

**MEMORANDUM OF AGREEMENT  
BETWEEN THE NATIONAL PARK SERVICE AND  
THE FLORIDA STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE TAMAMIAMI TRAIL MODIFICATIONS: NEXT STEPS PROJECT  
EVERGLADES NATIONAL PARK,  
DADE COUNTY, FLORIDA.**

**WHEREAS**, the National Park Service (NPS) has been directed by the 2009 Omnibus Appropriations Act to restore more natural water flow to Everglades National Park (ENP) and Florida Bay for the purpose of restoring habitat within the park and restoring ecological connectivity between the park and Water Conservation Area 3B; and

**WHEREAS**, the 2009 Appropriations Act directed the NPS to evaluate the feasibility of additional bridge length and modifications of the eastern section (10.7 miles) of the Tamiami Trail, also known as U.S. Highway 41; and

**WHEREAS**, the Tamiami Trail/U.S. Highway 41 is an asset owned and maintained by the Florida Department of Transportation (FDOT); and

**WHEREAS**, the Tamiami Trail/U.S. Highway 41 within the analysis area is located on and within the jurisdiction of the NPS; and

**WHEREAS**, NPS is the lead federal agency for the responsibility for compliance with 36 C.F.R. 800, regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. 306108); and

**WHEREAS**, NPS completed the Tamiami Trail Modifications: Next Steps Final Environmental Impact Statement (EIS) in compliance with the National Environmental Policy Act (NEPA) on December 14, 2010 that evaluated a no action alternative and five action alternatives and signed a Record of Decision (ROD) on February 11, 2011 selecting Alternative 6e for implementation; and

**WHEREAS**, the Federal Highway Administration (FHWA) adopted the Tamiami Trail Modifications: Next Steps Final EIS, prepared by NPS, through a ROD signed on February 9, 2015; and

**WHEREAS**, NPS determined through further analysis that the modifications to the Tamiami Trail roadway (Alternative 6e) shall be modified through substituting construction of three previously approved bridges of 0.38 miles, 0.66 miles and 1.77 miles respectively, with 72 ft. wide pre-fabricated culverts at six selected existing culvert locations, to achieve unconstrained water conveyance. The remaining unbridged segments of the roadway will be raised, culverts replaced in-kind, and the shifting of the Tamiami Trail right-of-way to the south will remain as described in the Tamiami Trail Modifications: Next Steps EIS; and

**WHEREAS**, NPS has determined this action represents an undertaking in accordance with 36 C.F.R. 800.3(a); and

**WHEREAS**, NPS has defined the undertaking's area of potential effects (APE) as (1) direct disturbance due to construction activities, and (2) diminishment of historical integrity as a result of indirect effects such as visual changes and limiting access. The APE for direct construction impacts was defined as those areas that could be disturbed by construction of additional bridges and raising the height of the unbridged segments of the Tamiami Trail within the project area. The APE for visual and access impacts is defined as including the properties along the south side of the Tamiami Trail within the project area (Attachment A); and

**WHEREAS**, NPS identified two historic properties which are eligible for the National Register of Historic Places: 8DA6765 (Tamiami Trail, a historic roadway), and 8DA6767 (Coopertown, a historic structure and Everglades tourist destination) in the area to be affected by the Tamiami Trail Modifications: Next Steps Project Alternative 6e; and

**WHEREAS**, NPS has consulted with the Florida State Historic Preservation Officer (SHPO) pursuant to the requirements of 36 C.F.R. 800 and has determined the undertaking will have an adverse effect on a portion of historic properties 8DA6765 (Tamiami Trail), and 8DA6767 (Coopertown) and cannot be avoided; and

**WHEREAS**, NPS and the Florida State Historic Preservation Officer (SHPO) entered into a Memorandum of Agreement on April 19, 2010 for the resolution of adverse effects for the implementation of Alternative 6e that expired on March 31, 2013 (DHR Project File Number: 2010-3248) (Attachment B); and

**WHEREAS**, prior to the expiration of the original MOA, the NPS implemented the mitigation for adverse effects to the Tamiami Trail (8DA6765) by installing an interpretive display within the Shark Valley Interpretive Area; and

**WHEREAS**, the next phase of the undertaking will be implemented in 2020 and NPS must reenter into an agreement with the SHPO for the continuing resolution of adverse effects to Coopertown (8DA6767); and

**WHEREAS**, the NPS has amended the “Documentation and Evaluation of Coopertown (8DA6767) and the Airboat Association of Florida (8DA6768) and an Assessment of Effects of Modifications to Tamiami Trail” cultural resources report (2010) to include additional information regarding cultural resources that have since reached an age of 50 years or older since the report publication; and

**WHEREAS**, NPS has consulted with the Miccosukee Tribe of Indians of Florida, the Seminole Tribe of Florida, and the Seminole Nation of Oklahoma regarding the effects of the undertaking on historic properties; and

**WHEREAS**, NPS has provided opportunities for public review and comment regarding the effects of the undertaking on historic properties through the NEPA process for the Tamiami Trail Modifications: Next Steps Project EIS/ROD; and

**WHEREAS**, in accordance with 36 CFR § 800.6(a)(1) NPS has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect determination with specified documentation and has invited the ACHP to comment and participate in consultation, and the ACHP has chosen not to participate pursuant to 36 CFR § 800.6(a)(1)(iii); and

**WHEREAS**, per the Consolidated Appropriations Act (HR 3547 EAH), Division G, Department of the Interior, Environment, and Related Agencies Appropriations Act, 2014, under the National Park Service Operation of the National Park System, “That because the Tamiami Trail project provides significant environmental benefits for the Everglades National Park, the requirements of 49 U.S.C. 303 [Section 4(f)] are deemed satisfied with respect to such project and no additional documentation shall be required under such section”; and

**NOW, THEREFORE**, NPS and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to mitigate the adverse effects on cultural resources properties: 8DA6765 (Tamiami Trail), and 8DA6767 (Coopertown).

### Stipulations

The NPS shall ensure that the following measures are carried out:

- I. Mitigation of Adverse Effects to 8DA6565 (Coopertown)
  - a. Adverse effects to the historic structure at 8DA6565 (Coopertown) cannot be avoided. In order to mitigate adverse effects, a wayside exhibit on Coopertown and the history of Airboat tourism on the Tamiami Trail will be developed and located at the Coopertown location. The exhibit will be designed by the National Park Service in consultation with the FLSHPO.
  
- II. Professional Standards
  - a. All archaeological and historic preservation work carried out pursuant to this Agreement shall be conducted by, or under the direct supervision of, a person or persons meeting the Secretary of the Interior's Professional Qualification Standards for Archaeology and Historic Preservation as set forth at 62 FR 33708-33723 (June 20, 1997).
  
- III. Duration
  - a. This Memorandum of Agreement (MOA) will expire if its terms are not carried out within ten (10) years from the date of execution. Prior to expiration, the parties may agree to extend the timeframe for fulfillment of the terms by letter agreement.
  
- IV. Post-Review Discoveries
  - a. If during the construction work of the Tamiami Trail Modification: Next Steps Project, there are unanticipated finds, the SHPO will be notified to assess the significance of the discovery and devise appropriate actions pursuant to 36 CFR Part 800.13. Based on the circumstances of the discovery, equity to all parties, and considerations of the public interest, work in the immediate area of the find will be suspended while the discovery is investigated in accordance with 36 C.F.R. 800.
  - b. Human remains are not anticipated to be recovered from this project. In the unlikely event that human remains on State Controlled property are inadvertently discovered, they will be treated in accordance with 872.05(5) Florida Statutes. If human remains are found on Federal Land within ENP, the Native American Graves Protection and Repatriation Act (NAGPRA) would apply within the boundaries of the Park.
  
- V. Review Stipulation

NPS shall afford the SHPO a 30-day period for review and comment following the receipt of delivery of any submittals produced following the date of execution. If no comments are received by NPS at the end of these 30 days, NPS will presume there are no objections. Any objections to the findings or plans proposed in these submittals will be addressed in accordance with Stipulation VI, below.

## VI. Dispute Resolution

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, NPS shall consult with such party to resolve the objection. If NPS determines that such objection cannot be resolved, NPS will:

- A. Forward all documentation relevant to the dispute, including NPS' proposed resolution, to the ACHP. The ACHP shall provide NPS with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, NPS shall prepare a written response that considers any timely advice or comments regarding the dispute from the ACHP, signatories, and concurring parties, and provide them with a copy of this written response. NPS will then proceed according to its final decision.
- B. Make a final decision on the dispute and proceed accordingly if the ACHP does not provide its advice regarding the dispute within thirty (30) days. Prior to reaching such a final decision, NPS shall prepare a written response that considers any timely comments regarding the dispute from the signatories to the MOA, and provide them and the ACHP with a copy of the written response.
- C. Fulfill its responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

## VII. Amendments

This MOA may be amended when such an amendment is agreed to in writing by all signatories. All signatories must signify their acceptance of the proposed changes to the MOA in writing within 30 days of their receipt. The amendment will be effective on the date a copy signed by all signatories is filed with the ACHP. In accordance with 36 CFR § 800.6(b)(7), if the ACHP was not a signatory to the original agreement and the signatories execute an amended agreement, NPS shall file the amended agreement with the ACHP.

## VIII. Termination

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories in an effort to amend the MOA per Stipulation VII, above. If within thirty (30) days (or another time agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, NPS must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. NPS shall notify the signatories as to the course of action it will pursue.

*Execution of this MOA by NPS and SHPO and implementation of its terms is evidence that NPS has taken into account the effects of this undertaking on historic properties per the requirements of Section 106 (Public Law 113-287 [Title 54 U.S.C. 306108]), and 36 C.F.R. Part 800 (Protection of Historic Properties).*

**SIGNATORIES**

NATIONAL PARK SERVICE

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Pedro M. Ramos  
Superintendent, Everglades National Park

Date

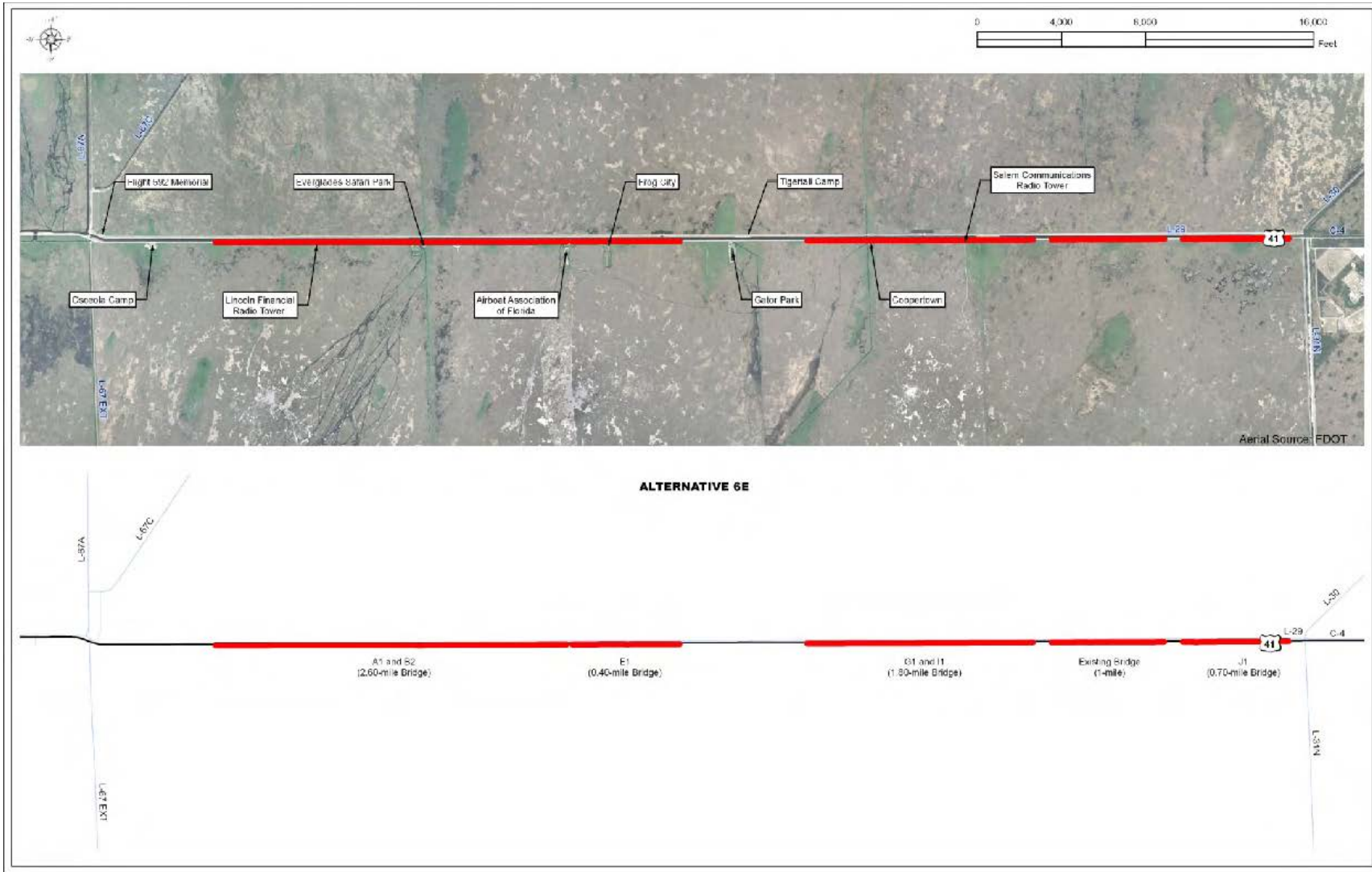
FLORIDA STATE HISTORIC PRESERVATION OFFICER

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Timothy A. Parsons  
Director, Division of Historical Resources  
State Historic Preservation Officer

Date

# ATTACHMENT A Area of Potential Effect



**ATTACHMENT B**  
**Original Memorandum of Agreement**

**MEMORANDUM OF AGREEMENT AMONG EVERGLADES NATIONAL PARK, NATIONAL PARK SERVICE; and THE FLORIDA STATE HISTORIC PRESERVATION OFFICER PURSUANT TO 36 C.F.R.PART 800.6(a)**

**FOR THE MITIGATION OF CERTAIN ADVERSE EFFECTS TO CULTURAL RESOURCES BY THE TAMIAMI TRAIL MODIFICATIONS:NEXT STEPS PROJECT, EVERGLADES NATIONAL PARK, DADE COUNTY, FLORIDA.**

WHEREAS, Everglades National Park as pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act [16 U.S.C. Section 470(f)], in consultation with the Florida State Historic Preservation Officer (FLSHPO), has conducted a survey of the Tamiami Trail Modification Modified Water Deliveries (MWD) Project; with subsequent documentation and assessments of effects done as part of the Tamiami Trail Modifications: Next Steps Project and

WHEREAS, the modifications to the Tamiami Trail roadway (Alternative 6e) consist of 5.5 miles of bridges and elevating the remaining roadway, the shift of the Tamiami Trail right-of-way to the south as described in the Tamiami Trail Modifications: Next Steps report;. The bridge configurations are located between mile (?) and mile (?) (see Attachment A); and

WHEREAS, Everglades National identified two historic properties which are eligible for the National Register of Historic Places: 8DA6765 (Tamiami Trail, a historic roadway), and 8DA6767 (Coopertown, a historic structure and Everglades tourist destination) in the area to be affected by the Tamiami Trail Modifications: Next Steps Project Alternative 3.2.2.a (see ATTACHMENT B); and

WHEREAS, a portion of historical properties 8DA6765 (Tamiami Trail), and 8DA6767 (Coopertown) cannot be avoided and will be adversely affected by the construction of Tamiami Trail Modification: Next Steps Project.

NOW, THEREFORE, Everglades National Park and the FLSHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to mitigate the adverse effects on cultural resources properties: 8DA6765 (Tamiami Trail), and 8DA6767 (Coopertown) .

**Stipulations**

Everglades National Park, National Park Service (ENP) will ensure that the following are carried out:

1. Adverse effects to historical property 8DA6765 (Tamiami Trail) cannot be avoided. Pursuant to the *MEMORANDUM OF AGREEMENT AMONG*

MEMORANDUM OF AGREEMENT AMONG EVERGLADES NATIONAL PARK, NATIONAL PARK SERVICE; and THE FLORIDA STATE HISTORIC PRESERVATION OFFICER PURSUANT TO 36 C.F.R.PART 800.6(a) FOR THE MITIGATION OF CERTAIN ADVERSE EFFECTS TO CULTURAL RESOURCES BY THE TAMIAMI TRAIL MODIFICATIONS:NEXT STEPS PROJECT, EVERGLADES NATIONAL PARK, DADE COUNTY, FLORIDA.



*THE U.S. ARMY CORPS OF ENGINEERS, JACKSONVILLE DISTRICT; EVERGLADES NATIONAL PARK, NATIONAL PARK SERVICE; and THE FLORIDA STATE HISTORIC PRESERVATION OFFICER PURSUANT TO 36 C.F.R.PART 800.6(a) FOR THE MITIGATION OF CERTAIN ADVERSE EFFECTS TO CULTURAL RESOURCES BY THE MODIFIED WATER DELIVERIES, EVERGLADES NATIONAL PARK, TAMAMI TRAIL FEATURE (Tamiami Trail Modification MWD) PROJECT, DADE COUNTY, FLORIDA (July 3, 2008)*, an interpretive display will be developed by ENP and consist of a park or kiosk at a location within the existing Shark Valley Interpretive Area. The display shall contain, but not be limited to: a history of the historical properties and structures associated with 8DA6765 (Tamiami Trail); it shall contain original maps and diagrams of the historic properties, a photographic documentation to include both original (such as are available) and current photographs. No further mitigations for 8DA6765 (Tamiami Trail) are required for adverse effects proposed in the Tamiami Trail Modification: Next Steps Project.

2. Adverse effects to the historic structure at 8DA6565 (Coopertown) cannot be avoided. In order to mitigate adverse effects, an exhibit on Coopertown and the history of Airboat tourism on the Tamiami Trail will be developed for the new South Florida Collections Management Center exhibit space, to be located inside of ENP, which is currently in its initial planning stage. The exhibit will be designed by the National Park Service in consultation with the FLSHPO. If the new museum facility is not complete prior to completion of the Tamiami Trail Modifications: Next Steps Project, documentation and design of the exhibit will be completed.
3. If during the construction work of the Tamiami Trail Modification:Next Steps Project, there are unanticipated finds, the FLSHPO will be notified to assess the significance of the discovery and devise appropriate actions pursuant to 36 CFR Part 800.13. Based on the circumstances of the discovery, equity to all parties, and considerations of the public interest, work in the immediate area of the find will be suspended while the discovery is investigated in accordance with 36 CFR Part 800.
4. Human remains are not anticipated to be recovered from this project. In the unlikely event that human remains on State Controlled property are inadvertently discovered, they will be treated in accordance with 872.05(5) *Florida Statutes*. If human remains are found on Federal Land within ENP, the Native American Graves Protection and Repatriation Act (NAGPRA) would apply within the boundaries of the Park. Procedures for complying with NAGPRA would follow the Draft 5/01/2008 Park NAGPRA Plan of Action for Inadvertent Discoveries, ENP and

MEMORANDUM OF AGREEMENT AMONG EVERGLADES NATIONAL PARK, NATIONAL PARK SERVICE, and THE FLORIDA STATE HISTORIC PRESERVATION OFFICER PURSUANT TO 36 C.F.R.PART 800.6(a) FOR THE MITIGATION OF CERTAIN ADVERSE EFFECTS TO CULTURAL RESOURCES BY THE TAMAMI TRAIL MODIFICATIONS: NEXT STEPS PROJECT, EVERGLADES NATIONAL PARK, DADE COUNTY, FLORIDA,

Associated Tribes. If subsequent versions of this document are revised in consultation with the Tribes, the most current version will be used.

**Administrative Conditions**

1. Dispute Resolution – Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the ENP shall consult with such party to resolve the objection. If the ENP determines that such objection cannot be resolved, the ENP will:
  - a. Forward all documentation relevant to the dispute, including the ENP proposed resolution to the Advisory Council on Historic Preservation (Council). The Council shall provide the ENP with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, ENP shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the Council and/or signatory and provide them with a copy of this written response. The ENP will then proceed according to its final decision.
  - b. If the Council does not provide its advice regarding the dispute within the thirty (30) day time period, ENP may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, ENP shall prepare a written response that takes into account any timely comments regarding the dispute from the signatory to the MOA, and provide them and the Council with a copy of such written response.
  - c. The ENP responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.
2. Amendments – This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the Council.
3. Termination – If ENP determines that terms of the Agreement cannot be implemented, unless the signatories agree in writing to an extension for carrying out its terms; or the FLSHPO determines that the Agreement is not properly implemented, ENP or the FLSHPO may propose that it be terminated. The signatory proposing to terminate this Agreement will so notify the other signatories to this Agreement, explaining the reason(s) for termination and affording them at least thirty (30) calendar days to consult and seek alternatives to termination. Should such consultation fail and the

MEMORANDUM OF AGREEMENT AMONG EVERGLADES NATIONAL PARK, NATIONAL PARK SERVICE, and THE FLORIDA STATE HISTORIC PRESERVATION OFFICER PURSUANT TO 36 C.F.R. PART 800.6(a) FOR THE MITIGATION OF CERTAIN ADVERSE EFFECTS TO CULTURAL RESOURCES BY THE TAMiami TRAIL MODIFICATIONS NEXT STEPS PROJECT, EVERGLADES NATIONAL PARK, DADE COUNTY, FLORIDA.

Agreement be terminated, ENP will consult in accordance with 36 CFR Section 800.6(c)7 to develop a new Agreement.

If the terms of this Agreement have not been implemented by 31 March 2013 this Agreement shall be considered null and void. In such event, the ENP shall notify the parties to this Agreement and if it chooses to continue with the Undertaking, shall re-initiate review of the Undertaking in accordance with 36 CFR Part 800.

EXECUTION OF THIS MEMORANDUM OF AGREEMENT by the Florida State Historic Preservation Officer and National Park Service, Everglades National Park and the implementation of its terms, evidence that the effects of the undertaking on historic properties has been taken into account and mitigated so that the undertaking may proceed.

AGREED TO BY:

EVERGLADES NATIONAL PARK, NATIONAL PARK SERVICE

Signature: Dan B. Kimball Date: 4/12/2010

Dan B. Kimball  
Superintendent

FLORIDA STATE HISTORIC PRESERVATION OFFICER

Signature: Scott M. Stroh III Date: 4/14/2010

Scott M. Stroh III  
Florida State Historic Preservation Officer

MEMORANDUM OF AGREEMENT AMONG EVERGLADES NATIONAL PARK, NATIONAL PARK SERVICE, and THE FLORIDA STATE HISTORIC PRESERVATION OFFICER PURSUANT TO 36 C.F.R. PART 800.6(a) FOR THE MITIGATION OF CERTAIN ADVERSE EFFECTS TO CULTURAL RESOURCES BY THE TAMiami TRAIL MODIFICATIONS, NEXT STEPS PROJECT, EVERGLADES NATIONAL PARK, DADE COUNTY, FLORIDA.

