

**F. Consent Agenda - Natural Resources Management
ITEM 3.**



**AGENDA REPORT
May 7, 2019**

Certification of Lands for South Reach

SUBJECT:

Certification of Lands as required for the South Reach of the Brevard County Federal Shore Protection Project.

FISCAL IMPACT:

No Fiscal Impact – There is no direct fiscal impact of this Certification of Lands but failure to execute it could mean losing approximately \$36 million in federal funding currently dedicated to the Mid Reach and South Reach projects.

DEPT/OFFICE:

Natural Resources Management

REQUESTED ACTION:

It is requested that the Board: (1) Authorize the Chair to execute the Certifications of Lands for the South Reach of the Brevard County Shore Protection Project as prepared by the County Attorney's Office; and (2) Authorize the Chair to execute Brevard County Shore Protection Project South Reach Segment Construction Access & Staging Consent of Use.

SUMMARY EXPLANATION and BACKGROUND:

On April 20, 2000 the Board of County Commissioners entered into a Project Cooperation Agreement with the US Army Corps of Engineers to serve as the local sponsor for the Brevard County Shore Protection Project. This agreement, as amended, requires that Brevard, as the local sponsor, acquire the real estate interest ("lands") required for the project. Brevard County provided a certification of lands prior to initial construction of the South Reach project in 2001, but recently the US Army Corps of Engineers asked that Brevard provide a new Certification of Lands and Attorney's Title Certification prior to the end of June in preparation for the Corps' intended August 2019 award of a construction contract to renourish the South Reach.

The County Attorney's Office and Natural Resources staff, have reviewed project easements and other documents to reaffirm the County has authority to use the required land. The Certification of Lands and Attorney's Title Certification are attached.

CLERK TO THE BOARD INSTRUCTIONS:

Chairman & Clerk signatures required on two originals of each document.

ATTACHMENTS:

Description

- ▣ **South Reach Attorney title certification**
- ▣ **Certification of Lands South Reach**
- ▣ **South Reach Construction Access Consent of Use**



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Tammy.Rowe@brevardclerk.us

May 8, 2019

M E M O R A N D U M

TO: Virginia Barker, Natural Resources Management Director

RE: Item F.3., Certification of Lands for South Reach

The Board of County Commissioners, in regular session on May 7, 2019, executed the Certifications of Lands for the South Reach of the Brevard County Shore Protection Project as prepared by the County Attorney's Office; and executed the Brevard County Shore Protection Project South Reach Segment Construction Access & Staging Consent of Use. Enclosed are fully-executed copies of the Certification and the Construction Access & Staging Consent of Use.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/cmw

Encls. (2)

cc: Contracts Administration

ATTORNEY'S TITLE CERTIFICATE

Title Certificate Number: 1

I, Christine Valliere, Assistant County Attorney for the Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida, with its principal office at 400 South Street, Titusville, Florida, do hereby certify that the County is vested with the recited estates, permits and authorizations in the lands shown on the Brevard County Shore Protection Project South Reach Segment Easement Certification Map dated April 25, 2019.

There are no encumbrances that affect or limit the use of the agreement and permits for the performance of the Brevard County Shore Protection Project South Reach Segment. All persons and business that have been displaced by acquisition of below lands have been relocated in full compliance with Public Law 91-646, as amended and that the other provisions of Public Law 91-646, as amended, have been complied with.

The person who executed Certification No.1 was empowered to execute same on behalf of Brevard County.

Dated and Signed this 26th day of April, 2019.

A handwritten signature in black ink, appearing to read "Christine Valliere", written over a horizontal line.

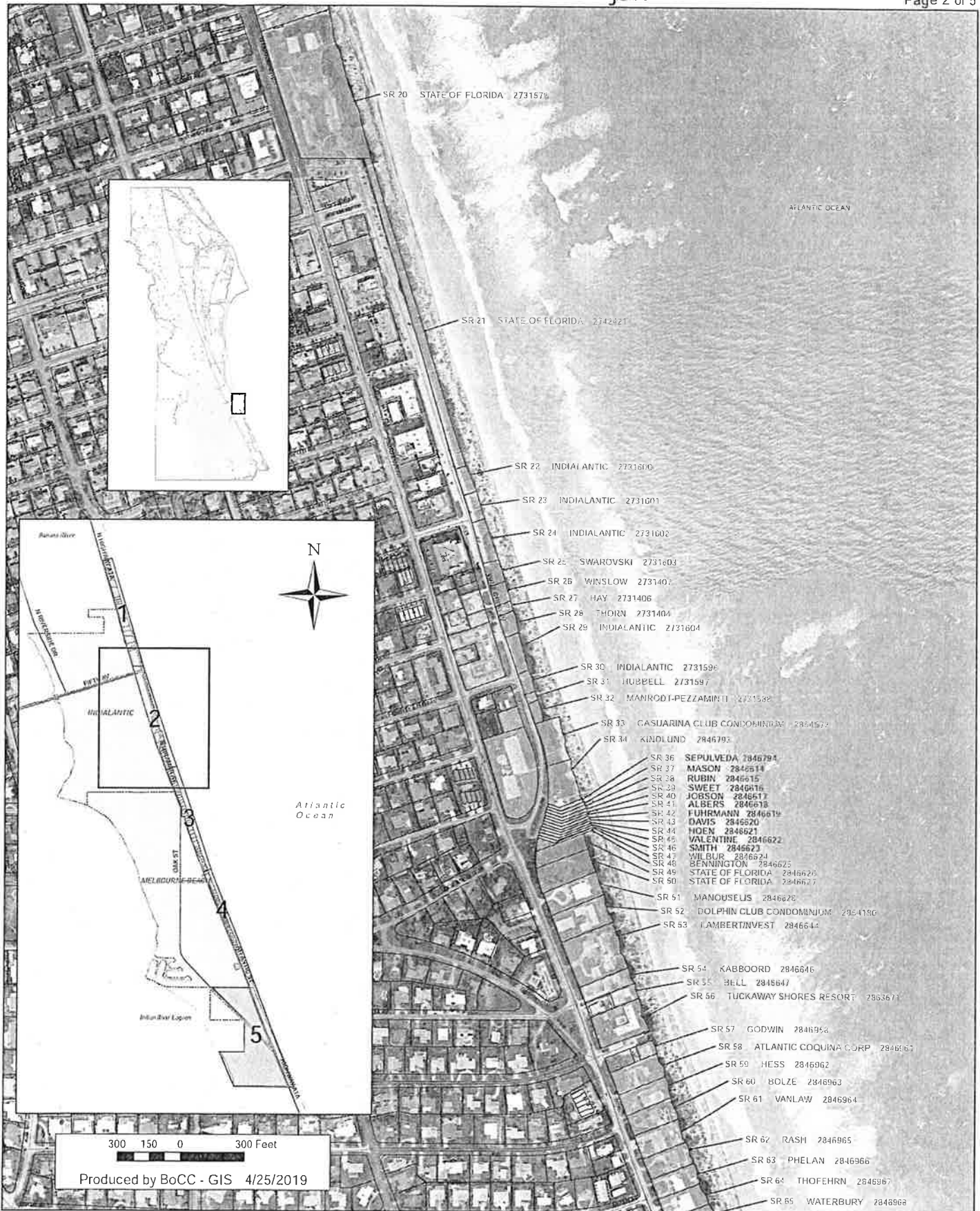
Christine Valliere
Assistant County Attorney for the Board of
County Commissioners of Brevard County,
Florida

Brevard County Shore Protection Project South Reach Easement Certification Map - 2019 50 Year Economic Life of Project

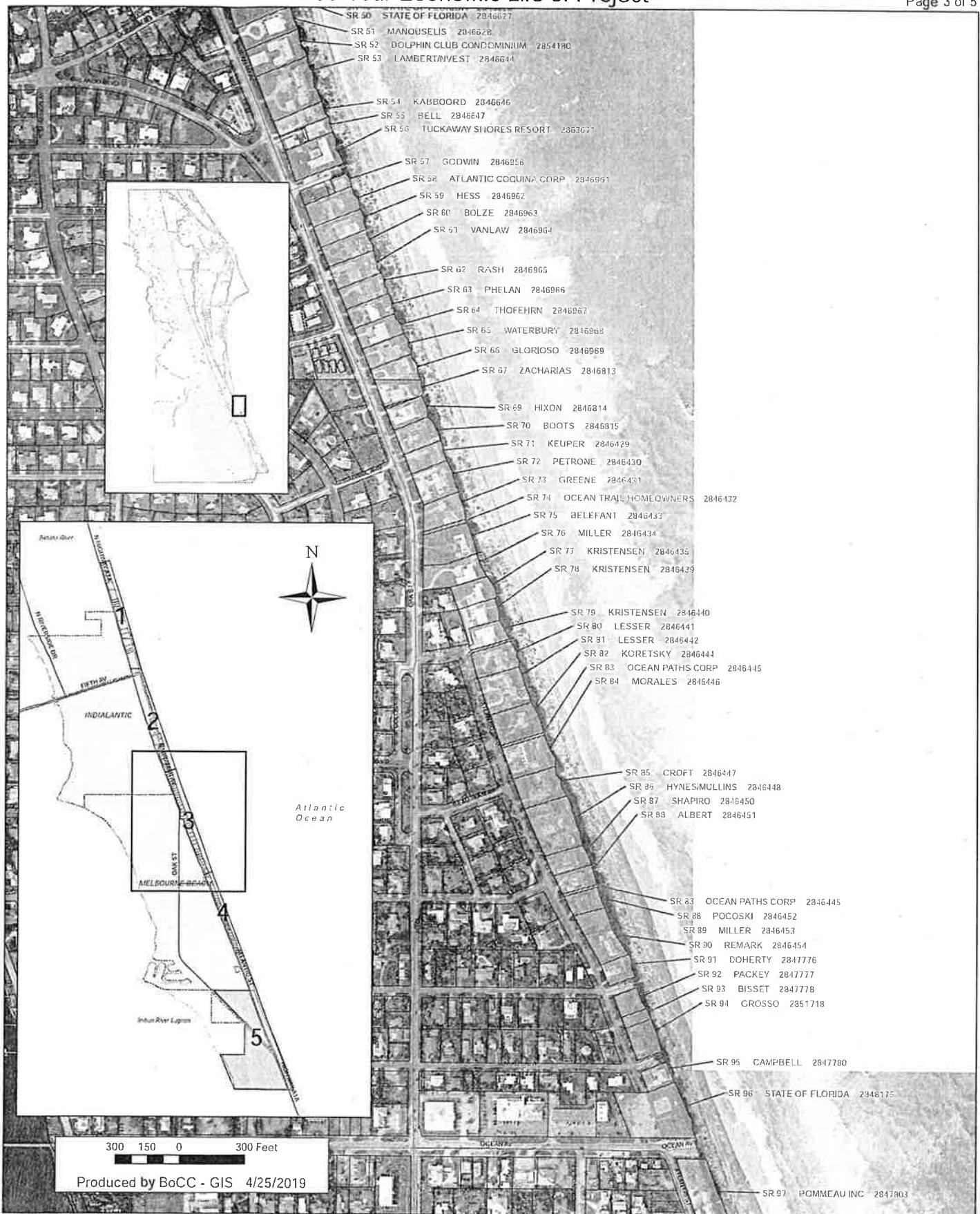


Brevard County Shore Protection Project South Reach Easement Certification Map - 2019 50 Year Economic Life of Project

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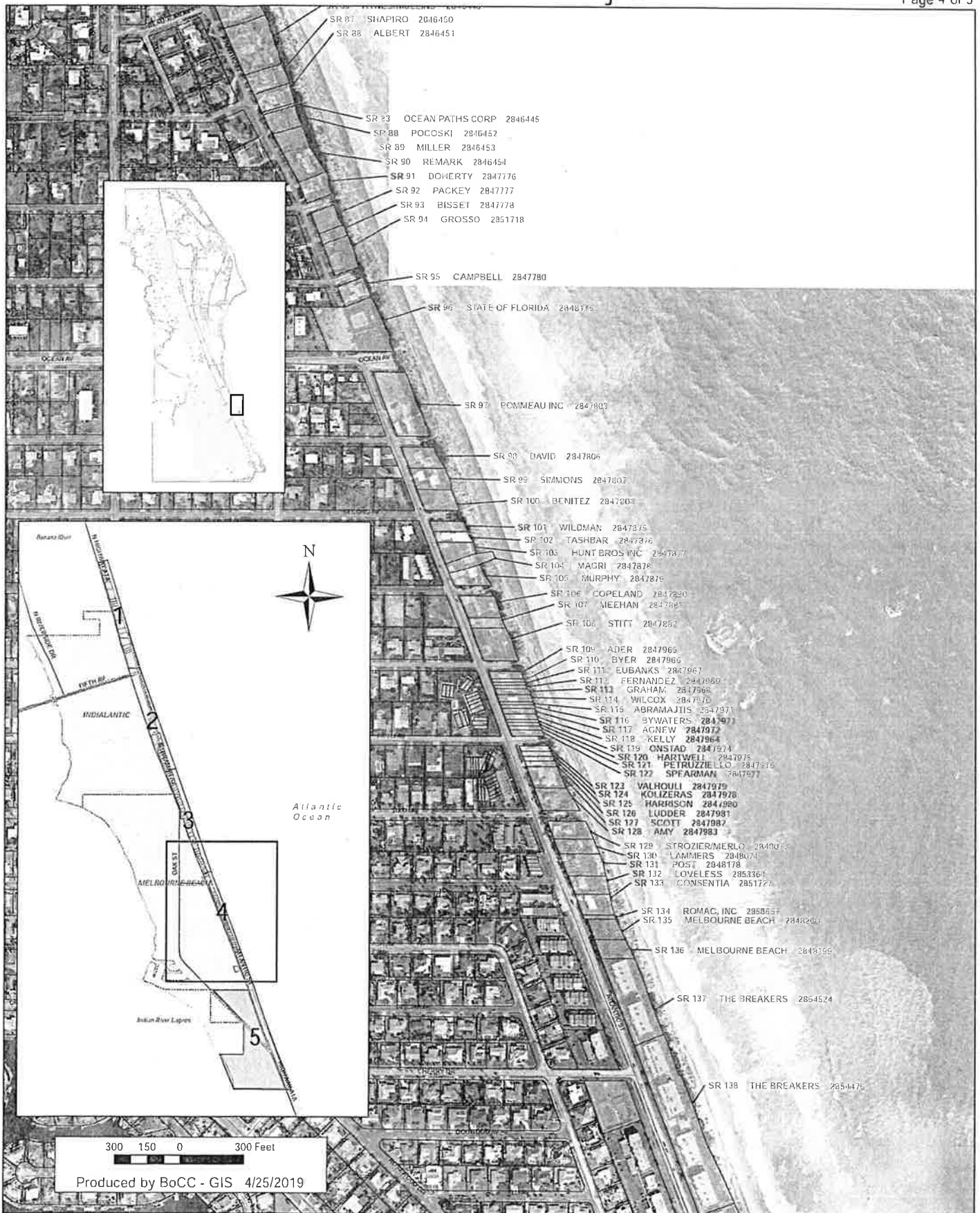


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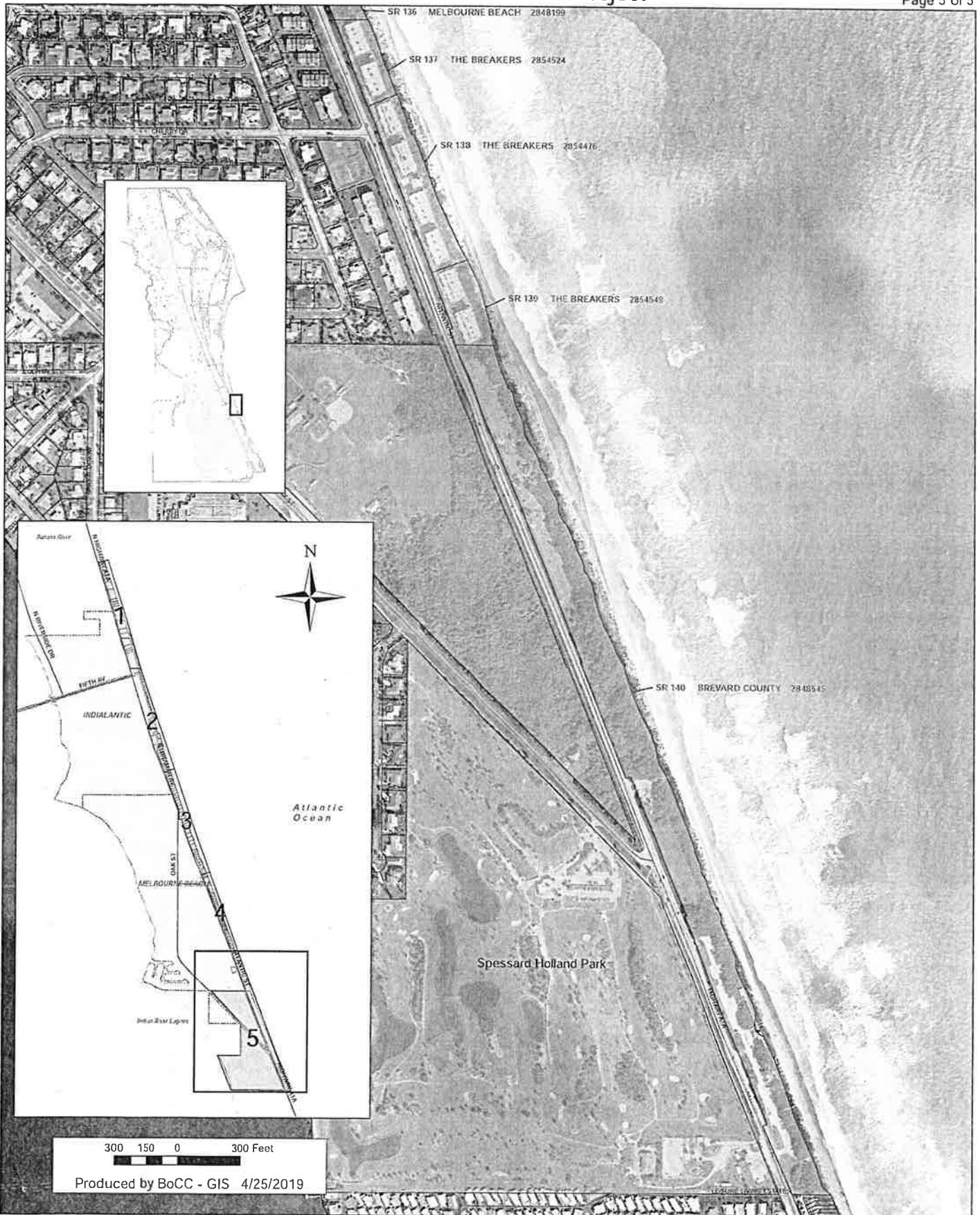
Brevard County Shore Protection Project South Reach Easement Certification Map - 2019 50 Year Economic Life of Project

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Brevard County Shore Protection Project
South Reach Easement Certification Map - 2019
50 Year Economic Life of Project

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CERTIFICATION OF LANDS

Certificate Number: 1

Project Name: Brevard County Shore Protection Project

Segment: South Reach

The Board of County Commissioners of Brevard County, Florida, (hereinafter referred to as "County") as Project Sponsor of the Brevard County Shore Protection Project South Reach Segment authorized by Public Law 101(b)(7) of the Water Resources Development Act of 1996, Public Law 104-303 under Project Cooperation Agreement Dated April 20, 2000, as amended, does hereby certify that the below described lands are dedicated to the Brevard County Shore Protection Project South Reach Segment and shall not be conveyed, transferred, or otherwise altered or encumbered without express written consent of the Department of the Army acting by and through the Assistant Secretary of the Army for Civil Works or his designated representative.

The County certifies that it owns or controls the below described interests in the lands depicted on the attached map at the time of execution of this Certificate and that these recited interests will not be impaired during the life of the Project except as written consent is given as provided above. The County also certifies that all persons and business that have been displaced by acquisition of below lands have been relocated in full compliance with Public Law 91-646, as amended and that the other provisions of Public Law 91-646, as amended, have been complied with.

The County hereby grants to the Department of the Army an irrevocable right to enter for purposes of construction, inspection and, if necessary, for the purpose of completing, operating, repairing, maintaining, replacing, or rehabilitating the Project upon lands which the County owns or controls for the Project.

The County hereby certifies that it has at least the following minimum interest in the lands depicted on the attached map and as identified thereon:

- Beach Storm damage Reduction Easement (for private lands)
- Temporary Beach Storm Damage Reduction Consent of Use (for public lands)
- Temporary Construction Access and Staging Consent of Use (for public lands)
- Consolidated Joint Coastal Permit and Sovereign Submerged Lands Authorization

Permit Number: 0137212-016-JC

BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA

Dated: May 7, 2019


By: Kristine Ishardi, Chair
As approved by the Board on 5/7/19

ATTEST:


SCOTT ELLIS, CLERK

BREVARD COUNTY SHORE PROTECTION PROJECT
SOUTH-REACH SEGMENT
CONSTRUCTION ACCESS & STAGING
CONSENT OF USE

The Board of County Commissioners of Brevard County, Florida, Grantor, hereby grants to the United States Army Corps of Engineers, Grantee, a Consent of Use as follows:

Grantor grants to Grantee, its agents, successors and assigns, a temporary access on and across the land described in Schedule "A" for use by Grantee, its representatives, agents, contractors and assignees as a work area, including the right to move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the Brevard County Shore Protection Project South Reach Segment, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right of way; reserving, however, to the Grantor all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines. Restoration shall be performed by the Grantee, or its agents, successors or assigns, however, the Grantee shall be responsible for the restoration described herein, such that restoration shall occur in an expeditious manner and be completed to preconstruction/pre-access condition.

The term of this consent of use shall commence on the date the United States Army Corps of Engineers ("Corps") awards the contract for the construction of 2019/2020 renourishment of the Brevard County Shore Protection Project South Reach Segment and shall terminate thirty five (35) years after the date of completion of the construction of the project.

IN WITNESS WHEREOF, Grantor has caused these presents to be executed on the date first above written.

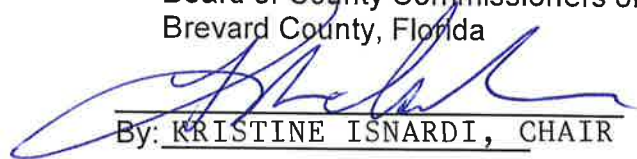
Signed, sealed and delivered in the presence of:

GRANTOR:

ATTEST:


Clerk

Board of County Commissioners of
Brevard County, Florida


By: KRISTINE ISNARDI, CHAIR

As approved by Board May 7, 2019

SCHEDULE "A"

1. All that land owned by, dedicated to, or managed by the Board of County Commissioners of Brevard County, Florida, and lying East of Highway A1A for the following streets or roads: Watson Drive, Ocean Drive and Ocean Terrace.
2. A portion of Tax Parcel 2848545; Spessard Holland Beach Park; owned by Brevard County, Florida, described as:

The Southern 425.00' of Government Lot 5, as measured along the easterly right of way line of State Road A1A, in Section 17, Township 28 South, Range 38 East, Brevard County, Florida, lying east of the easterly right of way line of said Highway A1A.

AND

The Northern 300.00' of Government Lot 6, as measured along the easterly right of way line of State Road A1A, in Section 17, Township 28 South, Range 38 East, Brevard County, Florida, lying east of the easterly right of way line of said Highway A1A.

3. All State owned vacant land managed by the Brevard County Board of Commissioners located at 1305 South Miramar Avenue as described in the following parcel description:

(28-38-06-EQ-00099.0-0003.00 and 28-38-06-EQ-00099.0-0004.00, South of Beach House Townhouses)

Lot 3, Block 99, Section "B", INDIALANTIC BY THE SEA, according to the plat thereof recorded in Plat Book 3, Page 91, Public Records of Brevard County, Florida, and part of the Northeast $\frac{1}{4}$ of Section 6, Township 28 South, Range 38 East as described in Official Records Book 2623, Page 2404, Public Records of Brevard County, Florida, to-wit: For a point of beginning, commence at the Northwest corner of Lot 3, Block 99, Section B, Indialantic By The Sea, as recorded in Plat Book 3, Page 91, Public Records of Brevard County, Florida, point being on a curve to the Southeast; thence along said curve having for its elements a radius of 445.45 feet, a central angle of $24^{\circ}00'42''$ for an arc distance of 186.67 feet; thence run N $21^{\circ}21'40''$ W a distance of 181.67 feet; thence run N $68^{\circ}38'20''$ E a distance of 38.55 feet to the Point of Beginning.

Lot 4, and the North 37.5 feet of Lot 5, Block 99, Section "B", INDIALANTIC BY THE SEA, according to the plat thereof recorded in Plat Book 3, Page 91, Public Records of Brevard County, Florida.

4. All State owned vacant land managed by the Town of Indialantic lying East of Miramar Avenue and North of Watson Avenue as described in the following parcel description:

(27-38-31-26-00001.0-0001.00, Lot North of Watson Avenue)

That part of Lots 1, 2, and 3 lying in Government Lot 1, Block 1, and that part of Lots 1 and 2 lying in Government Lot 2, Block 1, Except Road Right-of-Way, Resubdivision of Maggie Johnson's Plat of Melbourne Beach, Plat Book 9, Page 10, Section 31, Township 27 South, Range 38 East, Brevard County, Florida.