

TREASURE COAST REGIONAL PLANNING COUNCIL

MEMORANDUM

To: Council Members

AGENDA ITEM 8L

From: Staff

Date: May 20, 2016 Council Meeting

Subject: Intergovernmental Coordination and Review Log

The Intergovernmental Coordination and Review process serves, in part, as an early warning system for the federal government to determine if a federally funded project or program is consistent with plans and ongoing community initiatives of local governments and the regional planning council. The review process is intended to inform the applicant of potential concerns or inconsistencies regarding the proposed activity. Council's statutory role is to coordinate the state's required review at the local level. Council has requested comments from potentially affected local governments in an effort to avoid duplication of efforts, funding, services, and to ensure the efficient use of resources. The attached Intergovernmental Coordination and Review Log presents a summary and recommendations on the following applications:

TCRPC Number	Project Description	Applicant	Funding Agency	Federal Funding Requested	Total Funding
16-SL-03-01	Draft Environmental Assessment - Ten Mile Creek Preserve Area Critical Project Transfer	U.S. Army Corps of Engineers	None	N/A	N/A
16-PB-03-02	5311 Federal Funding for Operating Assistance	Palm Beach County	Federal Transit Administration	\$307,535	\$615,070
16-PB-03-03	Community Development Block Grant Consolidated Plan	Palm Beach Gardens	U.S. Department of Housing and Urban Development	\$177,740	\$177,740
16-FL-03-04	Proposed Rule for Negotiated Noncompetitive Agreements for Use of Outer Continental Shelf Sand, Gravel and Shell Resources	Bureau of Ocean Energy Management	None	N/A	N/A
16-MC-04-01	Community Development Block Grant – Housing Rehabilitation	Martin County	U.S. Department of Housing and Urban Development	\$750,000	\$750,000
Total				\$1,235,275	\$1,542,810

Recommendation

Council should approve the comments in the attached report and authorize their distribution.

Attachments

**TREASURE COAST REGIONAL PLANNING COUNCIL
INTERGOVERNMENTAL COORDINATION AND REVIEW LOG**

TCRPC Number: 16-SL-03-01 SAI#FL201602257564C

Applicant: U.S. Army Corps of Engineers

Project Description: Draft Environmental Assessment – Ten Mile Creek Water Preserve Area Critical Project Transfer

The U.S. Army Corps of Engineers (Corps) has submitted a draft Environmental Assessment (EA) for the Ten Mile Creek Water Preserve Area Critical Project Transfer. The Ten Mile Creek project is an above ground reservoir located in St. Lucie County. The project was authorized by the Water Resources Development Act of 1996 and construction was completed in 2006. In December 2015, the Corps was directed by the Consolidated Appropriations Act of 2016 to transfer the project to the non-federal sponsor, the South Florida Water Management District (SFWMD). Upon execution of the transfer agreement, the Ten Mile Creek project will no longer be federally authorized. The transfer agreement requires SFWMD to operate the project as an environmental restoration project to provide water storage and water treatment options. The draft EA describes the effects of the transfer and de-authorization of the project.

The Ten Mile Creek project was designed to capture and retain water for gradual release into Ten Mile Creek, which flows west to east across on the north side of the project. The project was designed to provide water quality improvements in Ten Mile Creek and regulate the delivery of fresh water to the North Fork of the St. Lucie River and Indian River Lagoon. The original intent was for the reservoir to capture peak stormwater flows from Ten Mile Creek and route them to a stormwater treatment area. The water would then be released back to the creek to moderate salinity levels in the downstream river and estuaries.

During project testing and monitoring in 2012, the Corps identified significant design and construction-related problems. The reservoir has been drawn down to minimize the potential risks to public health, safety, and property damage. The project cannot be operated as originally designed. However, the proposed transfer of the project requires SFWMD to operate the project to provide a portion of the original purpose and benefits of the project. These include: 1) capturing and storing stormwater runoff during wet periods to reduce excessive freshwater flows to the St. Lucie River and Estuary; and 2) treatment of water in the storm water treatment area to improve water quality before releasing it back to Ten Mile Creek during dryer periods. Any further

changes in the project features or operation after the project is transferred will be addressed by SFWMD in subsequent permitting actions.

The option of full remediation of the project would require structural fixes necessary to enable the reservoir to obtain maximum operating water levels. This alternative was not fully evaluated in the EA, because it is contrary to the direction from Congress and is not supported by the SFWMD. The draft EA concluded the proposed transfer of the project will not significantly impact quality of the human environment and does not require a full Environmental Impact Statement to be prepared in accordance with the National Environmental Policy Act.

Funding Agency: N/A

Estimated Funding: N/A

Recommendations: No adverse effects on regional resources or facilities and no extrajurisdictional impacts have been identified. The proposed project is consistent with Resolution #16-01 adopted by Council on February 19, 2016, and Council's top 2016 legislative priority to restore the Everglades and eliminate harmful freshwater discharges to the region's estuaries and lagoons. Council offers its appreciation to everyone involved with accomplishing the project transfer.

Agencies Contacted: Martin County
St. Lucie County
City of Fort Pierce
City of Port St. Lucie
Town of St. Lucie Village



Ten Miles Creek Water Preserve Area Local Map



Project Layout

TREASURE COAST REGIONAL PLANNING COUNCIL

2016 Legislative Priorities

Restore the Everglades and Eliminate Harmful Freshwater Discharges into the St. Lucie River Estuary and Indian River and Lake Worth Lagoons



Legislative Initiatives in Support of these Priorities Include:

- significantly increasing the long-term use of Land Acquisition Trust Fund (Amendment 1) monies for Everglades restoration, including bonding these monies;
- restoring historic flows south to Everglades National Park;
- creating significant additional storage in the Caloosahatchee and St. Lucie River/Indian River Lagoon Estuary basins;
- establishing water management system interconnections between the St. Johns River Water Management District and South Florida Water Management District beneficial to Everglades and regional estuary restoration, and protection of the Region's drinking water supply;
- creating significant additional storage in the Northern and Southern Everglades;
- adequately funding local government efforts to comply with Total Maximum Daily Load regulations and targets contained in the Florida Department of Environmental Protection Basin Management Action Plans;
- supporting local and regional efforts to increase water storage, aquifer recharge and the health and longevity of the Region's ground and surface fresh water supply;
- better managing Lake Okeechobee and improving the Herbert Hoover Dike;
- increasing freshwater flows to the Northwest Fork of the Loxahatchee River; and
- increase funding for and reduce the cost of converting coastal septic systems to central sewer systems and provide incentives for property owners and local governments to encourage conversions.

FOR ADDITIONAL INFORMATION:

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TREASURE COAST REGIONAL PLANNING COUNCIL
Palm Beach • Martin • St. Lucie • Indian River

RESOLUTION #16-01

A RESOLUTION OF THE TREASURE COAST REGIONAL PLANNING COUNCIL REPRESENTING THE 54 LOCAL GOVERNMENTS OF INDIAN RIVER, MARTIN, PALM BEACH, AND ST. LUCIE COUNTIES, FLORIDA SUPPORTING HOUSE BILL 989 AND SENATE BILL 1168 FOR EVERGLADES RESTORATION AND REDUCING HARMFUL FRESHWATER DISCHARGES TO THE ST. LUCIE AND CALOOSAHATCHEE RIVER ESTUARIES AND THE INDIAN RIVER AND LAKE WORTH LAGOONS

WHEREAS, the Everglades, Lake Okeechobee, St. Lucie and Caloosahatchee River estuaries, and Indian River and Lake Worth lagoons are imperiled ecosystems and waters of the state; and

WHEREAS, the health of these ecosystems are critical to the economy and quality of life of the Treasure Coast Region and all of southern Florida; and

WHEREAS, House Bill 989 and Senate Bill 1168 should result in actions to restore the long-term health and ecological and economic productivity of these ecosystems of statewide and national importance; and

WHEREAS, House Bill 989 and Senate Bill 1168 are in support of and consistent with the Treasure Coast Regional Planning Council's 2016 legislative priorities.

NOW, THEREFORE, BE IT RESOLVED THAT TREASURE COAST REGIONAL PLANNING COUNCIL FULLY SUPPORTS HOUSE BILL 989 AND SENATE BILL 1168 TO RESTORE THE EVERGLADES ECOSYSTEM AND ELIMINATE HARMFUL FRESHWATER DISCHARGES TO THE ST. LUCIE AND CALOOSAHATCHEE RIVER ESTUARIES AND THE INDIAN RIVER AND LAKE WORTH LAGOONS.

DULY ADOPTED by the Treasure Coast Regional Planning Council this 19th day of February 2016.


Michael Davis
Chairman


Michael J. Busha
Executive Director

**TREASURE COAST REGIONAL PLANNING COUNCIL
INTERGOVERNMENTAL COORDINATION AND REVIEW LOG**

TCRPC Number: 16-PB-03-02

Applicant: Palm Beach County

Project Description: 5311 Federal Funding for Operating Assistance

Palm Tran is the agency designated by Palm Beach County to provide public transportation. Palm Tran is requesting funds from the Section 5311 Non-Urbanized Area Formula Program for operating assistance for their transportation programs in the non-urbanized areas of Palm Beach County.

The Section 5311 Non-Urbanized Area Formula Program provides Federal operating or capital assistance to eligible recipients who operate/contract public transportation service in non-urbanized areas. Palm Tran will utilize the funds exclusively for operational expenses that include: administrative, management, and operation costs (wages and fuel) directly incidental to the provision of public transportation services provided in non-urbanized areas on a regular and continuing basis.

Funding Agency: Federal Transit Administration

Estimated Funding: \$307,535 Federal
 307,535 Applicant
\$615,070 Total

Recommendations: No adverse effects on regional resources or facilities and no extrajurisdictional impacts have been identified.

Agencies Contacted: All Palm Beach County Local Governments
Palm Beach Metropolitan Planning Organization

**TREASURE COAST REGIONAL PLANNING COUNCIL
INTERGOVERNMENTAL COORDINATION AND REVIEW LOG**

TCRPC Number: 16-PB-03-03

Applicant: Palm Beach Gardens

Project Description: Community Development Block Grant Consolidated Plan

The City of Palm Beach Gardens is planning to receive Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development (HUD). To receive CDBG funding, the City must assess local housing and community development needs and resources, and socioeconomic impediments toward building viable neighborhoods.

Every five years HUD requires the development of a consolidated plan for the city to use in determining community needs and to provide a community-wide dialog about affordable housing and community development priorities. The city has completed its initial consolidated plan for Fiscal Years 2015-2019. Based on the needs assessment, over the next five years the city will focus on preserving existing affordable housing stock; providing funding for public facilities and improvements; and promoting economic development activities in the city.

For Fiscal Year 2015, the city is requesting \$177,740 in CDBG funding. The funding allocation will be used to carry out priority needs projects, especially housing rehabilitation and general planning/program administration within the city.

Funding Agency: U.S. Department of Housing and Urban Development

Requested Funding: \$177,740

Recommendations: No adverse effects on regional resources or facilities and no extrajurisdictional impacts have been identified.

Agencies Contacted: All Palm Beach County Local Governments

**TREASURE COAST REGIONAL PLANNING COUNCIL
INTERGOVERNMENTAL COORDINATION AND REVIEW LOG**

TCRPC Number: 16-FL-03-04 SAI# FL201603227576C

Applicant: Bureau of Ocean Energy Management

Project Description: Proposed Rule for Negotiated Noncompetitive Agreements for Use of Outer Continental Shelf Sand, Gravel and Shell Resources

The U.S. Department of Interior, Bureau of Ocean Energy Management (BOEM) has submitted a proposed rule providing regulations to address the use of Outer Continental Shelf (OCS) sand, gravel, and shell resources for shoreline protection, beach restoration, and other restoration projects. The rule applies to projects by federal, state, or local government agencies, or use in construction projects authorized or funded by the federal government.

The Outer Continental Shelf Lands Act authorizes BOEM to enter into a negotiated agreement when the use of OCS sand, gravel and shell resources is authorized for qualifying projects. This negotiated agreement will take the form of a lease or a Memorandum of Agreement (MOA), depending on the identity of the applicant(s) requesting use of OCS sand, gravel and shell resources. If a non-federal entity requests the use of OCS sand, gravel and shell resources, the negotiated agreement required by the Act would generally take the form of a lease. If a federal agency requests the use of OCS sand, gravel and shell resources, BOEM and the federal agency, as well as their federal, state or local government agency counterparts on the project, would enter into a MOA. In either case, BOEM would ensure that appropriate environmental analysis and review is completed. The negotiated agreement in each of these situations would describe the project and procedures that would be followed and identify environmental and administrative requirements that must be met. Also, the agreements would identify the location, type and volume of OCS sand, gravel and shell resources allowed to be used.

Previously, BOEM and its predecessor agencies have been exercising statutory authority regarding OCS sand, gravel and shell resources under the Act pursuant to written guidelines, without the benefit of implementing regulations. BOEM believes that the promulgation of regulations at this time is advisable in order to provide additional clarity and certainty and to help ensure continuity of the Marine Minerals Program. BOEM indicated the proposed rule does not materially change the existing requirements for the use of OCS sand, gravel and shell resources through leases or MOAs for shore protection, beach or wetlands restoration. The purpose of the proposed rule is to refine and

formally adopt procedures for entering into negotiated noncompetitive agreements for the use of OCS sand, gravel and shell resources. Formalizing the existing conveyance process will provide certainty to the public entities requesting noncompetitive leases or MOAs for OCS sand, gravel and shell resources. The rule would not apply to competitive leasing of minerals, including oil, gas, and other associated resources.

Funding Agency: None

Estimated Funding: N/A

Recommendations: No adverse effects on regional resources or facilities and no extrajurisdictional impacts have been identified.

Agencies Contacted: All Local Governments in the Region

**PART 583—NEGOTIATED
NONCOMPETITIVE AGREEMENTS
FOR USE OF OUTER CONTINENTAL
SHELF SAND, GRAVEL AND SHELL
RESOURCES**

Subpart A—General

Sec.

- 583.100 What is BOEM's authority for information collection (IC)?
583.101 What is the purpose of this part and to whom does it apply?
583.102 What is BOEM's authority for this part?
583.103 What definitions do I need to know?
583.104 Who is qualified for a project?
583.105 How do I appeal an unfavorable decision by BOEM?
583.106 What are the minimum contents of an agreement to use OCS sand, gravel, and shell resources?

Subpart B—[Reserved]

Subpart C—Outer Continental Shelf Sand, Gravel, and Shell Resource Negotiated Agreements

- 583.300 How do I submit a request for an agreement?
583.301 How will BOEM determine if a project qualifies?
583.302 What process does BOEM use to technically and environmentally evaluate a qualified project?
583.303 What is the process for negotiating and executing an agreement?
583.304 What kinds of information must be included in an agreement?
583.305 What is the effective date of an agreement?
583.306 How will BOEM enforce the agreement?
583.307 What is the term of the agreement?
583.308 What debarment or suspension obligations apply to transactions and contracts related to a project?
583.309 What is the process for modifying the agreement?
583.310 When can the agreement be terminated?

Authority: 43 U.S.C. 1334.

Subpart A—General

§ 583.100 What is BOEM's authority for information collection (IC)?

The information collection requirements contained in the new part 583 have been approved by the OMB under 44 U.S.C. 3501 and assigned clearance number 1010-XXXX. The information is being collected to determine if the applicant for a negotiated noncompetitive agreement (agreement) for the use of sand, gravel

and shell resources on the Outer Continental Shelf (OCS) is qualified to enter into such an agreement and to determine if the requested action is warranted. Applicants and parties to the agreement are required to respond to requests related to information collection activities.

§ 583.101 What is the purpose of this part and to whom does it apply?

The regulations in this part provide procedures for a negotiated noncompetitive program for utilization of OCS sand, gravel and shell resources. The rules of this part apply exclusively to negotiated noncompetitive use of OCS sand, gravel and shell resources and do not apply to competitive leasing of minerals, including oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from "public lands" as defined in section 103 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*).

§ 583.102 What is BOEM's authority for this part?

(a) Pursuant to authority granted by the Outer Continental Shelf Lands Act (OSCLA, or the Act), as amended (43 U.S.C. 1331 *et seq.*), the Secretary has authority to negotiate an agreement for the use of OCS sand, gravel and shell resources:

- (1) For use in a program of, or project for, shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency; or
- (2) For use in a construction project, other than a project described in paragraph (1), that is funded in whole or in part by or authorized by the Federal Government.

(b) The Secretary has authorized BOEM to administer the negotiated noncompetitive agreement provisions of the Act and prescribe the rules and regulations necessary to carry out those provisions.

§ 583.103 What definitions do I need to know?

When used in this part, the following terms will have the meaning given below:

Act means the OCSLA, as amended (43 U.S.C. 1331 *et seq.*).

Agreement means a negotiated noncompetitive agreement that authorizes a person to use OCS sand, gravel and shell resources in a program of or project for shore protection, beach restoration or coastal wetlands restoration undertaken by one or more Federal, State or local government

agencies, or in a construction project, authorized by, or funded in whole or in part by the Federal government. The form of the agreement will be a Memorandum of Agreement (if one or more of the parties to the agreement, other than BOEM, is a Federal government agency) or a lease (if all of the parties to the agreement other than BOEM are non-Federal agencies or persons).

Amendment means a modification to the agreement between BOEM and the parties to the agreement that extends, modifies or changes the terms of the agreement.

Applicant means any person proposing to use OCS sand, gravel and shell resources for a shore protection, beach restoration or coastal wetlands restoration project undertaken by a Federal, State, or local government agency, or construction project, authorized by, or funded in whole or in part by the Federal government. If multiple persons or Federal, State, or local governments, other than BOEM, partner on a project they will be considered joint applicants.

BOEM means the Bureau of Ocean Energy Management of the U.S. Department of the Interior (DOI).

Borrow area means the offshore geographic area(s) or region(s) where OCS sand, gravel and shell resources have been identified for potential use in a specific project.

Director means the Director of BOEM of the DOI, or an official authorized to act on the Director's behalf.

Federal agency means any department, agency, or instrumentality of the United States.

Local government means the governing authority at the county or city level with jurisdiction to administer a particular project(s).

Modification means the process whereby parties to an agreement and BOEM mutually agree to change, alter or amend the existing agreement.

Outer continental shelf (OCS) is defined in the same way it is defined in Section 2(a) (43 U.S.C. 1331(a)) of the OCSLA, as amended (43 U.S.C. 1331 *et seq.*).

Placement area means the geographic area in which OCS sand, gravel and shell resources, used by agreement, will be placed pursuant to that agreement.

Program means a group of related projects that may be the subject of a negotiated noncompetitive agreement for the use of OCS sand, gravel and shell resources.

Project means an undertaking that may be the subject of a negotiated noncompetitive agreement for the use of OCS sand, gravel and shell resources.

Regional Director means the BOEM officer with responsibility and authority for a Region of the United States.

Secretary refers to the Secretary of the Interior.

§ 583.104 Who is qualified for a project?

(a) BOEM may enter into an agreement with any person proposing to use OCS sand, gravel and shell resources for a program of or project for shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency or in a construction project that is funded in whole or in part by or authorized by the Federal government.

(b) To qualify for an agreement under this part, the applicant must be:

- (1) A Federal, State, or local government agency;
- (2) A citizen or national of the United States;
- (3) An alien lawfully admitted for permanent residence in the United States, as defined in the Immigration and Nationality Act, as amended (8 U.S.C. 1101 (a)(20));
- (4) A private or public corporation organized under the laws of the United States or of any State or territory thereof; or
- (5) An association of such citizens, nationals, resident aliens or private or public corporations.

(c) When entering into an agreement under this part, all applicants are subject to the requirements of 2 CFR part 180 and 2 CFR part 1400.

§ 583.105 How do I appeal an unfavorable decision by BOEM?

(a) After being notified of disqualification, or disapproval of an agreement or modification, an unsuccessful applicant, or adversely affected party to an agreement, may apply for reconsideration by the Director.

(1) All applications for reconsideration by the Director must be submitted within 15 days of being notified of disqualification, or disapproval of an agreement or modification, accompanied by a statement of reasons for the requested reconsideration, with one copy to the program office whose decision is the subject of the reconsideration.

(2) The Director will respond in writing within 30 days.

(b) No additional appeal rights are available under 30 CFR part 590 and 43 CFR part 4, subpart E.

§ 583.106 What are the minimum contents of an agreement to use OCS sand, gravel, and shell resources?

Any use of OCS sand, gravel and shell resources in an agreement will be

negotiated on a case-by-case basis. The agreement will specify, at a minimum, who may use the OCS sand, gravel and shell resources; the nature of the rights granted; and the location, type, and volume of OCS sand, gravel and shell resources. Any authorization to use OCS sand, gravel and shell resources identified in an agreement is not exclusive; BOEM may allow other entities to use OCS sand, gravel and shell resource from the same borrow area.

Subpart B—[Reserved]

Subpart C—Outer Continental Shelf Sand, Gravel, and Shell Resources Negotiated Agreements

§ 583.300 How do I submit a request for an agreement?

Any person may submit a written request to BOEM to obtain an agreement for the use of OCS sand, gravel and shell resources for use in a program of or project for shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency, or in a construction project that is funded in whole or in part by or authorized by the Federal Government. The written request must include:

- (a) A detailed description of the proposed project for which the OCS sand, gravel and shell resources will be used and how it qualifies as a program or project eligible under the Act to use OCS sand, gravel or shell resources;
- (b) A description of the proposed borrow area(s) and placement area(s), along with maps with geographic coordinates depicting the location of the desired borrow area(s), the OCS block number(s), OCS Planning Area(s), OCS Protraction Diagram Designation(s), and the placement area(s). These should include:

(1) A detailed set of hardcopy maps with coordinates and navigation features of the desired OCS project area (including borrow area and other project features); and

(2) Digital geo-referenced spatial and tabular data depicting the borrow area with features, such as geological sampling locations and any hard or live-bottom benthic habitat present;

(c) Any available geological and geophysical data used to select, design, and delineate the borrow area(s) and potential borrow areas considered but not selected for final design in digital format, geo-referenced where relevant. These may include:

- (1) Sediment sampling (sediment cores and grab samples) data such as physical description sheets.

photographs, core locations, and grain size analysis; and

(2) Geophysical data such as subbottom profiler, marine magnetometer, and side-scan sonar data, and bathymetry including georeferenced navigation survey tracklines, shotpoints, and/or timestamps;

(d) Any other uses of the OCS in the borrow area that are known to the applicant at the time of application submittal;

(e) A description of the environmental evaluations and corresponding documents that have been completed or are being prepared, that cover all offshore and onshore components of the project, as applicable;

(f) A target date or date range when the OCS sand, gravel and shell resources will be needed;

(g) A description of the person or government entities undertaking the project;

(h) A list of any permits, licenses or authorizations required for the project and their current status;

(i) A description of any potential inconsistencies with state coastal zone management plans and/or any other applicable state and local statutes, regulations or ordinances;

(j) The name, title, telephone number, mailing address and email address of any points of contact for any Federal agencies, State or local governments, and contractor(s) with whom the applicant has contracted or intends to contract;

(k) A statement explaining who authorized the project and how the project is to be funded, indicating whether the project is Federally funded, in whole or in part, and whether the project is authorized by the Federal government; and

(l) For any other Federal, State or local government agency identified in the application, the name, title, mailing address, telephone number, and email address of both a primary and a secondary point of contact for the agency.

§ 583.301 How will BOEM determine if a project qualifies?

BOEM will make a determination as to whether the project, as described in section 583.300, qualifies for use of OCS sand, gravel and shell resources under the Act. Within 15 business days of receipt of the application, BOEM will determine if the application is complete or will request additional information. After it has determined the application is complete, BOEM will begin the application review process and notify the applicant in writing whether the project qualifies for an agreement. In

determining whether a project qualifies for an agreement, BOEM will consider, among other criteria, the following:

(a) The project purpose;

(b) Other uses of OCS sand, gravel and shell resources from the same borrow area that are currently or were previously authorized by BOEM for other projects or programs, including the location, type and volume of such resources;

(c) The project funding source(s) and amounts;

(d) The proposed design and feasibility of the project;

(e) Any potential environmental and safety risks;

(f) Other Federal interests located near or within the specified borrow area;

(g) Comments received from potentially affected State or local governments, if any;

(h) The applicant's background and experience working on similar projects or activities;

(i) Whether the project operations can be conducted in a manner that protects the environment and promotes orderly development of OCS mineral resources;

(j) Whether activities can be conducted in a manner that does not pose a threat of serious harm or damage to, or waste of, any natural resource, any life (including fish and other aquatic life), property, or the marine, coastal, or human environment; and

(k) Whether the project is consistent with the requirements of applicable statutes and their implementing regulations, which may include, but are not limited to, the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*), the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*), the Marine Debris Research, Prevention, and Reduction Act (MDRPA) (33 U.S.C. 1951 *et seq.*), the Marine Plastic Pollution Research and Control Act (MPPRCA) (33 U.S.C. 1901 *et seq.*), the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1361 *et seq.*), and the International Convention for the Prevention of Pollution from Ships (MARPOL), MARPOL-Annex V Treaty.

§ 583.302 What process does BOEM use to technically and environmentally evaluate a qualified project?

(a) Once BOEM has determined a project qualifies for an agreement, BOEM will begin the project evaluation process to decide whether to enter into a negotiated noncompetitive agreement.

(b) BOEM will coordinate with relevant Federal agencies, State, and local governments and any potentially affected federally recognized Indian Tribes in the project evaluation.

(c) BOEM will evaluate the project and additional information provided

pursuant to sections 30 CFR 583.300 and 583.301, to determine if the information is sufficient to conduct necessary technical and environmental reviews to comply with the requirements of applicable statutes and regulations, which may include, but are not limited to: OCSLA (43 U.S.C. 1331 *et seq.*), the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), the ESA (16 U.S.C. 1531 *et seq.*), the MMPA (16 U.S.C. 1361 *et seq.*), the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) (16 U.S.C. 1801 *et seq.*), the National Historic Preservation Act (NHPA) (54 U.S.C. 300101 *et seq.*), and the Coastal Zone Management Act (CZMA) (16 U.S.C. 1451 *et seq.*)

(d) BOEM will not enter into a negotiated noncompetitive agreement with the applicant until information requested for the evaluation has been provided and evaluated.

§ 583.303 What is the process for negotiating and executing an agreement?

(a) Upon completion of the technical, environmental and other evaluations established in 30 CFR 583.301 and 30 CFR 583.302, BOEM will decide whether to enter into a negotiated noncompetitive agreement with the applicant for use of OCS sand, gravel or shell resources for its proposed project.

(b) If BOEM decides not to enter into such an agreement, BOEM will inform the applicant of its reasons for not doing so. An applicant may ask the BOEM Director for reconsideration in accordance with 30 CFR 583.105(a).

(c) If BOEM has decided to enter into a negotiated noncompetitive agreement with the applicant, BOEM will negotiate the terms and conditions of the agreement with the applicant and prepare a draft agreement for the applicant's review.

(d) After considering comments and suggestions from the applicant, BOEM, at its discretion, may finalize the agreement and distribute it to the applicant for signature.

(e) Upon receipt of the agreement with the applicant's signature, BOEM will execute the agreement. A copy of the executed agreement will be mailed to the parties.

§ 583.304 What kinds of information must be included in an agreement?

Every agreement is negotiated on a case-by-case basis, but at a minimum, must include:

(a) An agreement number, as assigned by BOEM;

(b) The purpose of and authorities for the agreement;

(c) Designated and delineated borrow area(s);

(d) A project description, including the timeframe within which the project is to be started and completed;

(e) The terms and conditions of the agreement, including any reporting requirements;

(f) All obligations of the parties; and

(g) The signatures of appropriate individuals authorized to bind the applicant and BOEM.

§ 583.305 What is the effective date of an agreement?

The agreement will become effective on the date when all parties to the agreement have signed it.

§ 583.306 How will BOEM enforce the agreement?

(a) Failure to comply with any applicable law or any provision, term, or condition of the agreement may result in the termination of the agreement and/or a referral to an appropriate Federal and/or State agency/agencies for enforcement. Termination of the agreement for noncompliance will be in the sole discretion of the Director.

(b) The failure to comply in a timely and satisfactory manner with any provision, term or condition of the agreement may delay or prevent BOEM's approval of future requests for use of OCS sand, gravel and shell resources on the part of the parties to the agreement.

§ 583.307 What is the term of the agreement?

(a) An agreement will terminate upon the following, whichever occurs first:

(1) The agreement expires by its own terms, unless the term is extended prior to expiration under § 583.309;

(2) The project is terminated, as set forth in § 583.310; or

(3) A party to the agreement notifies BOEM, in writing, that sufficient OCS sand, gravel and shell resources, up to the amount authorized in the agreement, have been obtained to complete the project.

(b) Absent extraordinary circumstances, no agreement will be for a term longer than 5 years from its effective date.

§ 583.308 What debarment or suspension obligations apply to transactions and contracts related to a project?

The parties to an agreement must ensure that all contracts and transactions related to an agreement issued under this part comply with 2 CFR part 180 and 2 CFR part 1400.

§ 583.309 What is the process for modifying the agreement?

(a) Unless otherwise provided for in the agreement, the parties to the

agreement may submit to BOEM a written request to extend, modify, or change an agreement. BOEM is under no obligation to extend an agreement and cannot be held liable for the consequences of the expiration of an agreement. With the exception of paragraph (b) of this section, any such requests must be made at least 180 days before the term of the agreement expires. BOEM will respond to the request for modification within 30 days of receipt and request any necessary information and evaluations to comply with 30 CFR 583.301. BOEM may approve the request, disapprove it, or approve it with modifications subject to the requirements of 30 CFR 583.301.

(1) If BOEM approves a request to extend, modify or change an agreement, BOEM will draft an agreement modification for review by the parties to the agreement in the form of an amendment to the original agreement. The amendment will include:

(i) The agreement number, as assigned by BOEM;

(ii) The modification(s) agreed to;

(iii) Any additional mitigation required; and

(iv) The signatures of the parties to the agreement and BOEM.

(2) If BOEM disapproves a request to extend, modify, or change an agreement, BOEM will inform the parties to the agreement of the reasons in writing. Parties to the agreement may ask the BOEM Director for reconsideration in accordance with 30 CFR 583.105.

(b) By written request, for strictly minor modifications that do not change the substance of the project or the analyzed environmental effects of the project, including but not limited to, the change of a business address, the substitution of a different Federal, State or local government agency contact, or an extension of less than 30 days, parties to the agreement may memorialize the minor modification in a letter from BOEM to the parties indicating the request has been granted.

§ 583.310 When can the agreement be terminated?

(a) The Director will terminate any agreement issued under this part upon proof that it was obtained by fraud or misrepresentation, after notice and an opportunity to be heard has been afforded to the parties of the agreement.

(b) The Director may immediately suspend and subsequently terminate any agreement issued under this part when:

(1) There is noncompliance with the agreement, pursuant to 30 CFR 583.306(a); or

(2) It is necessary for reasons of national security or defense; or

(3) The Director determines that:

(i) Continued activity under the agreement would cause serious harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;

(ii) The threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(iii) The advantages of termination outweigh the advantages of continuing the agreement.

(c) The Director will immediately notify the parties to the agreement of the suspension or termination. The Director will also mail a letter to the parties to the agreement at their record post office address with notice of any suspension or termination and the cause for such action.

(d) In the event that BOEM terminates an agreement under this section, none of the parties to the agreement will be entitled to compensation as a result of expenses or lost revenues that may result from the termination.

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**TREASURE COAST REGIONAL PLANNING COUNCIL
INTERGOVERNMENTAL COORDINATION AND REVIEW LOG**

TCRPC Number: 16-MC-04-01

Applicant: Martin County

Project Description: Community Development Block Grant Application – Housing Rehabilitation

The Community Development Block Grant (CDBG) program was created by Congress through the Housing and Community Development Act of 1974. This federal program, which is administered by the Department of Housing and Urban Development, provides funding opportunities to local governments in small urban and rural areas for projects. In Florida, the Department of Economic Opportunity administers the state's program through the Small Cities Community Development Block Grant Program.

Martin County is applying for CDBG funding to rehabilitate, or demolish and replace, a minimum of eleven housing units. Of the eleven housing units, no less than three of the housing units will be low income, and no less than two housing units will be classified as very low-income households. This project furthers the national objective to benefit low- and moderate-income persons. Additionally, the proposed funding budget includes allocations for administration and temporary relocation activities.

Funding Agency: U.S. Department of Housing and Urban Development

Requested Funding: \$750,000

Recommendations: No adverse effects on regional resources or facilities and no extrajurisdictional impacts have been identified.

Agencies Contacted: Town of Jupiter Island
Town of Ocean Breeze
Town of Sewall's Point
City of Stuart