



# Broward County

## Legislation Details (With Text)

<b>File #:</b>	20-1871	<b>Version:</b>	1	<b>Status:</b>	Agenda Ready
				<b>In control:</b>	Resilient Environment - Natural Resources Division
<b>On agenda:</b>	11/10/2020	<b>Final action:</b>	11/10/2020		
<b>Title:</b>	A. MOTION TO APPROVE Memorandum of Agreement with the U.S. Army Corps of Engineers for dune design and construction during the post-storm Segment III Rehabilitation Project, in substantially the form attached as Exhibit 2, and authorize the County Administrator to execute and take all necessary administrative and budgetary actions required for execution subject to final review and approval as to form by the Office of County Attorney. (Commission District 7)				
	ACTION: (T-10:45 AM) Approved.				
	VOTE: 9-0. Commissioner Rich voted in the affirmative telephonically.				
	B. MOTION TO APPROVE Use Agreement with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida for dune construction and use of construction staging and access areas, in substantially the form attached as Exhibit 4, and authorize the County Administrator to execute and take all necessary administrative and budgetary actions required for execution subject to final review and approval as to form by the Office of County Attorney. (Commission District 7)				
	ACTION: (T-10:45 AM) Approved.				
	VOTE: 9-0. Commissioner Rich voted in the affirmative telephonically.				
<b>Sponsors:</b>					
<b>Indexes:</b>	Established Commission Goals				
<b>Code sections:</b>					
<b>Attachments:</b>	1. Exhibit 1 - Agreement Summary, 2. Exhibit 2 - Memorandum of Agreement, 3. Exhibit 3 - Use Agreement Summary, 4. Exhibit 4 - Draft Use Agreement				
<b>Date</b>	<b>Ver.</b>	<b>Action By</b>	<b>Action</b>	<b>Result</b>	

### Broward County Commission Regular Meeting

**Director's Name:** Leonard Vialpando

**Department:** Environmental Protection

**Division:** Environmental Planning & Comm. Resilience

### Information

#### Requested Action

A. MOTION TO APPROVE Memorandum of Agreement with the U.S. Army Corps of Engineers for dune design and construction during the post-storm Segment III Rehabilitation Project, in substantially the form attached as Exhibit 2, and authorize the County Administrator to execute and take all necessary administrative and budgetary actions required for execution subject to final review and approval as to form by the Office of County Attorney. **(Commission District 7)**

**ACTION: (T-10:45 AM) Approved.**

***VOTE: 9-0. Commissioner Rich voted in the affirmative telephonically.***

B. MOTION TO APPROVE Use Agreement with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida for dune construction and use of construction staging and access areas, in substantially the form attached as Exhibit 4, and authorize the County Administrator to execute and take all necessary administrative and budgetary actions required for execution subject to final review and approval as to form by the Office of County Attorney. **(Commission District 7)**

***ACTION: (T-10:45 AM) Approved.***

***VOTE: 9-0. Commissioner Rich voted in the affirmative telephonically.***

**Why Action is Necessary**

A. Board of County Commissioners approval is required for agreements and delegation to the County Administrator to execute the Memorandum of Agreement for dune construction.

B. Board of County Commissioners approval is required for agreements and delegation to the County Administrator to execute the Use Agreement for dune construction in Dr. Von D. Mizell Eula-Johnson State Park.

**What Action Accomplishes**

A. Approves the Memorandum of Agreement and authorizes execution by the County Administrator.

B. Approves the Use Agreement and authorizes execution by the County Administrator.

**Is this Action Goal Related**

Yes

**Previous Action Taken**

None

**Summary Explanation/Background**

THE ENVIRONMENTAL PROTECTION AND GROWTH MANAGEMENT DEPARTMENT AND THE ENVIRONMENTAL PLANNING AND COMMUNITY RESILIENCE DIVISION RECOMMEND APPROVAL OF THE ABOVE MOTIONS.

This item supports the Board's Value of "Encouraging investment in renewable energy, sustainable practices and environmental protection" and Goal 2: Proactively lead in the planning, design and construction of projects to support community resilience and climate adaptation by ensuring that publicly accessible beaches are sufficient in dimension (i.e. >75 feet in width) to provide storm protection, recreational opportunities, and sea turtle nesting habitat.

Following the approval of the Bipartisan Budget Act of 2018, disaster recovery Flood Control and Coastal Emergency (FCCE) funding was provided for the rehabilitation of Hurricane Irma damage to the previously constructed portions of the Segment II and Segment III Shore Protection Projects. The Broward County Commission approved the Cooperation Agreement with the U.S. Army Corps of Engineers for the post-Hurricane Irma rehabilitation of the Segment III Shore Protection Project on September 10, 2020 (Agenda Item No. 21). Per the Cooperation Agreement, the U.S. Army Corps of

Engineers will plan, design, engineer, construct and federally fund 100% of the costs of the rehabilitation of the Segment III Shore Protection Project. The Cooperation Agreement allows for Broward County to request the U.S. Army Corps of Engineers to construct a dune or betterment to improve the project beyond standards set for rehabilitation at the County's cost. Increasing the linear extent of dunes along the County's shoreline is a critical resilience objective that will mitigate flooding, erosion, and sea level rise impacts and is consistent with Broward County Comprehensive Plan Policy 10.4.4, Land Use Plan Policy 9.03.01 and Climate Change Action Plan Action No. 19. The referenced Memorandum of Agreement (Exhibit 2) provides for the U.S. Army Corps of Engineers to design and construct approximately 1.1 miles of dunes within the Dr. Von D. Mizell Eula-Johnson State Park and appropriates \$1,040,000 of County funds for payment to the U.S. Army Corps of Engineers for the costs. Project costs for the dune are eligible for 100% state cost share because of the location on state owned lands. Staff will apply for the reimbursement of this work within the next Local Government Funding Request cycle.

Pursuant to the Memorandum of Agreement, (Exhibit 2), Broward County is responsible for obtaining the requisite permits and real estate such as easements, beach access, and maintenance. The U.S. Army Corps of Engineers shall not obligate any funds before they are received and available. However, the County has the responsibility for any costs associated with the dune design and construction work related to environmental compliance, contract claims or any other liability that may become known after the final accounting. The Memorandum of Agreement requires the County to hold the USACE harmless from damages arising from the project unless due to the fault or negligence of the USACE or its contractors and is responsible for the compliance with applicable federal and state laws and regulations.

To meet the U.S. Army Corps of Engineers' easement and access requirements for the dune construction and staging areas, Broward County and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida will need a new Use Agreement for the state park (Exhibit 4). The Use Agreement is in substantially the same form as the final to be provided by the state. The Use Agreement will be revised to describe the requested use of uplands, specifically dune placement and revegetation and use of construction staging and access areas. The County Attorney's Office will provide final review and approval of the Use Agreement prior to execution. The Use Agreement requires the County to restore the construction access and staging areas to the condition they were in upon the effective date of the agreement. The Use Agreement also requires the County and its subcontractors to hold harmless the State of Florida from any and all damages and injuries attributable to negligent acts or omissions by the County. The County shall maintain insurance covering liabilities as prescribed by Section 768.28 F.S. The state must be named as an additional insured on project-related County subcontractor policies. The County cannot cut trees in the state park, damage telephone lines, ditches or fences and must use precautions to prevent fires. The County is required to pay all damages including costs and attorney's fees to remedy breach of the use agreement by the County. The County is responsible for compliance with permits, regulations and federal and state laws.

The Segment III beach restoration project includes almost the entire coastline extending from the Port Everglades Inlet south to Hallandale Beach, inclusive of beaches within the cities of Dania Beach, Hollywood, and Hallandale Beach. Per the Memorandum of Agreement, dunes will be constructed along the Dr. Von D. Mizell Eula-Johnson State Park from Florida Department of

Environmental Protection (FDEP) Range Monuments R-85.7 to R-86.2 and R-86.5 to R-91.6. A subsequent Memorandum of Agreement for dune construction along the remainder of the Segment III shoreline is anticipated dependent upon further municipal and property owner coordination and in advance of construction in the winter of 2021/2022.

To meet the strict timeline requirements provided by the USACE for the post-Hurricane Irma rehabilitation of the Segment III Shore Protection Project, expedited execution of all requisite documents is required. Staff anticipates receipt of the Segment III Joint Coastal Permit from the Florida Department of Environmental Protection in early November. The USACE is requesting that all project contracts and agreements be executed by mid-November, with project construction anticipated to start February 2021. The proposed motions seek the Board of County Commissioner's authorization for the County Administrator to execute these requisite contracts and agreements upon final legal approval.

#### **Source of Additional Information**

Dr. Jennifer Jurado, Chief Resilience Officer and Deputy Director, Environmental Protection and Growth Management Department, (954) 519-1464

#### **Fiscal Impact**

##### **Fiscal Impact/Cost Summary**

The direct fiscal impact of this action is \$1,040,000 for dune design and construction work as part of the Segment III Shore Protection Project Rehabilitation, for which funds are allocated within the Beach Renourishment Capital Fund.