cohb.org)
Signature Date: 2025-01-29 - 10:01:30 PM GMT - Time Source: server
-  Document emailed to Jenorgen Guillen (jguillen@cohb.org) for signature
2025-01-29 - 10:01:31 PM GMT
-  Email viewed by Jenorgen Guillen (jguillen@cohb.org)
2025-01-29 - 10:01:55 PM GMT
-  Document e-signed by Jenorgen Guillen (jguillen@cohb.org)
Signature Date: 2025-01-29 - 10:03:59 PM GMT - Time Source: server
-  Agreement completed.
2025-01-29 - 10:03:59 PM GMT