

Meeting Date
July 12, 2016



AGENDA	
Section	New Business
Item No.	VI A 1

**AGENDA REPORT**

*BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS*

<b>SUBJECT:</b>	Project Agreements between the Department of the Army and Brevard County Florida for Construction of the Brevard County Shore Protection Project North and South Reaches, and Mid Reach. (D-2, D3, D4 and D-5)
<b>DEPT/OFFICE</b>	Natural Resources Management Department (NRM)

**Requested Action:**

It is requested that the Board authorize: 1) the Chairman to execute a Project Partnership Agreement between Brevard County and the Department of the Army for Construction of the Brevard County Shore Protection Project Mid Reach Segment substantially in the form of Attachment A, with County Attorney and Risk Management approval; 2) the Chairman to execute Amendment No. 2 to the Project Cooperation Agreement between Brevard County and the Department of the Army for Construction of the Brevard County Shore Protection Project substantially in the form of Attachment B, with County Attorney and Risk Management approval; 3) the County Manager or designee to approve payment of non-federal cost share as required; and 4) any necessary budget change requests.

**Summary Explanation & Background:**

On April 20, 2000 the Board entered into a Project Cooperation Agreement (PCA) with the Department of the Army for construction of the North and South Reaches of the Brevard County Shore Protection Project (BCSPP). Initial construction of those "beach nourishment" projects was completed between 2000 and 2003. On May 28, 2013, the Board approved amendment No. 1 to the PCA to allow an \$8.6M federal credit to be applied. On October 7, 2014 the Board approved a Design Agreement (DA) with the Army for the Mid Reach segment, a 7.8 mile stretch including Indian Harbour and Satellite Beaches. The DA allowed final plans and specifications to be created by the Army Corps (Corps) for Mid Reach as required before the project could move toward construction under the BCSPP.

Design for the first phase of Mid Reach construction is now completed, and federal funds have been appropriated to begin construction. The Corps desires to complete contracting for the first phase of construction before the end of this fiscal year. This requires timely execution of agreements between Brevard County and the Army, as represented by attachments A and B. Attachment A is a 50 year Project Partnership Agreement (PPA) for construction of the Mid Reach as a segment of the BCSPP. The Corps estimates the non-federal share for initial construction will be \$10.6M. This non-federal portion will be funded by a combination of the Tourism Development Tax Beach Management fund in partnership with the state, where Florida Department of Environmental Protection (FDEP) beach management funding has been appropriated for the work. The Corps estimates that the non-federal cost of periodic nourishment over the 50 year life of the project will be \$268M. On September 23, 2015 the Tourist Development Council (TDC) approved a 50 year planning budget for the Tourism Development Tax Beach Management fund (attachment C) which includes adequate funding for Mid Reach and North & South Reaches presuming continued partnership with FDEP. The TDC also unanimously supports the Board executing an agreement with the Army Corps to include construction of the Mid Reach project.

Amendment No. 2 to the North and South Reach PCA (attachment B) allows use of the \$8.6M federal credit, previously added to this agreement, for construction of the Mid Reach. Because the Mid Reach is the next construction event anticipated by the Corps, having the federal credit available for Mid Reach work is a logical path. The \$8.6M credit is already anticipated in the Mid Reach PPA (attachment A), so must also be addressed by this Amendment to the North and South Reach PCA.

**Fiscal Impact:** Of the \$56,187,000 required for initial construction of the Mid Reach, the Corps estimates \$10,631,824 to be provided by the non-federal partner. Of the non-federal share, \$4,309,078 will be funded through FDEP grants \$6,322,746 will be paid from the Tourism Development Tax Beach Management Budget.

FY 15-16 up to \$2,616,680 in local match from fund 1442/293100

FY 16-17 up to \$3,706,066 in local match from fund 1442/293100

**Name:** Mike McGarry or Virginia Barker, NRM – 321-633-2016

**Clerk to the Board instruction:** Originals will be provided for execution upon final County Attorney review

**Exhibits Attached:** **Attach A:** Project Partnership Agreement for Mid Reach Segment

**Attach B:** Amendment No. 2 to Project Cooperation Agreement **Attach C:** TDC Beach Improvement Fund; 50 year projection.

<b>Contract /Agreement (If attached):</b>		<b>Reviewed by County Attorney</b>	<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>PR</b>	<input type="checkbox"/>
		<b>PENDING</b>						
<b>County Manager</b>		<b>Assistant County Manager</b>				<b>Department Director / Extension</b>		
<b>Stockton Whitten</b>						<b>Virginia Barker</b>	<b>Director / X 5-2435</b>	



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

July 13, 2016

MEMORANDUM

TO: Virginia Barker, Natural Resources Management Director

RE: Item VI.A.1., Project Agreements with Department of the Army for Construction of the Brevard County Shore Protection Project North and South Reaches, and Mid Reach

The Board of Commissioners, in regular session on July 12, 2016, authorized the Chairman to execute Project Partnership Agreement with Department of the Army for construction of the Brevard County Shore Protection Project Mid Reach Segment, substantially in form of Attachment A, with County Attorney and Risk Management approval; authorized the Chairman to execute Amendment No. 2 to the Project Cooperation Agreement with Department of the Army for construction of the Brevard County Shore Protection Project, substantially in the form of Attachment B, with County Attorney and Risk Management approval; authorized the County Manager, or his designee, to approve payment of non-federal cost share as required; and approved any necessary budget change requests.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

cc: Finance  
Budget

## Tammy Rowe

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**From:** Tammy Rowe  
**Sent:** Wednesday, July 13, 2016 9:55 AM  
**To:** 'McGarry, Michael J'  
**Cc:** Vicki Robinson; Donna Scott; Deborah Thomas  
**Subject:** RE: BOCC July 12, item 6-A-1 Army beach project agreements

Good morning Mike:

I checked with Mr. Ellis' secretary Vicki and she advised that he will be tentatively available on September 1<sup>st</sup> after 10:00 a.m. in Viera. She did advise you should call first as this is subject to change.

The Clerk to the Board Office employees do not have the authority to attest documents in Mr. Ellis' absence, but there is always the possibility the Chief Deputy Clerk, Laurie Rice, may be available to attest these documents if the need would arise.

Tammy Rowe, Supervisor  
Clerk to the Board  
Brevard County Clerk of Courts  
[tammy.rowe@brevardclerk.us](mailto:tammy.rowe@brevardclerk.us)  
321-637-2001 Ext. 49056

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**From:** McGarry, Michael J [<mailto:Mike.McGarry@brevardfl.gov>]  
**Sent:** Wednesday, July 13, 2016 9:41 AM  
**To:** McGarry, Michael J; Tammy Rowe  
**Subject:** BOCC July 12, item 6-A-1 Army beach project agreements

Tammy,

I am writing with regard to the final contracts from the Department of the Army for execution as authorized by the Board July 12<sup>th</sup>, item 6-A-1. The Army Corps is under a tight timeline so asked that I do what I can to assure prompt execution and attesting by the Clerk. The original documents are now in the Assistant Secretary of the Army's (ASA) office in DC undergoing final leadership approval and signature authority. Based on the ASA's schedule the Army expects to have the originals in my hand August 30. I am checking the Chairman's schedule now, but hope to arrange his signature August 30 or 31 which would then require "attesting" August 31 or Sept 1. The Army has requested the signed document back to them by Sept 2 so they can open bid submittals for construction.

I know, and appreciate, the Army's crazy rush schedule is not your problem but would appreciate your help planning this process. Could you please check Mr. Ellis's schedule Aug 31-Sept 2 and let me know if he will likely be available? I will of course deliver the documents by hand to whatever court office he is working in. If he will be unavailable that week, is it possible that you or another staff member would have authority to attest the Chairman's signature?

Any feedback you can provide will be a big help.

Thank You,  
Mike McGarry

V1.A.1

Paper for Presentation to  
Brevard County Commission  
Meeting on July 12, 2016  
By George H. Rosenfield

Subject: \$551M for Beach Nourishment.

Good Morning. My name is George Rosenfield, I live in Suntree. I believe you all know me. I have addressed this Commission a number of times before; but usually in my capacity as an Environmental Scientist.

Now, the County commission is being asked to consent to spending \$551 Million over 50 years for "Beach Nourishment" by the U. S. Army Corps of Engineers. Some years ago, another allotment of money was committed for the same purpose; and in between times - more money also.

I seem to recall that I talked to this Commission on this subject at an earlier time (I can't find the records). "Beach Nourishment" is like the dog in the yard chasing his tail. He goes round and round, but accomplishes nothing! Once in a while he may catch hold of it - but so what!

Over past millennia, the long shore current along the Atlantic coast line has been southward bound. There is no reason to believe this won't continue. For millennia, this current has been transporting sand southward, which waves have deposited to East Coast Florida Shores (sometimes accretion and sometimes decretion), and even to create the Barrier Islands. Until the 1970's. Then the Port Canaveral jetty was built, which stopped this natural sand transport. The sand now builds up north of the jetty!

At the afore mentioned Commission Meeting - I asked for construction of a "Sand Bypass System" to be built under the Port Canaveral jetty to continue the sand movement. Now I am repeating such a request. Maybe a series of underwater arches to allow the long shore current and the carried sand to pass through, while the jetty superstructure stops the wave action across the Port entry channel. I am guessing the cost would be a lot less than the \$551M over 50 years; maybe \$50M to \$100M over 10 years!

Also, there is an old Federal Government report on the beach erosion of Brevard County from before the 1950's . If I remember, some of the beach in the PAFB region was decreting, while further South it was accreting, over the long term effect. I cannot find my copy of this old report, but I am sure the County Engineering Office has a complete history of the Brevard County Beaches.

So let's put up the money for the Army Corps of Engineers to study this suggested Sand Bypass System, or something similar, and do away with the continuous manual carrying of sand from North of the Jetty, to our beaches.

By the way, I am a retired Major from the U.S. Army, Corps of Engineers. END.

## Deborah Thomas

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**From:** Donna Scott  
**Sent:** Thursday, September 08, 2016 8:04 AM  
**To:** Deborah Thomas  
**Cc:** Tammy Rowe  
**Subject:** FW: BOCC July 12, item 6-A-1 Army beach project agreements  
**Attachments:** brevard mid reach ppa.pdf; brevard north south ppa amendment 2.pdf

Please print and file accordingly. Thank you.

Donna Scott  
Assistant Clerk to the Board  
(321) 637-2001 / Ext. 49120



Brevard County, Florida  
**Clerk of the Court**  
Scott Ellis

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**From:** McGarry, Michael J [<mailto:Mike.Mcgarry@brevardfl.gov>]  
**Sent:** Thursday, September 08, 2016 8:00 AM  
**To:** Tammy Rowe  
**Cc:** Donna Scott  
**Subject:** RE: BOCC July 12, item 6-A-1 Army beach project agreements

Tammy,  
The executed agreements with the Army Corps, as approved by the BOCC on July 12<sup>th</sup>, are attached. Thank you for your help expediting this process last week.

Mike McGarry

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**From:** Tammy Rowe [<mailto:Tammy.Rowe@brevardclerk.us>]  
**Sent:** Tuesday, August 30, 2016 12:06 PM  
**To:** McGarry, Michael J  
**Cc:** Donna Scott  
**Subject:** RE: BOCC July 12, item 6-A-1 Army beach project agreements

Mike:

Please email me a copy of the fully-executed document once Scott signs it today.

Thank you,  
Tammy

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**From:** McGarry, Michael J [<mailto:Mike.Mcgarry@brevardfl.gov>]  
**Sent:** Tuesday, August 30, 2016 9:40 AM  
**To:** Tammy Rowe  
**Cc:** Donna Scott  
**Subject:** RE: BOCC July 12, item 6-A-1 Army beach project agreements

Thank you

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**From:** Tammy Rowe [<mailto:Tammy.Rowe@brevardclerk.us>]  
**Sent:** Tuesday, August 30, 2016 9:35 AM  
**To:** McGarry, Michael J  
**Cc:** Donna Scott  
**Subject:** RE: BOCC July 12, item 6-A-1 Army beach project agreements

Mike:

Vicki's number is 321-637-2017 or her email is [vicki.robinson@brevardclerk.us](mailto:vicki.robinson@brevardclerk.us).

Tammy Rowe, Supervisor  
Clerk to the Board  
Brevard County Clerk of Courts  
[tammy.rowe@brevardclerk.us](mailto:tammy.rowe@brevardclerk.us)  
321-637-2001 Ext. 49056

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**From:** McGarry, Michael J [<mailto:Mike.Mcgarry@brevardfl.gov>]  
**Sent:** Tuesday, August 30, 2016 9:33 AM  
**To:** Tammy Rowe  
**Cc:** Donna Scott  
**Subject:** RE: BOCC July 12, item 6-A-1 Army beach project agreements

Tammy,

I finally have the document provided by the Army Corps last night and of course they have thrown another challenge at me. The original plan was for them to pick it up Thursday after it was attested by Mr. Ellis and have their Colonel sign it Thursday night or first thing Friday. Now that a tropical system is headed for Jacksonville and scheduled to arrive Thursday, the Corps is hoping they can somehow get the document before Thursday. The documents are at the County Attorney's office now for approval and signature. I then have an appointment with Chairman Barfield at 2pm. I would like to check if there is any way for me to find Mr Ellis somewhere with his seal either late today or tomorrow morning. I will of course be willing to drive to whichever office he is in. Do you have a phone number and email for Vicki so I can try and coordinate this with her?

Any guidance or help you can provide will be appreciated.

Mike McGarry  
Mobile 321-537-1779

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**From:** Tammy Rowe [<mailto:Tammy.Rowe@brevardclerk.us>]  
**Sent:** Thursday, August 25, 2016 1:39 PM  
**To:** McGarry, Michael J  
**Subject:** RE: BOCC July 12, item 6-A-1 Army beach project agreements

Thank you, Mike. Just let us know how it is going.

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**From:** McGarry, Michael J [<mailto:Mike.Mcgarry@brevardfl.gov>]  
**Sent:** Thursday, August 25, 2016 1:02 PM  
**To:** Tammy Rowe

**Cc:** Donna Scott

**Subject:** RE: BOCC July 12, item 6-A-1 Army beach project agreements

Tammy

Thank you very much for the follow-up. Yes, I believe that schedule is still on track. The Army Corps has promised to send the document to me for signature on 8/30 and I have a tentative arrangement to have the County Attorney and Chairman sign it late on the 30<sup>th</sup> with the 31<sup>st</sup> as a fall back. This will have me ready to bring it to the courthouse on Sept 1 for Mr. Ellis signature. The Army Corps tells me their Colonel in Jacksonville must sign it on the 2<sup>nd</sup>, so this should work (my fingers are crossed). I've been waiting to call Vicki until the minute I get the contract in my hand.

Thanks again!

Mike McGarry

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**From:** Tammy Rowe [<mailto:Tammy.Rowe@brevardclerk.us>]

**Sent:** Thursday, August 25, 2016 10:59 AM

**To:** McGarry, Michael J

**Cc:** Donna Scott

**Subject:** RE: BOCC July 12, item 6-A-1 Army beach project agreements

Mike:

We have you going to the Viera Courthouse on September 1<sup>st</sup> so Mr. Ellis can attest the below document. Is that still happening? Just a follow up.

Thanks,

Tammy Rowe, Supervisor  
Clerk to the Board  
Brevard County Clerk of Courts  
[tammy.rowe@brevardclerk.us](mailto:tammy.rowe@brevardclerk.us)  
321-637-2001 Ext. 49056

Good morning Mike:

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I know, and appreciate, the Army's crazy rush schedule is not your problem but would appreciate your help planning this process. Could you please check Mr. Ellis's schedule Aug 31-Sept 2 and let me know if he will likely be available? I will of course deliver the documents by hand to whatever court office he is working in. If he will be unavailable that week, is it possible that you or another staff member would have authority to attest the Chairman's signature?

Any feedback you can provide will be a big help.

Thank You,

Mike McGarry

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

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PROJECT PARTNERSHIP AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
BREVARD COUNTY, FLORIDIA  
FOR  
CONSTRUCTION  
OF THE  
BREVARD COUNTY, FLORIDA SHORE PROTECTION PROJECT  
MID-REACH SEGMENT

THIS AGREEMENT is entered into this 31st day of August, 2016, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Jacksonville District and Brevard County, Florida (hereinafter the "Non-Federal Sponsor"), represented by the Chairman of the Brevard County Board of County Commissioners.

WITNESSETH, THAT:

WHEREAS, construction of the North Reach Segment and South Reach Segment of the Brevard County, Florida Shore Protection Project (hereinafter the "Original Project") was authorized by Section 101(b)(7) of the Water Resources Development Act of 1996, Public Law 104-303;

WHEREAS, Section 3045(a) of the Water Resources Development Act of 2007, Public Law 110-114, authorized the Secretary to modify the Original Project (hereinafter the "Modified Project") to include the Mid-Reach Segment (hereinafter the "Project", as defined in Article I.A. of this Agreement) upon a determination by the Secretary, following completion of the general reevaluation report, that such shoreline protection is feasible;

WHEREAS, Section 3045(b) of the Water Resources Development Act of 2007 authorized the Secretary to credit the Non-Federal Sponsor for costs it incurred to respond to damages to the Original Project resulting from the Canaveral Harbor Federal Navigation Project;

WHEREAS, the Assistant Secretary of the Army on September 8, 2014 approved the general reevaluation report and determined that the Project, which is the locally preferred plan, is feasible, and with such approval, the credit pursuant to Section 3045(b) of Water Resources Development Act of 2007 is available for crediting towards the non-Federal share of the Project;

WHEREAS, as the costs of the locally preferred plan do not exceed the costs of the National Economic Development Plan, the cost sharing specified in Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213), will be applied; and

WHEREAS, the Government and the Non-Federal Sponsor have the full authority and capability to perform in accordance with the terms of this Agreement and acknowledge that Section 221 of the Flood Control Act of 1970, as amended (42 U.S.C.1962d-5b), provides that this Agreement shall be enforceable in the appropriate district court of the United States.

NOW, THEREFORE, the parties agree as follows:

#### ARTICLE I - DEFINITIONS

A. The term "Project" means the construction of the locally preferred plan, which includes initial construction and periodic nourishment of the Mid-Reach Segment of the Modified Project, extending approximately 7.8 miles from the Florida Department of Environmental Protection monuments R-75.4 to R-119, and further divided into six reaches, with dune fill and 10-foot extension of the mean high water line (+2.0 feet NGVD 29) plus advance nourishment to maintain the design fill volume in Reaches 1, 4, and 5; dune fill and 20-foot extension of the mean high water line plus advance nourishment to maintain the design fill volume in Reaches 2 and 3; a dune fill consisting of advance nourishment in Reach 6; rehabilitation of the Poseidon Dredged Material Management Area at Port Canaveral to facilitate stockpiling of sand; dredging material at 6-year intervals from Canaveral Shoals with placement and storage in the Poseidon Dredged Material Management Area; construction of nearshore reefs for environmental mitigation and associated monitoring; and periodic nourishment estimated to occur every 3 years, as generally described in the Brevard County, Florida, Hurricane and Storm Damage Reduction Project, Mid-Reach Segment, Final Integrated General Reevaluation Report and Supplemental Environmental Impact Statement, dated August 2010, revised April 2011, with an Addendum dated April 2014, and the Report of the Director of Civil Works, dated May 16, 2014, and approved by the Assistant Secretary of the Army (Civil Works) on September 8, 2014 (hereinafter the "Decision Document").

B. The term "periodic nourishment" means the placement of suitable beach berm material after the initial construction of the Project at appropriate intervals during the 50 year period of Federal participation that begins on the date of initiation of construction of the Project, as generally described in the Decision Document.

C. The term "construction costs" means all costs incurred by the Government and Non-Federal Sponsor in accordance with the terms of this Agreement that are directly related to design and construction of the Project and cost shared. The term includes, but is not necessarily limited to: the Government's costs and the Non-Federal Sponsor's creditable contributions pursuant to the terms of the Design Agreement executed on October 16, 2014; the costs of historic preservation activities except for data recovery for historic properties; the Government's costs of engineering, design, and construction; the Government's supervision and administration costs; the Government's costs of monitoring; the Non-Federal Sponsor's creditable costs for providing real property

interests, disposal area improvements, and relocations and for providing in-kind contributions. The term does not include any costs for operation, maintenance, repair, rehabilitation, or replacement; for dispute resolution; for participation in the Project Coordination Team; for audits; for betterments; or the Non-Federal Sponsor's cost of negotiating this Agreement.

D. The term "real property interests" means lands, easements, and rights-of-way, including those required for relocations and borrow and dredged material disposal areas. Acquisition of real property interests may require the performance of relocations.

E. The term "relocation" means the provision of a functionally equivalent facility to the owner of a utility, cemetery, highway, railroad, or public facility when such action is required in accordance with applicable legal principles of just compensation. Providing a functionally equivalent facility may include the alteration, lowering, raising, or replacement and attendant demolition of the affected facility or part thereof.

F. The term "disposal area improvements" means the improvements required on real property interests to enable the ancillary disposal of material that has been dredged or excavated during construction, operation, and maintenance of the Project, including, but not limited to, retaining dikes, wasteweirs, bulkheads, embankments, monitoring features, stilling basins, and de-watering pumps and pipes.

G. The term "functional portion thereof" means a portion of the Project that has been completed and that can function independently, as determined in writing by the U.S. Army Engineer, Jacksonville District (hereinafter the "District Engineer"), although the remainder of the Project is not yet complete.

H. The term "in-kind contributions" means those materials or services provided by the Non-Federal Sponsor that are identified as being integral to the Project by the Division Engineer for South Atlantic Division. To be integral to the Project, the material or service must be part of the work that the Government would otherwise have undertaken for design and construction of the Project. The in-kind contributions also include any investigations performed by the Non-Federal Sponsor to identify the existence and extent of any hazardous substances that may exist in, on, or under real property interests required for the Project.

I. The term "betterment" means a difference in the construction of an element of the Project that results from the application of standards that the Government determines exceed those that the Government would otherwise apply to the construction of that element.

J. The term "fiscal year" means one year beginning on October 1<sup>st</sup> and ending on September 30<sup>th</sup> of the following year.

K. The term "Section 3045(b) credit" means the credit, authorized by Section 3045(b) of the Water Resources Development Act of 2007, in the amount of \$8,576,176,

that will be applied towards the non-Federal cost share for initial construction of the Project.

## ARTICLE II - OBLIGATIONS OF THE PARTIES

A. In accordance with Federal laws, regulations, and policies, the Government shall undertake construction of the Project using funds appropriated by the Congress and funds provided by the Non-Federal Sponsor.

B. The Non-Federal Sponsor shall contribute, in accordance with the provisions of this paragraph, 35 percent of the construction costs for initial construction of the Project, and 50 percent of the construction costs for periodic nourishment, allocated by the Government to coastal storm risk management and 100 percent of the construction costs allocated by the Government to beach improvements with exclusively private benefits.

1. In accordance with Article III, the Non-Federal Sponsor shall provide the real property interests, disposal area improvements, and relocations required for construction, operation, and maintenance of the Project.

2. In providing in-kind contributions, if any, the Non-Federal Sponsor shall obtain all applicable licenses and permits necessary for such work. As functional portions of the work are completed, the Non-Federal Sponsor shall begin operation and maintenance of such work. Upon completion of the work, the Non-Federal Sponsor shall so notify the Government and provide the Government with a copy of as-built drawings for the work.

3. For initial construction, and for each cycle of periodic nourishment, after considering the estimated amount of credit that will be afforded to the Non-Federal Sponsor pursuant to paragraphs B.1. and B.2. of this Article and the Section 3045(b) credit, the Government shall determine the estimated amount of funds required from the Non-Federal Sponsor for the then-current fiscal year. No later than 30 calendar days after receipt of notification from the Government, the Non-Federal Sponsor shall provide the full amount of such funds to the Government in accordance with Article VI.

4. No later than August 1<sup>st</sup> prior to each subsequent fiscal year during initial construction, or a cycle of periodic nourishment, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor during that fiscal year. Not later than September 1<sup>st</sup> prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government.

C. To the extent practicable and in accordance with Federal law, regulations, and policies, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on solicitations for contracts, including relevant plans and specifications, prior to the Government's issuance of such solicitations; proposed contract modifications,

including change orders; and contract claims prior to resolution thereof. Ultimately, the contents of solicitations, award of contracts, execution of contract modifications, and resolution of contract claims shall be exclusively within the control of the Government.

D. The Government, as it determines necessary, shall undertake actions associated with historic preservation, including, but not limited to, the identification and treatment of historic properties as those properties are defined in the National Historic Preservation Act (NHPA) of 1966, as amended. All costs incurred by the Government for such work (including the mitigation of adverse effects other than data recovery) shall be included in construction costs and shared in accordance with the provisions of this Agreement. If historic properties are discovered during construction and the effects of construction are determined adverse, strategies shall be developed to avoid, minimize or mitigate these adverse effects. In accordance with 54 U.S.C. 312507, up to 1 percent of the total amount authorized to be appropriated for the Project may be applied toward data recovery of historic properties and such costs shall be borne entirely by the Government. In the event that costs associated with data recovery of historic properties exceed 1 percent of the total amount authorized to be appropriated for the Project, the Government and Non-Federal Sponsor shall consult with each other and reach an agreement on how to fund such data recovery costs. Upon agreement in accordance with 54 U.S.C. 312508, the Government may seek a waiver from the 1-percent limitation under 54 U.S.C. 312507.

E. When the District Engineer determines that the initial construction of the Project, or a functional portion thereof, is complete, the District Engineer shall so notify the Non-Federal Sponsor in writing and the Non-Federal Sponsor, at no cost to the Government, shall operate, maintain, repair, rehabilitate, and replace the Project, or such functional portion thereof. The Government shall furnish the Non-Federal Sponsor with an Operation, Maintenance, Repair, Rehabilitation, and Replacement Manual (hereinafter the "OMRR&R Manual") and copies of all as-built drawings for the completed work. The Government's undertaking of a cycle of periodic nourishment has no effect on the Non-Federal Sponsor's continuing responsibility for operation, maintenance, repair, rehabilitation, and replacement of the Project. If a cycle of periodic nourishment changes those responsibilities, the Non-Federal Sponsor, at no cost to the Government, shall commence any additional responsibilities upon notification from the Government. Nothing in this paragraph is intended to affect the eligibility under Public Law 84-99 (33 U.S.C. 701n).

1. The Non-Federal Sponsor shall conduct its operation, maintenance, repair, rehabilitation, and replacement responsibilities in a manner compatible with the authorized purpose of the Project and in accordance with applicable Federal and State laws and specific directions prescribed by the Government in the OMRR&R Manual and any subsequent amendments thereto.

2. The Government may enter, at reasonable times and in a reasonable manner, upon real property interests that the Non-Federal Sponsor now or hereafter owns or controls to inspect the Project, and, if necessary, to undertake any work necessary to

the functioning of the Project for its authorized purpose. If the Government determines that the Non-Federal Sponsor is failing to perform its obligations under this Agreement and the Non-Federal Sponsor does not correct such failures within a reasonable time after notification by the Government, the Government may undertake any operation, maintenance, repair, rehabilitation, or replacement of the Project. No operation, maintenance, repair, rehabilitation, or replacement by the Government shall relieve the Non-Federal Sponsor of its obligations under this Agreement or preclude the Government from pursuing any other remedy at law or equity to ensure faithful performance of this Agreement.

F. At least annually and after storm events, the Non-Federal Sponsor, at no cost to the Government, shall perform surveillance of the Project to determine losses of material and provide results of such surveillance to the Government.

G. Not less than once each year, the Non-Federal Sponsor shall inform affected interests of the extent of risk reduction afforded by the Project.

H. The Non-Federal Sponsor shall participate in and comply with applicable Federal floodplain management and flood insurance programs.

I. In accordance with Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), the Non-Federal Sponsor shall prepare a floodplain management plan for the Project within one year after the effective date of this Agreement and shall implement such plan not later than one year after completion of initial construction of the Project. The plan shall be designed to reduce the impacts of future flood and coastal events in the project area, including but not limited to, addressing those measures to be undertaken by non-Federal interests to preserve the level of flood and storm damage risk reduction provided by such work. The Non-Federal Sponsor shall provide an information copy of the plan to the Government.

J. The Non-Federal Sponsor shall publicize floodplain information in the area concerned and shall provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with the Project.

K. The Non-Federal Sponsor shall prevent obstructions or encroachments on the Project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) that might reduce the level of protection the Project affords, hinder operation and maintenance of the Project, or interfere with the Project's proper function.

L. For shores, other than Federal shores, protected pursuant to this Agreement using Federal funds, the Non-Federal Sponsor shall ensure the continued public use of such shores compatible with the authorized purpose of the Project.

M. The Non-Federal Sponsor shall provide and maintain necessary access roads, parking areas, and other associated public use facilities, open and available to all on equal terms, as described in the Decision Document.

N. The Non-Federal Sponsor shall not use Federal Program funds to meet any of its obligations under this Agreement unless the Federal agency providing the funds verifies in writing that the funds are authorized to be used for the Project. Federal program funds are those funds provided by a Federal agency, plus any non-Federal contribution required as a matching share therefor.

O. In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all the requirements of applicable Federal laws and implementing regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964 (P.L. 88-352), as amended (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; the Age Discrimination Act of 1975 (42 U.S.C. 6102); and the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Army Regulation 600-7 issued pursuant thereto.

P. In addition to the ongoing, regular discussions of the parties in the delivery of the Project, the Government and the Non-Federal Sponsor may establish a Project Coordination Team to discuss significant issues or actions. The Government's costs for participation on the Project Coordination Team shall not be included in the construction costs that are cost shared but shall be included in calculating the overall Federal cost of the Project. The Non-Federal Sponsor's costs for participation on the Project Coordination Team shall not be included in the construction costs that are cost shared and shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

Q. The Non-Federal Sponsor may request in writing that the Government perform betterments on behalf of the Non-Federal Sponsor. Each request shall be subject to review and approval by the Division Engineer for the South Atlantic Division. If the Government agrees to such request, the Non-Federal Sponsor, in accordance with Article VI.F., must provide funds sufficient to cover the costs of such work in advance of the Government performing the work.

### ARTICLE III - REAL PROPERTY INTERESTS, DISPOSAL AREA IMPROVEMENTS, RELOCATIONS, AND COMPLIANCE WITH PUBLIC LAW 91- 646, AS AMENDED

A. The Government, after consultation with the Non-Federal Sponsor, shall determine the real property interests needed for construction, operation, and maintenance of the Project. The Government shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of the real property interests that the Government determines the Non-Federal Sponsor must provide for construction, operation, and maintenance of the Project, and shall provide the Non-Federal Sponsor with a written notice to proceed with acquisition. The Non-Federal Sponsor shall acquire

the real property interests and shall provide the Government with authorization for entry thereto in accordance with the Government's schedule for construction of the Project. The Non-Federal Sponsor shall ensure that real property interests provided for the Project are retained in public ownership for uses compatible with the authorized purposes of the Project.

B. The Government, after consultation with the Non-Federal Sponsor, shall determine the disposal area improvements necessary for construction, operation, and maintenance of the Project, and shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such improvements and shall provide the Non-Federal Sponsor with a written notice to proceed with such improvements. The Non-Federal Sponsor shall construct the improvements in accordance with the Government's construction schedule for the Project.

C. The Government, after consultation with the Non-Federal Sponsor, shall determine the relocations necessary for construction, operation, and maintenance of the Project, and shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such relocations and shall provide the Non-Federal Sponsor with a written notice to proceed with such relocations. The Non-Federal Sponsor shall perform or ensure the performance of these relocations in accordance with the Government's construction schedule for the Project.

D. To the maximum extent practicable, not later than 30 calendar days after the Government provides to the Non-Federal Sponsor written descriptions and maps of the real property interests, disposal area improvements, and relocations required for construction, operation, and maintenance of the Project, the Non-Federal Sponsor may request in writing that the Government acquire all or specified portions of such real property interests, construct disposal area improvements, or perform the necessary relocations. If the Government agrees to such a request, the Non-Federal Sponsor, in accordance with Article VI.F., must provide funds sufficient to cover the costs of the acquisitions, disposal area improvements, or relocations in advance of the Government performing the work. The Government shall acquire the real property interests, construct the disposal area improvements, and perform the relocations, applying Federal laws, policies, and procedures. The Government shall acquire real property interests in the name of the Non-Federal Sponsor except, if acquired by eminent domain, the Government shall convey all of its right, title and interest to the Non-Federal Sponsor by quitclaim deed or deeds. The Non-Federal Sponsor shall accept delivery of such deed or deeds. The Government's providing real property interests, disposal area improvements, or performing relocations on behalf of the Non-Federal Sponsor does not alter the Non-Federal Sponsor's responsibility under Article IV for the costs of any clean up and response related thereto.

E. As required by Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4630 and 4655), and Section 24.4 of the Uniform Regulations contained in 49 C.F.R. Part 24, the Non-Federal Sponsor assures that (1) fair and reasonable relocation

payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under Sections 4622, 4623 and 4624 of Title 42 of the U.S. Code; (2) relocation assistance programs offering the services described in Section 4625 of Title 42 of the U.S. Code shall be provided to such displaced persons; (3) within a reasonable period of time prior to displacement, comparable replacement dwellings will be available to displaced persons in accordance with Section 4625(c)(3) of Title 42 of the U.S. Code; (4) in acquiring real property, the Non-Federal Sponsor will be guided, to the greatest extent practicable under State law, by the land acquisition policies in Section 4651 and the provision of Section 4652 of Title 42 of the U.S. Code; and (5) property owners will be paid or reimbursed for necessary expenses as specified in Sections 4653 and 4654 of Title 42 of the U.S. Code.

#### ARTICLE IV - HAZARDOUS SUBSTANCES

A. The Non-Federal Sponsor shall be responsible for undertaking any investigations to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA") (42 U.S.C. 9601-9675), that may exist in, on, or under real property interests required for construction, operation, and maintenance of the Project. However, for real property interests that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigations unless the District Engineer provides the Non-Federal Sponsor with prior specific written direction, in which case the Non-Federal Sponsor shall perform such investigations in accordance with such written direction.

B. In the event it is discovered that hazardous substances regulated under CERCLA exist in, on, or under any of the required real property interests, the Non-Federal Sponsor and the Government, in addition to providing any other notice required by applicable law, shall provide prompt written notice to each other, and the Non-Federal Sponsor shall not proceed with the acquisition of such real property interests until the parties agree that the Non-Federal Sponsor should proceed.

C. If hazardous substances regulated under CERCLA are found to exist in, on, or under any required real property interests, the parties shall consider any liability that might arise under CERCLA and determine whether to initiate construction, or if already initiated, whether to continue construction, suspend construction, or terminate construction.

1. Should the parties initiate or continue construction, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for the costs of cleanup and response, including the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

2. In the event the parties cannot reach agreement on how to proceed or the Non-Federal Sponsor fails to provide any funds necessary to pay for cleanup and response costs or to otherwise discharge the Non-Federal Sponsor's responsibilities under this Article upon direction by the Government, the Government may suspend or terminate construction, but may undertake any actions it determines necessary to avoid a release of such hazardous substances.

D. The Non-Federal Sponsor and the Government shall consult with each other in an effort to ensure that responsible parties bear any necessary cleanup and response costs as defined in CERCLA. Any decision made pursuant to this Article shall not relieve any third party from any liability that may arise under CERCLA.

E. As between the Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the operator of the Project for purposes of CERCLA liability. To the maximum extent practicable, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the Project in a manner that will not cause liability to arise under CERCLA.

#### ARTICLE V - CREDIT FOR REAL PROPERTY INTERESTS, DISPOSAL AREA IMPROVEMENTS, RELOCATIONS, AND IN-KIND CONTRIBUTIONS

A. The Government shall include in construction costs, and credit towards the Non-Federal Sponsor's share of such costs, the value of Non-Federal Sponsor provided real property interests (except interests in lands subject to shore erosion that are publicly owned on the effective date of this Agreement), disposal area improvements, and relocations, and the costs of in-kind contributions determined by the Government to be required for construction, operation, and maintenance of the Project.

B. To the maximum extent practicable, no later than 6 months after it provides the Government with authorization for entry onto a real property interest or pays compensation to the owner, whichever occurs later, the Non-Federal Sponsor shall provide the Government with documents sufficient to determine the amount of credit to be provided for the real property interest in accordance with paragraphs C.1. of this Article. To the maximum extent practicable, no less frequently than on a biannual basis, the Non-Federal Sponsor shall provide the Government with documentation sufficient for the Government to determine the amount of credit to be provided for other creditable items in accordance with paragraph C. of this Article.

C. The Government and the Non-Federal Sponsor agree that the amount of costs eligible for credit that are allocated by the Government to construction costs shall be determined and credited in accordance with the following procedures, requirements, and conditions. Such costs shall be subject to audit in accordance with Article X.B. to determine reasonableness, allocability, and allowability of costs.

1. Real Property Interests.

a. General Procedure. The Non-Federal Sponsor shall obtain, for each real property interest (except interests in lands subject to shore erosion that are publicly owned on the effective date of this Agreement), an appraisal of the fair market value of such interest that is prepared by a qualified appraiser who is acceptable to the parties. Subject to valid jurisdictional exceptions, the appraisal shall conform to the Uniform Standards of Professional Appraisal Practice. The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government. For crediting purposes, appraisals of interests in lands subject to shore erosion acquired from private parties after the effective date of this Agreement must consider special benefits in accordance with the Uniform Appraisal Standards for Federal Land Acquisition (2000).

(1) Date of Valuation. Except for interests in lands subject to shore erosion, the fair market value of real property interests owned by the Non-Federal Sponsor on the effective date of this Agreement shall be the fair market value of such real property interests as of the date the Non-Federal Sponsor provides the Government with authorization for entry thereto. The fair market value of real property interests acquired by the Non-Federal Sponsor after the effective date of this Agreement shall be the fair market value of such real property interests at the time the interests are acquired.

(2) Except for real property interests acquired through eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor shall submit an appraisal for each real property interest to the Government for review and approval no later than, to the maximum extent practicable, 60 calendar days after the Non-Federal Sponsor provides the Government with an authorization for entry for such interest or concludes the acquisition of the interest through negotiation or eminent domain proceedings, whichever occurs later. If after coordination and consultation with the Government, the Non-Federal Sponsor is unable to provide an appraisal that is acceptable to the Government, the Government shall obtain an appraisal to determine the fair market value of the real property interest for crediting purposes.

(3) The Government shall credit the Non-Federal Sponsor the appraised amount approved by the Government. Where the amount paid or proposed to be paid by the Non-Federal Sponsor exceeds the approved appraised amount, the Government, at the request of the Non-Federal Sponsor, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the Non-Federal Sponsor, may approve in writing an amount greater than the appraised amount for crediting purposes.

b. Eminent Domain Procedure. For real property interests acquired by eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor shall notify the Government in writing of its intent

to institute such proceedings and submit the appraisals of the specific real property interests to be acquired for review and approval by the Government. If the Government provides written approval of the appraisals, the Non-Federal Sponsor shall use the amount set forth in such appraisals as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

(1) If the Government provides written disapproval of the appraisals, the Government and the Non-Federal Sponsor shall consult to promptly resolve the issues that are identified in the Government's written disapproval. In the event the issues cannot be resolved, the Non-Federal Sponsor may use the amount set forth in its appraisal as the estimate of just compensation for purpose of instituting the eminent domain proceeding. Except as provided in paragraph C.1.b.(2) below, the fair market value for crediting purposes shall be either the amount of the court award for the real property interests taken or the amount of any stipulated settlement or portion thereof that the Government approves in writing.

(2) For interests in lands subject to shore erosion, the Government will credit the amount of the court award or stipulated settlement only to the extent that the court award or stipulated settlement considered special benefits in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions (2000). If the court award or stipulated settlement did not consider special benefits, fair market value for crediting purposes shall be the limited to the amount determined by an appraisal that considers special benefits.

c. Waiver of Appraisal. Except as required by paragraph C.1.b. of this Article, the Government may waive the requirement for an appraisal pursuant to this paragraph if, in accordance with 49 C.F.R. Section 24.102(c)(2):

(1) the owner is donating the property to the Non-Federal Sponsor and releases the Non-Federal Sponsor in writing from its obligation to appraise the property, and the Non-Federal Sponsor submits to the Government a copy of the owner's written release; or

(2) the Non-Federal Sponsor determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the property proposed for acquisition is estimated at \$10,000 or less, based on a review of available data. When the Non-Federal Sponsor determines that an appraisal is unnecessary, the Non-Federal Sponsor shall prepare the written waiver valuation required by 49 C.F.R. Section 24.102(c)(2) and submit a copy thereof to the Government for approval.

d. Incidental Costs. The Government shall include in construction costs and credit towards the Non-Federal Sponsor's share of such costs, the incidental costs the Non-Federal Sponsor incurred in acquiring any real property interests required pursuant to Article III for construction, operation, and maintenance of the Project within a five year period preceding the effective date of this Agreement, or at any time after the

effective date of this Agreement, that are documented to the satisfaction of the Government. Such incidental costs shall include closing and title costs, appraisal costs, survey costs, attorney's fees, plat maps, mapping costs, actual amounts expended for payment of any relocation assistance benefits provided in accordance with Article III.E., and other payments by the Non-Federal Sponsor for items that are generally recognized as compensable, and required to be paid, by applicable state law due to the acquisition of a real property interest pursuant to Article III.

2. Disposal Area Improvements. The Government shall include in construction costs and credit towards the Non-Federal Sponsor's share of such costs, the value of disposal area improvements required for construction, operation, and maintenance of the Project. The value shall be equivalent to the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred to provide any disposal area improvements required for construction, operation, and maintenance of the Project. Such costs shall include, but not necessarily be limited to, actual costs of providing the improvements; planning, engineering, and design costs; supervision and administration costs; and documented incidental costs associated with providing the improvements, but shall not include any costs associated with betterments, as determined by the Government.

3. Relocations. The Government shall include in construction costs and credit towards the Non-Federal Sponsor's share of such costs, the value of any relocations performed by the Non-Federal Sponsor that are directly related to construction, operation, and maintenance of the Project.

a. For a relocation other than a highway, the value shall be only that portion of relocation costs that the Government determines is necessary to provide a functionally equivalent facility, reduced by depreciation, as applicable, and by the salvage value of any removed items.

b. For a relocation of a highway, which is any highway, roadway, street, or way, including any bridge thereof, that is owned by a public entity, the value shall be only that portion of relocation costs that would be necessary to accomplish the relocation in accordance with the design standard that the State of Florida would apply under similar conditions of geography and traffic load, reduced by the salvage value of any removed items.

c. Relocation costs include actual costs of performing the relocation; planning, engineering, and design costs; supervision and administration costs; and documented incidental costs associated with performance of the relocation, as determined by the Government. Relocation costs do not include any costs associated with betterments, as determined by the Government, nor any additional cost of using new material when suitable used material is available.

4. In-Kind Contributions. The Government shall include in construction costs and credit towards the Non-Federal Sponsor's share of such costs, the value of in-

kind contributions that are integral to construction, operation, and maintenance of the Project.

a. The value shall be equivalent to the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred to provide the in-kind contributions. Such costs shall include, but not necessarily be limited to, actual costs of providing the in-kind contributions; engineering and design costs; supervision and administration costs; and documented incidental costs associated with providing the in-kind contributions, but shall not include any costs associated with betterments, as determined by the Government. Appropriate documentation includes invoices and certification of specific payments to contractors, suppliers, and the Non-Federal Sponsor's employees.

b. No credit shall be afforded for interest charges, or any adjustment to reflect changes in price levels between the time the in-kind contributions are completed and credit is afforded; for the value of in-kind contributions obtained at no cost to the Non-Federal Sponsor; for any in-kind contributions performed prior to the effective date of this Agreement unless covered by an In-Kind Memorandum of Understanding between the Government and Non-Federal Sponsor; or for costs that exceed the Government's estimate of the cost for such in-kind contributions if they had been provided by the Government.

5. Compliance with Federal Labor Laws. Any credit afforded under the terms of this Agreement is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (labor standards originally enacted as the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland Anti-Kickback Act), and credit may be withheld, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

D. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall not be entitled to credit for real property interests that were previously provided as an item of local cooperation for another Federal project or another segment of the Modified Project; or for costs associated with betterments or beach improvements with exclusively private benefits.

#### ARTICLE VI – PAYMENT OF FUNDS

A. As of the effective date of this Agreement, construction costs allocated to coastal storm risk management for initial construction are projected to be \$49,613,121, with the Government's share of such costs projected to be \$32,248,529 and the Non-Federal Sponsor's share of such costs projected to be \$17,364,592. For initial construction, the estimated credit for real property interests is \$3,980,000, and the estimated credit for in-kind contributions is \$0. For initial construction, Section 3045(b) credit in the amount of \$8,576,176 will reduce the estimated funds to be provided by the

Non-Sponsor to \$4,808,416, which will increase the estimated Federal funds required for initial construction to \$40,824,705. The construction costs allocated to coastal storm risk management for periodic nourishment are projected to be \$437,326,292, with the Government's share of such costs projected to be \$218,663,146, and the Non-Federal Sponsor's share of such costs projected to be \$ 218,663,146. Construction costs of beach improvements with exclusively private benefits are projected to be \$6,573,879 for initial construction and \$57,386,708 for periodic nourishment; and the costs for betterments are projected to be \$0. These amounts are estimates only that are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

B. While undertaking initial construction and periodic nourishment, the Government shall provide the Non-Federal Sponsor with quarterly reports setting forth the estimated construction costs and the Government's and Non-Federal Sponsor's estimated shares of such costs; costs incurred by the Government, using both Federal and Non-Federal Sponsor funds, to date; the amount of funds provided by the Non-Federal Sponsor to date; the estimated amount of any creditable real property interests, disposal area improvements, and relocations; the estimated amount of any creditable in-kind contributions; and the estimated amount of funds required from the Non-Federal Sponsor during the upcoming fiscal year.

C. The Non-Federal Sponsor shall provide the funds required to meet its share of construction costs allocated to coastal storm risk management by delivering a check payable to "FAO, USAED, Jacksonville (K3)" to the District Engineer, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

D. The Government shall draw from the funds provided by the Non-Federal Sponsor to cover the non-Federal share of construction costs allocated to coastal storm risk management as those costs are incurred. If the Government determines at any time that additional funds are needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's required share of such construction costs, the Government shall provide the Non-Federal Sponsor with written notice of the amount of additional funds required. Within 60 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds.

E. Upon conclusion of initial construction and each cycle of periodic nourishment, including resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with the written results of such final accounting. Should such final accounting determine that additional funds are required from the Non-Federal Sponsor, the Non-Federal Sponsor, within 60 calendar days of receipt of written notice from the Government, shall provide the Government with the full amount of such additional required funds. Such final accounting does not limit the Non-Federal Sponsor's

responsibility to pay its share of construction costs, including contract claims or any other liability that may become known after the final accounting. If such final accounting determines that the Non-Federal Sponsor's credit for real property interests, disposal area improvements, and relocations combined with credit for in-kind contributions exceed its share of the construction costs for the Project, the Government, subject to the availability of funds, shall enter into a separate agreement to reimburse the difference to the Non-Federal Sponsor.

F. If there are beach improvements with exclusively private benefits; or real property interests, disposal area improvements, relocations, or betterments provided on behalf of the Non-Federal Sponsor; the Government shall provide written notice to the Non-Federal Sponsor of the amount of funds required to cover such costs. No later than 30 calendar days of receipt of such written notice, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government by delivering a check payable to "FAO, USAED, Jacksonville (K3)" to the District Engineer, or by providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government. If at any time the Government determines that additional funds are required to cover such costs, the Non-Federal Sponsor shall provide those funds within 30 calendar days from receipt of written notice from the Government.

#### ARTICLE VII - TERMINATION OR SUSPENSION

A. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Government may suspend or terminate construction of the Project unless the Assistant Secretary of the Army (Civil Works) determines that continuation of such work is in the interest of the United States or is necessary in order to satisfy agreements with other non-Federal interests.

B. If the Government determines at any time that the Federal funds made available for construction the Project are not sufficient to complete such work, the Government shall so notify the Non-Federal Sponsor in writing, and upon exhaustion of such funds, the Government shall suspend construction until there are sufficient funds appropriated by the Congress and funds provided by the Non-Federal Sponsor to allow construction to resume.

C. If hazardous substances regulated under CERCLA are found to exist in, on, or under any required real property interests, the parties shall follow the procedures set forth in Article IV.

D. In the event of termination, the parties shall conclude their activities relating to construction of the Project. To provide for this eventuality, the Government may reserve a percentage of available funds as a contingency to pay the costs of termination, including any costs of resolution of real property acquisition, resolution of contract claims, and resolution of contract modifications.

E. Any suspension or termination shall not relieve the parties of liability for any obligation previously incurred. Any delinquent payment owed by the Non-Federal Sponsor pursuant to this Agreement shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

#### ARTICLE VIII - HOLD AND SAVE

The Non-Federal Sponsor shall hold and save the Government free from all damages arising from design, construction, operation, maintenance, repair, rehabilitation, and replacement of the Project, except for damages due to the fault or negligence of the Government or its contractors.

#### ARTICLE IX - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to the parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

#### ARTICLE X - MAINTENANCE OF RECORDS AND AUDITS

A. The parties shall develop procedures for the maintenance by the Non-Federal Sponsor of books, records, documents, or other evidence pertaining to costs and expenses for a minimum of three years after the final accounting. The Non-Federal Sponsor shall assure that such materials are reasonably available for examination, audit, or reproduction by the Government.

B. The Government may conduct, or arrange for the conduct of, audits of the Project. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government's costs of audits shall not be included in construction costs, but shall be included in calculating the overall Federal cost of the Project.

C. To the extent permitted under applicable Federal laws and regulations, the Government shall allow the Non-Federal Sponsor to inspect books, records, documents, or other evidence pertaining to costs and expenses maintained by the Government, or at the request of the Non-Federal Sponsor, provide to the Non-Federal Sponsor or

independent auditors any such information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of non-Federal audits shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

#### ARTICLE XI - RELATIONSHIP OF PARTIES

In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other. Neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights a party may have to seek relief or redress against that contractor.

#### ARTICLE XII - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by registered or certified mail, with return receipt, as follows:

If to the Non-Federal Sponsor:

Director  
Brevard County Natural Resources Management Department  
2725 Judge Fran Jamieson Way; A-219  
Viera, Florida 32940

If to the Government:

District Engineer  
Jacksonville District  
U.S. Army Corps of Engineers

Physical Address:

701 San Marco Blvd.  
Jacksonville, Florida 32207-8175

Mailing Address:

P.O. Box 4970  
Jacksonville, Florida 32232-0019

B. A party may change the recipient or address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

ARTICLE XIII - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.


ARTICLE XIV - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES


Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not a party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY


BREVARD COUNTY, FLORIDA

BY:   
Jason A. Kirk, P.E.  
Colonel, U.S. Army  
District Engineer

BY:   
Jim Barfield  
Chairman  
Board of County Commissioners  
As approved by the Board on July 12, 2016

DATE: 31 AUG 2016

DATE: 8/30/16

ATTEST:   
Scott Ellis, Clerk

CERTIFICATE OF AUTHORITY

I, Scott Knox, do hereby certify that I am the principal legal officer of Brevard County, Florida, that Brevard County, Florida is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and Brevard County, Florida in connection with the Brevard County, Florida Shore Protection Project, Mid-Reach Segment, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement, as required by Section 221 of Public Law 91-611, as amended (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Agreement on behalf of Brevard County, Florida have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this

30<sup>th</sup> day of August 2016



\_\_\_\_\_  
Scott Knox  
County Attorney  
Brevard County, Florida

CERTIFICATION REGARDING LOBBYING

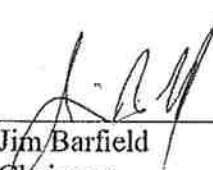
The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

  
\_\_\_\_\_  
Jim Barfield  
Chairman  
Brevard County Board of County  
Commissioners

DATE: 8/30/16

# Attachment C

## TDC Beach Improvement Fund: 50 Year Projection: September 2015

Constructed Project: Mid (MR), South (SR) and North (NR) Reaches	FY	Beginning Balance	Total Expense	Revenue <sup>1</sup>	Balance	Expenses: NRM Staffing and Memberships <sup>2</sup>	Expenses: Other Beach Projects <sup>2</sup>	Nourishment Expenses <sup>2</sup> local cost after state and federal match
MR	15-16	\$ 12,229,905	\$ 3,414,000	\$ 2,066,868	\$ 11,804,773	\$ 217,000	\$ 230,000	2,967,000
MR	16-17	\$ 12,040,868	\$ 9,372,831	\$ 3,071,062	\$ 5,739,100	\$ 223,836	\$ 237,245	8,911,750
	17-18	\$ 5,853,882	\$ 1,007,601	\$ 3,165,516	\$ 8,001,797	\$ 230,886	\$ 244,718	531,998
SR-NR	18-19	\$ 8,161,833	\$ 5,289,340	\$ 3,242,293	\$ 6,114,786	\$ 238,159	\$ 252,427	4,798,754
MR	19-20	\$ 6,237,082	\$ 4,971,653	\$ 3,331,456	\$ 4,596,885	\$ 245,661	\$ 260,378	4,465,613
	20-21	\$ 4,688,823	\$ 1,105,850	\$ 3,423,071	\$ 7,006,044	\$ 253,400	\$ 268,580	583,870
	21-22	\$ 7,146,164	\$ 1,140,684	\$ 3,517,205	\$ 9,522,686	\$ 261,382	\$ 277,040	602,262
MR	22-23	\$ 9,713,139	\$ 5,505,182	\$ 3,613,928	\$ 7,821,865	\$ 269,615	\$ 285,767	4,949,800
	23-24	\$ 7,978,323	\$ 1,213,679	\$ 3,713,311	\$ 10,477,056	\$ 278,108	\$ 294,769	640,802
SR-NR	24-25	\$ 10,687,515	\$ 6,733,385	\$ 3,815,428	\$ 8,631,806	\$ 286,868	\$ 304,504	5,280,214
MR	25-26	\$ 8,804,442	\$ 5,590,736	\$ 3,920,352	\$ 7,134,058	\$ 295,905	\$ 313,632	4,981,199
	26-27	\$ 7,276,739	\$ 1,332,022	\$ 4,028,161	\$ 9,972,878	\$ 306,226	\$ 323,511	703,285
	27-28	\$ 10,172,336	\$ 1,373,981	\$ 4,138,936	\$ 12,937,291	\$ 314,840	\$ 333,702	725,439
MR	29-30	\$ 13,196,037	\$ 6,733,385	\$ 4,252,757	\$ 10,715,408	\$ 324,758	\$ 344,213	6,064,414
	30-31	\$ 10,929,716	\$ 1,461,905	\$ 4,369,707	\$ 13,837,518	\$ 334,988	\$ 355,056	771,861
SR-NR	31-32	\$ 14,114,269	\$ 7,874,185	\$ 4,489,874	\$ 10,929,958	\$ 345,540	\$ 368,240	6,962,405
MR	32-33	\$ 11,148,557	\$ 7,438,698	\$ 4,613,346	\$ 8,323,205	\$ 356,424	\$ 377,777	8,704,497
	33-34	\$ 8,489,669	\$ 1,804,453	\$ 4,740,213	\$ 11,625,429	\$ 367,652	\$ 389,677	847,124
	34-35	\$ 11,857,937	\$ 1,654,993	\$ 4,870,569	\$ 15,073,513	\$ 379,233	\$ 401,952	873,808
MR	35-36	\$ 15,374,984	\$ 8,712,785	\$ 5,004,509	\$ 11,666,708	\$ 391,179	\$ 414,613	7,906,993
	36-37	\$ 11,900,042	\$ 1,760,900	\$ 5,142,133	\$ 15,281,276	\$ 403,501	\$ 427,674	929,725
SR-NR	37-38	\$ 15,586,901	\$ 8,743,739	\$ 5,283,542	\$ 12,126,705	\$ 416,211	\$ 441,145	7,886,383
MR	38-39	\$ 12,369,239	\$ 8,562,351	\$ 5,428,840	\$ 8,235,727	\$ 429,322	\$ 455,041	8,677,988
	39-40	\$ 8,400,442	\$ 1,932,802	\$ 5,578,133	\$ 12,045,973	\$ 442,845	\$ 469,375	1,020,381
	40-41	\$ 12,286,892	\$ 1,893,478	\$ 5,731,531	\$ 16,024,945	\$ 456,795	\$ 484,161	1,052,523
MR	41-42	\$ 16,345,444	\$ 9,706,669	\$ 5,889,148	\$ 12,527,923	\$ 471,184	\$ 499,412	8,736,073
	42-43	\$ 12,778,482	\$ 2,121,046	\$ 6,051,100	\$ 16,708,536	\$ 486,026	\$ 515,143	1,119,876
SR-NR	43-44	\$ 17,042,707	\$ 11,134,304	\$ 6,217,505	\$ 12,125,908	\$ 501,336	\$ 531,370	10,101,598
MR	44-45	\$ 12,368,426	\$ 11,618,080	\$ 6,388,487	\$ 7,238,833	\$ 517,128	\$ 548,108	10,452,843
	45-46	\$ 7,383,610	\$ 2,327,865	\$ 6,564,170	\$ 11,619,915	\$ 533,418	\$ 565,374	1,229,073
	46-47	\$ 11,852,313	\$ 2,401,192	\$ 6,744,685	\$ 16,195,806	\$ 550,220	\$ 583,183	1,267,789
MR	47-48	\$ 16,519,722	\$ 12,641,185	\$ 6,930,164	\$ 10,808,701	\$ 567,552	\$ 601,553	11,472,079
	48-49	\$ 11,024,875	\$ 2,554,850	\$ 7,120,743	\$ 15,590,768	\$ 585,430	\$ 620,502	1,348,918
SR-NR	49-50	\$ 15,902,583	\$ 13,411,534	\$ 7,316,583	\$ 9,807,612	\$ 603,871	\$ 640,048	12,167,615
MR	50-51	\$ 10,003,764	\$ 13,873,802	\$ 7,517,769	\$ 3,647,732	\$ 622,893	\$ 660,209	12,590,699
	51-52	\$ 3,720,686	\$ 2,803,968	\$ 7,724,508	\$ 8,641,226	\$ 642,514	\$ 681,006	1,480,448
	52-53	\$ 8,814,050	\$ 2,892,293	\$ 7,936,932	\$ 13,858,688	\$ 662,754	\$ 702,458	1,527,082
MR	53-54	\$ 14,135,862	\$ 15,226,608	\$ 8,165,197	\$ 7,064,451	\$ 683,630	\$ 724,585	13,818,393
	54-55	\$ 7,205,740	\$ 3,077,378	\$ 8,379,466	\$ 12,507,827	\$ 705,165	\$ 747,410	1,624,803
SR-NR	55-56	\$ 12,757,984	\$ 16,154,612	\$ 8,609,900	\$ 5,213,372	\$ 727,377	\$ 770,953	14,656,182
MR	56-57	\$ 5,317,839	\$ 16,711,325	\$ 8,846,673	\$ (2,547,013)	\$ 750,290	\$ 795,238	15,165,797
	57-58	\$ (2,597,953)	\$ 3,377,447	\$ 9,089,856	\$ 3,114,566	\$ 773,924	\$ 820,268	1,783,235
	58-59	\$ 3,176,848	\$ 3,483,838	\$ 9,339,930	\$ 9,032,941	\$ 798,303	\$ 846,127	1,839,407
MR	59-60	\$ 8,213,600	\$ 18,340,813	\$ 9,595,778	\$ 469,566	\$ 823,449	\$ 872,780	16,644,583
	60-61	\$ 478,957	\$ 3,706,775	\$ 9,860,689	\$ 6,632,871	\$ 849,388	\$ 900,273	1,957,114
SR-NR	61-62	\$ 6,765,529	\$ 19,458,495	\$ 10,131,858	\$ (2,581,108)	\$ 876,143	\$ 928,631	17,653,720
MR	62-63	\$ (2,612,330)	\$ 20,129,189	\$ 10,410,484	\$ (12,331,034)	\$ 903,742	\$ 957,883	18,287,564
	63-64	\$ (12,577,655)	\$ 4,066,215	\$ 10,896,773	\$ (6,949,097)	\$ 932,210	\$ 988,056	2,147,949
	64-65	\$ (6,068,079)	\$ 4,198,384	\$ 10,990,934	\$ 726,491	\$ 961,574	\$ 1,019,180	2,215,609
MR	65-66	\$ 741,021	\$ 22,091,946	\$ 11,293,185	\$ (10,057,740)	\$ 991,864	\$ 1,051,284	20,048,797

<sup>1</sup> Assumes average annual revenue growth of 2.75%

<sup>2</sup> Assumes average inflation rate for expenses of 3.15%

County cost assumes \$8,576,176 federal credit for non federal cost based on Independent Coastal Expert Study will be reimbursed incrementally over 20 years

Attachment A

PROJECT PARTNERSHIP AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
BREVARD COUNTY, FLORIDIA  
FOR  
CONSTRUCTION  
OF THE  
BREVARD COUNTY, FLORIDA SHORE PROTECTION PROJECT  
MID-REACH SEGMENT  
DRAFT AS OF JUNE 14, 2016 (w/ SAJ\_SAD\_HQ counsel input)

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Jacksonville District and Brevard County, Florida (hereinafter the "Non-Federal Sponsor"), represented by the Chairman of the Brevard County Board of County Commissioners.

WITNESSETH, THAT:

WHEREAS, construction of the North Reach Segment and South Reach Segment of the Brevard County, Florida Shore Protection Project (hereinafter the "Original Project") was authorized by Section 101(b)(7) of the Water Resources Development Act of 1996, Public Law 104-303;

WHEREAS, Section 3045(a) of the Water Resources Development Act of 2007, Public Law 110-114, authorized the Secretary to modify the Original Project (hereinafter the "Modified Project") to include the Mid-Reach Segment (hereinafter the "Project", as defined in Article I.A. of this Agreement) upon a determination by the Secretary, following completion of the general reevaluation report, that such shoreline protection is feasible;

WHEREAS, Section 3045(b) of the Water Resources Development Act of 2007 authorized the Secretary to credit the Non-Federal Sponsor for costs it incurred to respond to damages to the Original Project resulting from the Canaveral Harbor Federal Navigation Project;

WHEREAS, the Assistant Secretary of the Army on September 8, 2014 approved the general reevaluation report and determined that the Project, which is the locally preferred plan, is feasible, and with such approval, the credit pursuant to Section 3045(b) of Water Resources Development Act of 2007 is available for crediting towards the non-Federal share of the Project;

WHEREAS, as the costs of the locally preferred plan do not exceed the costs of the National Economic Development Plan, the cost sharing specified in Section 103 of

the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213), will be applied; and

WHEREAS, the Government and the Non-Federal Sponsor have the full authority and capability to perform in accordance with the terms of this Agreement and acknowledge that Section 221 of the Flood Control Act of 1970, as amended (42 U.S.C.1962d-5b), provides that this Agreement shall be enforceable in the appropriate district court of the United States.

NOW, THEREFORE, the parties agree as follows:

#### ARTICLE I - DEFINITIONS

A. The term "Project" means the construction of the locally preferred plan, which includes initial construction and periodic nourishment of the Mid-Reach Segment of the Modified Project, extending approximately 7.8 miles from the Florida Department of Environmental Protection monuments R-75.4 to R-119, and further divided into six reaches, with dune fill and 10-foot extension of the mean high water line (+2.0 feet NGVD 29) plus advance nourishment to maintain the design fill volume in Reaches 1, 4, and 5; dune fill and 20-foot extension of the mean high water line plus advance nourishment to maintain the design fill volume in Reaches 2 and 3; a dune fill consisting of advance nourishment in Reach 6; rehabilitation of the Poseidon Dredged Material Management Area at Port Canaveral to facilitate stockpiling of sand; dredging material at 6-year intervals from Canaveral Shoals with placement and storage in the Poseidon Dredged Material Management Area; construction of nearshore reefs for environmental mitigation and associated monitoring; and periodic nourishment estimated to occur every 3 years, as generally described in the Brevard County, Florida, Hurricane and Storm Damage Reduction Project, Mid-Reach Segment, Final Integrated General Reevaluation Report and Supplemental Environmental Impact Statement, dated August 2010, revised April 2011, with an Addendum dated April 2014, and the Report of the Director of Civil Works, dated May 16, 2014, and approved by the Assistant Secretary of the Army (Civil Works) on September 8, 2014 (hereinafter the "Decision Document").

B. The term "periodic nourishment" means the placement of suitable beach berm material after the initial construction of the Project at appropriate intervals during the 50 year period of Federal participation that begins on the date of initiation of construction of the Project, as generally described in the Decision Document.

C. The term "construction costs" means all costs incurred by the Government and Non-Federal Sponsor in accordance with the terms of this Agreement that are directly related to design and construction of the Project and cost shared. The term includes, but is not necessarily limited to: the Government's costs and the Non-Federal Sponsor's creditable contributions pursuant to the terms of the Design Agreement executed on October 16, 2014; the costs of historic preservation activities except for data recovery for historic properties; the Government's costs of engineering, design, and construction; the

Government's supervision and administration costs; the Government's costs of monitoring; the Non-Federal Sponsor's creditable costs for providing real property interests, disposal area improvements, and relocations and for providing in-kind contributions. The term does not include any costs for operation, maintenance, repair, rehabilitation, or replacement; for dispute resolution; for participation in the Project Coordination Team; for audits; for betterments; or the Non-Federal Sponsor's cost of negotiating this Agreement.

D. The term "real property interests" means lands, easements, and rights-of-way, including those required for relocations and borrow and dredged material disposal areas. Acquisition of real property interests may require the performance of relocations.

E. The term "relocation" means the provision of a functionally equivalent facility to the owner of a utility, cemetery, highway, railroad, or public facility when such action is required in accordance with applicable legal principles of just compensation. Providing a functionally equivalent facility may include the alteration, lowering, raising, or replacement and attendant demolition of the affected facility or part thereof.

F. The term "disposal area improvements" means the improvements required on real property interests to enable the ancillary disposal of material that has been dredged or excavated during construction, operation, and maintenance of the Project, including, but not limited to, retaining dikes, wasteweirs, bulkheads, embankments, monitoring features, stilling basins, and de-watering pumps and pipes.

G. The term "functional portion thereof" means a portion of the Project that has been completed and that can function independently, as determined in writing by the U.S. Army Engineer, Jacksonville District (hereinafter the "District Engineer"), although the remainder of the Project is not yet complete.

H. The term "in-kind contributions" means those materials or services provided by the Non-Federal Sponsor that are identified as being integral to the Project by the Division Engineer for South Atlantic Division. To be integral to the Project, the material or service must be part of the work that the Government would otherwise have undertaken for design and construction of the Project. The in-kind contributions also include any investigations performed by the Non-Federal Sponsor to identify the existence and extent of any hazardous substances that may exist in, on, or under real property interests required for the Project.

I. The term "betterment" means a difference in the construction of an element of the Project that results from the application of standards that the Government determines exceed those that the Government would otherwise apply to the construction of that element.

J. The term "fiscal year" means one year beginning on October 1<sup>st</sup> and ending on September 30<sup>th</sup> of the following year.

K. The term "Section 3045(b) credit" means the credit, authorized by Section 3045(b) of the Water Resources Development Act of 2007, in the amount of \$8,576,176, that will be applied towards the non-Federal cost share for initial construction of the Project.

## ARTICLE II - OBLIGATIONS OF THE PARTIES

A. In accordance with Federal laws, regulations, and policies, the Government shall undertake construction of the Project using funds appropriated by the Congress and funds provided by the Non-Federal Sponsor.

B. The Non-Federal Sponsor shall contribute, in accordance with the provisions of this paragraph, 35 percent of the construction costs for initial construction of the Project, and 50 percent of the construction costs for periodic nourishment, allocated by the Government to coastal storm risk management and 100 percent of the construction costs allocated by the Government to beach improvements with exclusively private benefits.

1. In accordance with Article III, the Non-Federal Sponsor shall provide the real property interests, disposal area improvements, and relocations required for construction, operation, and maintenance of the Project.

2. In providing in-kind contributions, if any, the Non-Federal Sponsor shall obtain all applicable licenses and permits necessary for such work. As functional portions of the work are completed, the Non-Federal Sponsor shall begin operation and maintenance of such work. Upon completion of the work, the Non-Federal Sponsor shall so notify the Government and provide the Government with a copy of as-built drawings for the work.

3. For initial construction, and for each cycle of periodic nourishment, after considering the estimated amount of credit that will be afforded to the Non-Federal Sponsor pursuant to paragraphs B.1. and B.2. of this Article and the Section 3045(b) credit, the Government shall determine the estimated amount of funds required from the Non-Federal Sponsor for the then-current fiscal year. No later than 30 calendar days after receipt of notification from the Government, the Non-Federal Sponsor shall provide the full amount of such funds to the Government in accordance with Article VI.

4. No later than August 1<sup>st</sup> prior to each subsequent fiscal year during initial construction, or a cycle of periodic nourishment, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor during that fiscal year. Not later than September 1<sup>st</sup> prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government.

C. To the extent practicable and in accordance with Federal law, regulations, and policies, the Government shall afford the Non-Federal Sponsor the opportunity to review

and comment on solicitations for contracts, including relevant plans and specifications, prior to the Government's issuance of such solicitations; proposed contract modifications, including change orders; and contract claims prior to resolution thereof. Ultimately, the contents of solicitations, award of contracts, execution of contract modifications, and resolution of contract claims shall be exclusively within the control of the Government.

D. The Government, as it determines necessary, shall undertake actions associated with historic preservation, including, but not limited to, the identification and treatment of historic properties as those properties are defined in the National Historic Preservation Act (NHPA) of 1966, as amended. All costs incurred by the Government for such work (including the mitigation of adverse effects other than data recovery) shall be included in construction costs and shared in accordance with the provisions of this Agreement. If historic properties are discovered during construction and the effects of construction are determined adverse, strategies shall be developed to avoid, minimize or mitigate these adverse effects. In accordance with 54 U.S.C. 312507, up to 1 percent of the total amount authorized to be appropriated for the Project may be applied toward data recovery of historic properties and such costs shall be borne entirely by the Government. In the event that costs associated with data recovery of historic properties exceed 1 percent of the total amount authorized to be appropriated for the Project, the Government and Non-Federal Sponsor shall consult with each other and reach an agreement on how to fund such data recovery costs. Upon agreement in accordance with 54 U.S.C. 312508, the Government may seek a waiver from the 1 percent limitation under 54 U.S.C. 312507.

E. When the District Engineer determines that the initial construction of the Project, or a functional portion thereof, is complete, the District Engineer shall so notify the Non-Federal Sponsor in writing and the Non-Federal Sponsor, at no cost to the Government, shall operate, maintain, repair, rehabilitate, and replace the Project, or such functional portion thereof. The Government shall furnish the Non-Federal Sponsor with an Operation, Maintenance, Repair, Rehabilitation, and Replacement Manual (hereinafter the "OMRR&R Manual") and copies of all as-built drawings for the completed work. The Government's undertaking of a cycle of periodic nourishment has no effect on the Non-Federal Sponsor's continuing responsibility for operation, maintenance, repair, rehabilitation, and replacement of the Project. If a cycle of periodic nourishment changes those responsibilities, the Non-Federal Sponsor, at no cost to the Government, shall commence any additional responsibilities upon notification from the Government. Nothing in this paragraph is intended to affect the eligibility under Public Law 84-99 (33 U.S.C. 701n).

1. The Non-Federal Sponsor shall conduct its operation, maintenance, repair, rehabilitation, and replacement responsibilities in a manner compatible with the authorized purpose of the Project and in accordance with applicable Federal and State laws and specific directions prescribed by the Government in the OMRR&R Manual and any subsequent amendments thereto.

2. The Government may enter, at reasonable times and in a reasonable manner, upon real property interests that the Non-Federal Sponsor now or hereafter owns or controls to inspect the Project, and, if necessary, to undertake any work necessary to the functioning of the Project for its authorized purpose. If the Government determines that the Non-Federal Sponsor is failing to perform its obligations under this Agreement and the Non-Federal Sponsor does not correct such failures within a reasonable time after notification by the Government, the Government may undertake any operation, maintenance, repair, rehabilitation, or replacement of the Project. No operation, maintenance, repair, rehabilitation, or replacement by the Government shall relieve the Non-Federal Sponsor of its obligations under this Agreement or preclude the Government from pursuing any other remedy at law or equity to ensure faithful performance of this Agreement.

F. At least annually and after storm events, the Non-Federal Sponsor, at no cost to the Government, shall perform surveillance of the Project to determine losses of material and provide results of such surveillance to the Government.

G. Not less than once each year, the Non-Federal Sponsor shall inform affected interests of the extent of risk reduction afforded by the Project.

H. The Non-Federal Sponsor shall participate in and comply with applicable Federal floodplain management and flood insurance programs.

I. In accordance with Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), the Non-Federal Sponsor shall prepare a floodplain management plan for the Project within one year after the effective date of this Agreement and shall implement such plan not later than one year after completion of initial construction of the Project. The plan shall be designed to reduce the impacts of future flood and coastal events in the project area, including but not limited to, addressing those measures to be undertaken by non-Federal interests to preserve the level of flood and storm damage risk reduction provided by such work. The Non-Federal Sponsor shall provide an information copy of the plan to the Government.

J. The Non-Federal Sponsor shall publicize floodplain information in the area concerned and shall provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with the Project.

K. The Non-Federal Sponsor shall prevent obstructions or encroachments on the Project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) that might reduce the level of protection the Project affords, hinder operation and maintenance of the Project, or interfere with the Project's proper function.

L. For shores, other than Federal shores, protected pursuant to this Agreement using Federal funds, the Non-Federal Sponsor shall ensure the continued public use of such shores compatible with the authorized purpose of the Project.

M. The Non-Federal Sponsor shall provide and maintain necessary access roads, parking areas, and other associated public use facilities, open and available to all on equal terms, as described in the Decision Document.

N. The Non-Federal Sponsor shall not use Federal Program funds to meet any of its obligations under this Agreement unless the Federal agency providing the funds verifies in writing that the funds are authorized to be used for the Project. Federal program funds are those funds provided by a Federal agency, plus any non-Federal contribution required as a matching share therefor.

O. In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all the requirements of applicable Federal laws and implementing regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964 (P.L. 88-352), as amended (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; the Age Discrimination Act of 1975 (42 U.S.C. 6102); and the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Army Regulation 600-7 issued pursuant thereto.

P. In addition to the ongoing, regular discussions of the parties in the delivery of the Project, the Government and the Non-Federal Sponsor may establish a Project Coordination Team to discuss significant issues or actions. The Government's costs for participation on the Project Coordination Team shall not be included in the construction costs that are cost shared but shall be included in calculating the overall Federal cost of the Project. The Non-Federal Sponsor's costs for participation on the Project Coordination Team shall not be included in the construction costs that are cost shared and shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

Q. The Non-Federal Sponsor may request in writing that the Government perform betterments on behalf of the Non-Federal Sponsor. Each request shall be subject to review and approval by the Division Engineer for the South Atlantic Division. If the Government agrees to such request, the Non-Federal Sponsor, in accordance with Article VI.F., must provide funds sufficient to cover the costs of such work in advance of the Government performing the work.

### ARTICLE III - REAL PROPERTY INTERESTS, DISPOSAL AREA IMPROVEMENTS, RELOCATIONS, AND COMPLIANCE WITH PUBLIC LAW 91- 646, AS AMENDED

A. The Government, after consultation with the Non-Federal Sponsor, shall determine the real property interests needed for construction, operation, and maintenance of the Project. The Government shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of the real property interests that the Government determines the Non-Federal Sponsor must provide for construction, operation, and maintenance of the Project, and shall provide the Non-Federal Sponsor

with a written notice to proceed with acquisition. The Non-Federal Sponsor shall acquire the real property interests and shall provide the Government with authorization for entry thereto in accordance with the Government's schedule for construction of the Project. The Non-Federal Sponsor shall ensure that real property interests provided for the Project are retained in public ownership for uses compatible with the authorized purposes of the Project.

B. The Government, after consultation with the Non-Federal Sponsor, shall determine the disposal area improvements necessary for construction, operation, and maintenance of the Project, and shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such improvements and shall provide the Non-Federal Sponsor with a written notice to proceed with such improvements. The Non-Federal Sponsor shall construct the improvements in accordance with the Government's construction schedule for the Project.

C. The Government, after consultation with the Non-Federal Sponsor, shall determine the relocations necessary for construction, operation, and maintenance of the Project, and shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such relocations and shall provide the Non-Federal Sponsor with a written notice to proceed with such relocations. The Non-Federal Sponsor shall perform or ensure the performance of these relocations in accordance with the Government's construction schedule for the Project.

D. To the maximum extent practicable, not later than 30 calendar days after the Government provides to the Non-Federal Sponsor written descriptions and maps of the real property interests, disposal area improvements, and relocations required for construction, operation, and maintenance of the Project, the Non-Federal Sponsor may request in writing that the Government acquire all or specified portions of such real property interests, construct disposal area improvements, or perform the necessary relocations. If the Government agrees to such a request, the Non-Federal Sponsor, in accordance with Article VI.F., must provide funds sufficient to cover the costs of the acquisitions, disposal area improvements, or relocations in advance of the Government performing the work. The Government shall acquire the real property interests, construct the disposal area improvements, and perform the relocations, applying Federal laws, policies, and procedures. The Government shall acquire real property interests in the name of the Non-Federal Sponsor except, if acquired by eminent domain, the Government shall convey all of its right, title and interest to the Non-Federal Sponsor by quitclaim deed or deeds. The Non-Federal Sponsor shall accept delivery of such deed or deeds. The Government's providing real property interests, disposal area improvements, or performing relocations on behalf of the Non-Federal Sponsor does not alter the Non-Federal Sponsor's responsibility under Article IV for the costs of any clean up and response related thereto.

E. As required by Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4630 and 4655), and Section 24.4 of the Uniform Regulations contained in 49

C.F.R. Part 24, the Non-Federal Sponsor assures that (1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under Sections 4622, 4623 and 4624 of Title 42 of the U.S. Code; (2) relocation assistance programs offering the services described in Section 4625 of Title 42 of the U.S. Code shall be provided to such displaced persons; (3) within a reasonable period of time prior to displacement, comparable replacement dwellings will be available to displaced persons in accordance with Section 4625(c)(3) of Title 42 of the U.S. Code; (4) in acquiring real property, the Non-Federal Sponsor will be guided, to the greatest extent practicable under State law, by the land acquisition policies in Section 4651 and the provision of Section 4652 of Title 42 of the U.S. Code; and (5) property owners will be paid or reimbursed for necessary expenses as specified in Sections 4653 and 4654 of Title 42 of the U.S. Code.

#### ARTICLE IV - HAZARDOUS SUBSTANCES

A. The Non-Federal Sponsor shall be responsible for undertaking any investigations to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA") (42 U.S.C. 9601-9675), that may exist in, on, or under real property interests required for construction, operation, and maintenance of the Project. However, for real property interests that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigations unless the District Engineer provides the Non-Federal Sponsor with prior specific written direction, in which case the Non-Federal Sponsor shall perform such investigations in accordance with such written direction.

B. In the event it is discovered that hazardous substances regulated under CERCLA exist in, on, or under any of the required real property interests, the Non-Federal Sponsor and the Government, in addition to providing any other notice required by applicable law, shall provide prompt written notice to each other, and the Non-Federal Sponsor shall not proceed with the acquisition of such real property interests until the parties agree that the Non-Federal Sponsor should proceed.

C. If hazardous substances regulated under CERCLA are found to exist in, on, or under any required real property interests, the parties shall consider any liability that might arise under CERCLA and determine whether to initiate construction, or if already initiated, whether to continue construction, suspend construction, or terminate construction.

1. Should the parties initiate or continue construction, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for the costs of cleanup and response, including the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

2. In the event the parties cannot reach agreement on how to proceed or the Non-Federal Sponsor fails to provide any funds necessary to pay for cleanup and response costs or to otherwise discharge the Non-Federal Sponsor's responsibilities under this Article upon direction by the Government, the Government may suspend or terminate construction, but may undertake any actions it determines necessary to avoid a release of such hazardous substances.

D. The Non-Federal Sponsor and the Government shall consult with each other in an effort to ensure that responsible parties bear any necessary cleanup and response costs as defined in CERCLA. Any decision made pursuant to this Article shall not relieve any third party from any liability that may arise under CERCLA.

E. As between the Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the operator of the Project for purposes of CERCLA liability. To the maximum extent practicable, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the Project in a manner that will not cause liability to arise under CERCLA.

#### ARTICLE V - CREDIT FOR REAL PROPERTY INTERESTS, DISPOSAL AREA IMPROVEMENTS, RELOCATIONS, AND IN-KIND CONTRIBUTIONS

A. The Government shall include in construction costs, and credit towards the Non-Federal Sponsor's share of such costs, the value of Non-Federal Sponsor provided real property interests (except interests in lands subject to shore erosion that are publicly owned on the effective date of this Agreement), disposal area improvements, and relocations, and the costs of in-kind contributions determined by the Government to be required for construction, operation, and maintenance of the Project.

B. To the maximum extent practicable, no later than 6 months after it provides the Government with authorization for entry onto a real property interest or pays compensation to the owner, whichever occurs later, the Non-Federal Sponsor shall provide the Government with documents sufficient to determine the amount of credit to be provided for the real property interest in accordance with paragraphs C.1. of this Article. To the maximum extent practicable, no less frequently than on a biannual basis, the Non-Federal Sponsor shall provide the Government with documentation sufficient for the Government to determine the amount of credit to be provided for other creditable items in accordance with paragraph C. of this Article.

C. The Government and the Non-Federal Sponsor agree that the amount of costs eligible for credit that are allocated by the Government to construction costs shall be determined and credited in accordance with the following procedures, requirements, and conditions. Such costs shall be subject to audit in accordance with Article X.B. to determine reasonableness, allocability, and allowability of costs.

1. Real Property Interests.

a. General Procedure. The Non-Federal Sponsor shall obtain, for each real property interest (except interests in lands subject to shore erosion that are publicly owned on the effective date of this Agreement), an appraisal of the fair market value of such interest that is prepared by a qualified appraiser who is acceptable to the parties. Subject to valid jurisdictional exceptions, the appraisal shall conform to the Uniform Standards of Professional Appraisal Practice. The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government. For crediting purposes, appraisals of interests in lands subject to shore erosion acquired from private parties after the effective date of this Agreement must consider special benefits in accordance with the Uniform Appraisal Standards for Federal Land Acquisition (2000).

(1) Date of Valuation. Except for interests in lands subject to shore erosion, the fair market value of real property interests owned by the Non-Federal Sponsor on the effective date of this Agreement shall be the fair market value of such real property interests as of the date the Non-Federal Sponsor provides the Government with authorization for entry thereto. The fair market value of real property interests acquired by the Non-Federal Sponsor after the effective date of this Agreement shall be the fair market value of such real property interests at the time the interests are acquired.

(2) Except for real property interests acquired through eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor shall submit an appraisal for each real property interest to the Government for review and approval no later than, to the maximum extent practicable, 60 calendar days after the Non-Federal Sponsor provides the Government with an authorization for entry for such interest or concludes the acquisition of the interest through negotiation or eminent domain proceedings, whichever occurs later. If after coordination and consultation with the Government, the Non-Federal Sponsor is unable to provide an appraisal that is acceptable to the Government, the Government shall obtain an appraisal to determine the fair market value of the real property interest for crediting purposes.

(3) The Government shall credit the Non-Federal Sponsor the appraised amount approved by the Government. Where the amount paid or proposed to be paid by the Non-Federal Sponsor exceeds the approved appraised amount, the Government, at the request of the Non-Federal Sponsor, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the Non-Federal Sponsor, may approve in writing an amount greater than the appraised amount for crediting purposes.

b. Eminent Domain Procedure. For real property interests acquired by eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor shall notify the Government in writing of its intent

to institute such proceedings and submit the appraisals of the specific real property interests to be acquired for review and approval by the Government. If the Government provides written approval of the appraisals, the Non-Federal Sponsor shall use the amount set forth in such appraisals as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

(1) If the Government provides written disapproval of the appraisals, the Government and the Non-Federal Sponsor shall consult to promptly resolve the issues that are identified in the Government's written disapproval. In the event the issues cannot be resolved, the Non-Federal Sponsor may use the amount set forth in its appraisal as the estimate of just compensation for purpose of instituting the eminent domain proceeding. Except as provided in paragraph C.1.b.(2) below, the fair market value for crediting purposes shall be either the amount of the court award for the real property interests taken or the amount of any stipulated settlement or portion thereof that the Government approves in writing.

(2) For interests in lands subject to shore erosion, the Government will credit the amount of the court award or stipulated settlement only to the extent that the court award or stipulated settlement considered special benefits in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions (2000). If the court award or stipulated settlement did not consider special benefits, fair market value for crediting purposes shall be the limited to the amount determined by an appraisal that considers special benefits.

c. Waiver of Appraisal. Except as required by paragraph C.1.b. of this Article, the Government may waive the requirement for an appraisal pursuant to this paragraph if, in accordance with 49 C.F.R. Section 24.102(c)(2):

(1) the owner is donating the property to the Non-Federal Sponsor and releases the Non-Federal Sponsor in writing from its obligation to appraise the property, and the Non-Federal Sponsor submits to the Government a copy of the owner's written release; or

(2) the Non-Federal Sponsor determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the property proposed for acquisition is estimated at \$10,000 or less, based on a review of available data. When the Non-Federal Sponsor determines that an appraisal is unnecessary, the Non-Federal Sponsor shall prepare the written waiver valuation required by 49 C.F.R. Section 24.102(c)(2) and submit a copy thereof to the Government for approval.

d. Incidental Costs. The Government shall include in construction costs and credit towards the Non-Federal Sponsor's share of such costs, the incidental costs the Non-Federal Sponsor incurred in acquiring any real property interests required pursuant to Article III for construction, operation, and maintenance of the Project within a five year period preceding the effective date of this Agreement, or at any time after the

effective date of this Agreement, that are documented to the satisfaction of the Government. Such incidental costs shall include closing and title costs, appraisal costs, survey costs, attorney's fees, plat maps, mapping costs, actual amounts expended for payment of any relocation assistance benefits provided in accordance with Article III.E., and other payments by the Non-Federal Sponsor for items that are generally recognized as compensable, and required to be paid, by applicable state law due to the acquisition of a real property interest pursuant to Article III.

2. Disposal Area Improvements. The Government shall include in construction costs and credit towards the Non-Federal Sponsor's share of such costs, the value of disposal area improvements required for construction, operation, and maintenance of the Project. The value shall be equivalent to the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred to provide any disposal area improvements required for construction, operation, and maintenance of the Project. Such costs shall include, but not necessarily be limited to, actual costs of providing the improvements; planning, engineering, and design costs; supervision and administration costs; and documented incidental costs associated with providing the improvements, but shall not include any costs associated with betterments, as determined by the Government.

3. Relocations. The Government shall include in construction costs and credit towards the Non-Federal Sponsor's share of such costs, the value of any relocations performed by the Non-Federal Sponsor that are directly related to construction, operation, and maintenance of the Project.

a. For a relocation other than a highway, the value shall be only that portion of relocation costs that the Government determines is necessary to provide a functionally equivalent facility, reduced by depreciation, as applicable, and by the salvage value of any removed items.

b. For a relocation of a highway, which is any highway, roadway, street, or way, including any bridge thereof, that is owned by a public entity, the value shall be only that portion of relocation costs that would be necessary to accomplish the relocation in accordance with the design standard that the State of Florida would apply under similar conditions of geography and traffic load, reduced by the salvage value of any removed items.

c. Relocation costs include actual costs of performing the relocation; planning, engineering, and design costs; supervision and administration costs; and documented incidental costs associated with performance of the relocation, as determined by the Government. Relocation costs do not include any costs associated with betterments, as determined by the Government, nor any additional cost of using new material when suitable used material is available.

4. In-Kind Contributions. The Government shall include in construction costs and credit towards the Non-Federal Sponsor's share of such costs, the value of in-

kind contributions that are integral to construction, operation, and maintenance of the Project.

a. The value shall be equivalent to the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred to provide the in-kind contributions. Such costs shall include, but not necessarily be limited to, actual costs of providing the in-kind contributions; engineering and design costs; supervision and administration costs; and documented incidental costs associated with providing the in-kind contributions, but shall not include any costs associated with betterments, as determined by the Government. Appropriate documentation includes invoices and certification of specific payments to contractors, suppliers, and the Non-Federal Sponsor's employees.

b. No credit shall be afforded for interest charges, or any adjustment to reflect changes in price levels between the time the in-kind contributions are completed and credit is afforded; for the value of in-kind contributions obtained at no cost to the Non-Federal Sponsor; for any in-kind contributions performed prior to the effective date of this Agreement unless covered by an In-Kind Memorandum of Understanding between the Government and Non-Federal Sponsor; or for costs that exceed the Government's estimate of the cost for such in-kind contributions if they had been provided by the Government.

5. Compliance with Federal Labor Laws. Any credit afforded under the terms of this Agreement is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (labor standards originally enacted as the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland Anti-Kickback Act), and credit may be withheld, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

D. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall not be entitled to credit for real property interests that were previously provided as an item of local cooperation for another Federal project or another segment of the Modified Project; or for costs associated with betterments or beach improvements with exclusively private benefits.

## ARTICLE VI – PAYMENT OF FUNDS

A. As of the effective date of this Agreement, construction costs allocated to coastal storm risk management for initial construction are projected to be \$56,187,000, with the Government's share of such costs projected to be \$32,999,000 and the Non-Federal Sponsor's share of such costs projected to be \$23,188,000. For initial construction, the estimated credit for real property interests is \$3,980,000, and the estimated credit for in-kind contributions is \$0. For initial construction, Section 3045(b) credit in the amount of \$8,576,176 will reduce the estimated funds to be provided by the

Comment [J11]:  $(\$56,187,000 - \$5,419,000) \times 0.65 = \$32,999,000$

Comment [J12]:  $\$56,187,000 - \$32,999,000 = \$23,188,000$

Non-Sponsor to \$10,631,824, which will increase the estimated Federal funds required for initial construction to \$41,575,176. The construction costs allocated to coastal storm risk management for periodic nourishment are projected to be \$494,713,000, with the Government's share of such costs projected to be \$ 226,634,500, and the Non-Federal Sponsor's share of such costs projected to be \$ 268,078,500. Construction costs of beach improvements with exclusively private benefits are projected to be \$5,419,000 for initial construction and \$41,444,000 for periodic nourishment; and the costs for betterments are projected to be \$0. These amounts are estimates only that are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

B. While undertaking initial construction and periodic nourishment, the Government shall provide the Non-Federal Sponsor with quarterly reports setting forth the estimated construction costs and the Government's and Non-Federal Sponsor's estimated shares of such costs; costs incurred by the Government, using both Federal and Non-Federal Sponsor funds, to date; the amount of funds provided by the Non-Federal Sponsor to date; the estimated amount of any creditable real property interests, disposal area improvements, and relocations; the estimated amount of any creditable in-kind contributions; and the estimated amount of funds required from the Non-Federal Sponsor during the upcoming fiscal year.

C. The Non-Federal Sponsor shall provide the funds required to meet its share of construction costs allocated to coastal storm risk management by delivering a check payable to "FAO, USAED, Jacksonville (K3)" to the District Engineer, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

D. The Government shall draw from the funds provided by the Non-Federal Sponsor to cover the non-Federal share of construction costs allocated to coastal storm risk management as those costs are incurred. If the Government determines at any time that additional funds are needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's required share of such construction costs, the Government shall provide the Non-Federal Sponsor with written notice of the amount of additional funds required. Within 60 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds.

E. Upon conclusion of initial construction and each cycle of periodic nourishment, including resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with the written results of such final accounting. Should such final accounting determine that additional funds are required from the Non-Federal Sponsor, the Non-Federal Sponsor, within 60 calendar days of receipt of written notice from the Government, shall provide the Government with the full amount of such additional required funds. Such final accounting does not limit the Non-Federal Sponsor's

responsibility to pay its share of construction costs, including contract claims or any other liability that may become known after the final accounting. If such final accounting determines that the Non-Federal Sponsor's credit for real property interests, disposal area improvements, and relocations combined with credit for in-kind contributions exceed its share of the construction costs for the Project, the Government, subject to the availability of funds, shall enter into a separate agreement to reimburse the difference to the Non-Federal Sponsor.

F. If there are beach improvements with exclusively private benefits; or real property interests, disposal area improvements, relocations, or betterments provided on behalf of the Non-Federal Sponsor; the Government shall provide written notice to the Non-Federal Sponsor of the amount of funds required to cover such costs. No later than 30 calendar days of receipt of such written notice, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government by delivering a check payable to "FAO, USAED, Jacksonville (K3)" to the District Engineer, or by providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government. If at any time the Government determines that additional funds are required to cover such costs, the Non-Federal Sponsor shall provide those funds within 30 calendar days from receipt of written notice from the Government.

#### ARTICLE VII - TERMINATION OR SUSPENSION

A. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Government may suspend or terminate construction of the Project unless the Assistant Secretary of the Army (Civil Works) determines that continuation of such work is in the interest of the United States or is necessary in order to satisfy agreements with other non-Federal interests.

B. If the Government determines at any time that the Federal funds made available for construction the Project are not sufficient to complete such work, the Government shall so notify the Non-Federal Sponsor in writing, and upon exhaustion of such funds, the Government shall suspend construction until there are sufficient funds appropriated by the Congress and funds provided by the Non-Federal Sponsor to allow construction to resume.

C. If hazardous substances regulated under CERCLA are found to exist in, on, or under any required real property interests, the parties shall follow the procedures set forth in Article IV.

D. In the event of termination, the parties shall conclude their activities relating to construction of the Project. To provide for this eventuality, the Government may reserve a percentage of available funds as a contingency to pay the costs of termination, including any costs of resolution of real property acquisition, resolution of contract claims, and resolution of contract modifications.

E. Any suspension or termination shall not relieve the parties of liability for any obligation previously incurred. Any delinquent payment owed by the Non-Federal Sponsor pursuant to this Agreement shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

#### ARTICLE VIII - HOLD AND SAVE

The Non-Federal Sponsor shall hold and save the Government free from all damages arising from design, construction, operation, maintenance, repair, rehabilitation, and replacement of the Project, except for damages due to the fault or negligence of the Government or its contractors.

#### ARTICLE IX - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to the parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

#### ARTICLE X - MAINTENANCE OF RECORDS AND AUDITS

A. The parties shall develop procedures for the maintenance by the Non-Federal Sponsor of books, records, documents, or other evidence pertaining to costs and expenses for a minimum of three years after the final accounting. The Non-Federal Sponsor shall assure that such materials are reasonably available for examination, audit, or reproduction by the Government.

B. The Government may conduct, or arrange for the conduct of, audits of the Project. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government's costs of audits shall not be included in construction costs, but shall be included in calculating the overall Federal cost of the Project.

C. To the extent permitted under applicable Federal laws and regulations, the Government shall allow the Non-Federal Sponsor to inspect books, records, documents, or other evidence pertaining to costs and expenses maintained by the Government, or at the request of the Non-Federal Sponsor, provide to the Non-Federal Sponsor or

independent auditors any such information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of non-Federal audits shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

#### ARTICLE XI - RELATIONSHIP OF PARTIES

In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other. Neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights a party may have to seek relief or redress against that contractor.

#### ARTICLE XII - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by registered or certified mail, with return receipt, as follows:

If to the Non-Federal Sponsor:

Director  
Brevard County Natural Resources Management Department  
2725 Judge Fran Jamieson Way; A-219  
Viera, Florida 32940

If to the Government:

District Engineer  
Jacksonville District  
U.S. Army Corps of Engineers

Physical Address:

701 San Marco Blvd.  
Jacksonville, Florida 32207-8175

Mailing Address:

P.O. Box 4970  
Jacksonville, Florida 32232-0019

B. A party may change the recipient or address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

#### ARTICLE XIII - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

**ARTICLE XIV - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES**


Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not a party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

BREVARD COUNTY, FLORIDA

BY: \_\_\_\_\_  
Jason A. Kirk, P.E.  
Colonel, U.S. Army  
District Engineer

BY: \_\_\_\_\_  
  
Jim Barfield  
Chairman  
Board of County Commissioners

DATE: \_\_\_\_\_

Approved By the Board on  
DATE: July 12, 2016

Attest:

  
\_\_\_\_\_  
SCOTT ELLIS, CLERK

**CERTIFICATE OF AUTHORITY**

I, Scott Knox, do hereby certify that I am the principal legal officer of Brevard County, Florida, that Brevard County, Florida is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and Brevard County, Florida in connection with the Brevard County, Florida Shore Protection Project, Mid-Reach Segment, and to pay damages, if

necessary, in the event of the failure to perform in accordance with the terms of this Agreement, as required by Section 221 of Public Law 91-611, as amended (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Agreement on behalf of Brevard County, Florida have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this  
\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Scott Knox  
County Attorney  
Brevard County, Florida

#### CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:


(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal

contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

  
\_\_\_\_\_  
Jim Barfield  
Chairman  
Brevard County Board of County  
Commissioners

Approved by the Board on:  
DATE: JULY 12<sup>th</sup> 2016

Attest:

  
\_\_\_\_\_  
SCOTT ELLIS, CLERK

CERTIFICATION REGARDING LOBBYING


The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

  
\_\_\_\_\_  
Jim Barfield  
Chairman  
Brevard County Board of County  
Commissioners

Approved by the Board on:  
DATE: July 12, 2016

ATTEST:

  
\_\_\_\_\_  
SCOTT ELLIS, CLERK

AMENDMENT NO. 2  
TO THE  
PROJECT COOPERATION AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
BREVARD COUNTY, FLORIDA  
FOR CONSTRUCTION OF THE  
BREVARD COUNTY, FLORIDA SHORE PROTECTION PROJECT

This Amendment No. 2 is entered into this 31 day of August, 2014, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Jacksonville District and Brevard County, Florida (hereinafter the "Non-Federal Sponsor"), represented by the Chairman of the Brevard County Board of County Commissioners.

WITNESSETH THAT:

WHEREAS, on April 20, 2000, the Government and the Non-Federal Sponsor entered into a Project Cooperation Agreement (hereinafter the "Agreement") for construction of the Phase I (north reach) and Phase II (south reach) segments of the Brevard County, Florida Shore Protection Project (hereinafter the "Project");

WHEREAS, on August 8, 2013, the Agreement was amended to afford a credit towards the non-Federal share of the Project in the amount of \$8,576,176 for costs incurred by the Non-Federal Sponsor to respond to damages to the Project resulting from the Canaveral Harbor Federal Navigation Project; and

WHEREAS, in lieu of affording the credit toward the South Reach segment of the Project, the parties acknowledge and agree that the full amount of the aforementioned credit will be applied to the Mid-Reach Segment of the Brevard County, Florida Shore Protection Project.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree to further amend the Agreement as follows:

1. Replace the fourth through the eighth WHEREAS clauses with the following:

"WHEREAS, Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended, specifies the cost sharing requirements applicable to the Project;"

2. Revise Article II.G.1.b. by deleting "(b) the credit to be afforded in accordance with paragraph G.2. of this Article; and (c)" and inserting "and (b)".

3. Revise Article II.G.1.c. by deleting "the credit afforded in accordance with paragraph G.2 of this Article; (c)" and by deleting "(d)" and inserting "(c)".
4. In Article II.G., delete paragraph 2. in its entirety and renumber paragraph 3. as paragraph 2.
5. In Article VI.F.2., delete "subject to the availability of funds and as limited by Article II.G.2. of this Agreement, shall refund" and insert "subject to the availability of funds, shall refund".
6. All other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

\_\_\_\_\_  
Jason A. Kirk, P.E.  
Colonel, U.S. Army  
District Engineer

BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Jim Barfield  
Chairman  
Board of County Commissioners

DATE: \_\_\_\_\_

Approved by the Board on:  
DATE: July 12, 2016

Attest:


\_\_\_\_\_  
SCOTT ELLIS, CLERK

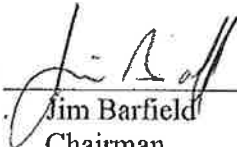
3. Revise Article II.G.1.c. by deleting "the credit afforded in accordance with paragraph G.2 of this Article; (c)" and by deleting "(d)" and inserting "(c)".
4. In Article II.G., delete paragraph 2. in its entirety and renumber paragraph 3. as paragraph 2.
5. In Article VI.F.2., delete "subject to the availability of funds and as limited by Article II.G.2. of this Agreement, shall refund" and insert "subject to the availability of funds, shall refund".
6. All other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY


BREVARD COUNTY, FLORIDA

BY:   
Jason A. Kirk, P.E.  
Colonel, U.S. Army  
District Engineer

BY:   
Jim Barfield  
Chairman  
Board of County Commissioners  
As approved by the Board on July 12, 2016

DATE: 31 AUG 2016

DATE: 8/30/16

ATTEST:   
Scott Ellis, Clerk

CERTIFICATE OF AUTHORITY

I, Scott Knox, do hereby certify that I am the principal legal officer of Brevard County, Florida, that Brevard County, Florida is a legally constituted public body with full authority and legal capability to perform the terms of the Amendment No. 2 to the Agreement between the Department of the Army and Brevard County, Florida in connection with the Brevard County, Florida Shore Protection Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Amendment No. 2, as required by Section 221 of Public Law 91-611, as amended (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Amendment No. 2 on behalf of Brevard County, Florida have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this

30<sup>th</sup> day of August 2016.



\_\_\_\_\_  
Scott Knox  
County Attorney  
Brevard County, Florida

AMENDMENT NO. 2  
TO THE  
PROJECT COOPERATION AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
BREVARD COUNTY, FLORIDA  
FOR CONSTRUCTION OF THE  
BREVARD COUNTY, FLORIDA SHORE PROTECTION PROJECT  
**DRAFT AS OF MAY 24, 2016**

This Amendment No. 2 is entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Jacksonville District and Brevard County, Florida (hereinafter the "Non-Federal Sponsor"), represented by the Chairman of the Brevard County Board of County Commissioners.

WITNESSETH THAT:

WHEREAS, on April 20, 2000, the Government and the Non-Federal Sponsor entered into a Project Cooperation Agreement (hereinafter the "Agreement") for construction of the Phase I (north reach) and Phase II (south reach) segments of the Brevard County, Florida Shore Protection Project (hereinafter the "Project");

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NOW, THEREFORE, the Government and the Non-Federal Sponsor agree to further amend the Agreement as follows:

1. Replace the fourth through the eighth WHEREAS clauses with the following:

"WHEREAS, Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended, specifies the cost sharing requirements applicable to the Project;"

2. Revise Article II.G.1.b. by deleting "(b) the credit to be afforded in accordance with paragraph G.2. of this Article; and (c)" and inserting "and (b)".

CERTIFICATE OF AUTHORITY

I, Scott Knox, do hereby certify that I am the principal legal officer of Brevard County, Florida, that Brevard County, Florida is a legally constituted public body with full authority and legal capability to perform the terms of the Amendment No. 2 to the Agreement between the Department of the Army and Brevard County, Florida in connection with the Brevard County, Florida Shore Protection Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Amendment No. 2, as required by Section 221 of Public Law 91-611, as amended (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Amendment No. 2 on behalf of Brevard County, Florida have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this  
\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Scott Knox  
County Attorney  
Brevard County, Florida

## CERTIFICATION REGARDING LOBBYING

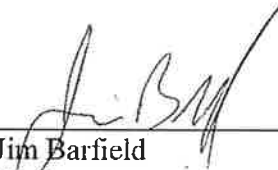
The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

  
\_\_\_\_\_  
Jim Barfield  
Chairman  
Brevard County Board of County  
Commissioners

DATE: 8/30/16

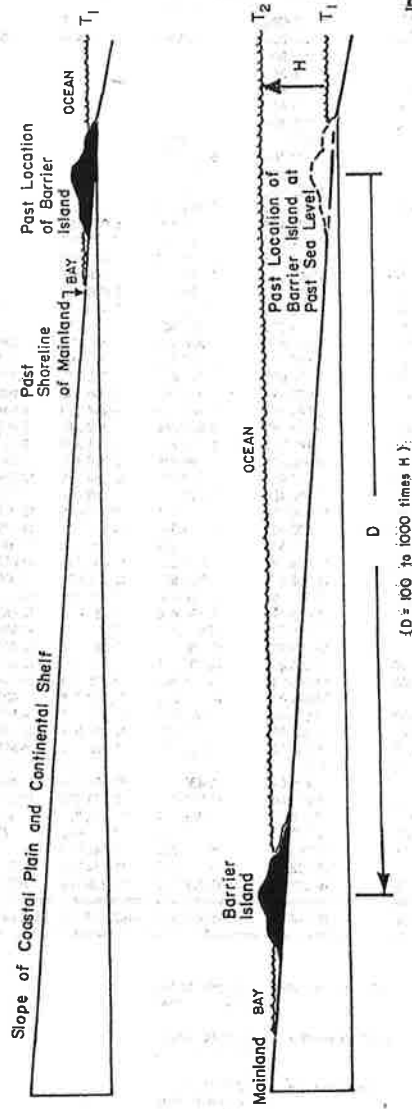
V.I.A.1







Unlike mainland sea cliffs which erode from fixed positions, barriers actually move backward (landward) onto marsh and lagoonal deposits. Indeed, barrier islands have been migrating landward since their creation, which is believed to have occurred approximately 7,000 years ago when the southeast and mid-Atlantic barriers formed on the continental shelf, tens of miles seaward of their present location.



$H$  = rise in sea level  
 $T_1$  = post sea level  
 $T_2$  = present sea level  
 $D$  = horizontal migration of barrier island

42. With sea level rise a barrier must retreat up the gradually sloping coastal plain over geologic time. Without migration the barrier can be drowned.

V.I.A.1

**Billions of \$'s to Place Sand on Mid-Reach and Future Designated "Critically Eroding" Brevard Beaches**

a/o 7-12-16

Compound@ Years	#1 Beach at Mid-Reach		7.8 miles at Vero Beach Cost						
	2.65%	2.65%	2.65%	Add: More Beaches at 1 every 5 years					
				2	3	4	5	6	7
1	1.0265	3,079,500	5,337,800						
2	1.0537	3,161,107	5,479,252						
3	1.0816	3,244,876	5,624,462						
4	1.1103	3,330,865	5,773,500						
5	1.1397	3,419,133	5,928,488						
6	1.1699	3,509,740	6,083,550	6,083,550					
7	1.2009	3,602,748	6,244,764	6,244,764					
8	1.2327	3,698,221	6,410,250	6,410,250					
9	1.2654	3,796,224	6,580,122	6,580,122					
10	1.2999	3,896,824	6,754,495	6,754,495					
11	1.3334	4,000,090	6,933,489	6,933,489	6,933,489				
12	1.3687	4,106,092	7,117,227	7,117,227	7,117,227				
13	1.4050	4,214,904	7,305,833	7,305,833	7,305,833				
14	1.4422	4,326,599	7,499,438	7,499,438	7,499,438				
15	1.4804	4,441,253	7,698,173	7,698,173	7,698,173				
16	1.5196	4,558,947	7,902,174	7,902,174	7,902,174	7,902,174			
17	1.5599	4,679,759	8,111,582	8,111,582	8,111,582	8,111,582			
18	1.6013	4,803,772	8,326,539	8,326,539	8,326,539	8,326,539			
19	1.6437	4,931,072	8,547,192	8,547,192	8,547,192	8,547,192			
20	1.6872	5,061,746	8,773,693	8,773,693	8,773,693	8,773,693			
21	1.7320	5,195,882	9,006,196	9,006,196	9,006,196	9,006,196	9,006,196		
22	1.7779	5,333,573	9,244,860	9,244,860	9,244,860	9,244,860	9,244,860		
23	1.8250	5,474,913	9,489,848	9,489,848	9,489,848	9,489,848	9,489,848		
24	1.8733	5,619,998	9,741,329	9,741,329	9,741,329	9,741,329	9,741,329		
25	1.9230	5,768,928	9,999,475	9,999,475	9,999,475	9,999,475	9,999,475		
26	1.9739	5,921,804	10,264,461	10,264,461	10,264,461	10,264,461	10,264,461		
27	2.0262	6,078,732	10,536,469	10,536,469	10,536,469	10,536,469	10,536,469	10,536,469	
28	2.0799	6,239,819	10,815,685	10,815,685	10,815,685	10,815,685	10,815,685	10,815,685	
29	2.1351	6,405,174	11,102,301	11,102,301	11,102,301	11,102,301	11,102,301	11,102,301	
30	2.1916	6,574,911	11,396,512	11,396,512	11,396,512	11,396,512	11,396,512	11,396,512	
31	2.2497	6,749,146	11,698,520	11,698,520	11,698,520	11,698,520	11,698,520	11,698,520	
32	2.3093	6,927,998	12,008,530	12,008,530	12,008,530	12,008,530	12,008,530	12,008,530	
33	2.3705	7,111,590	12,326,756	12,326,756	12,326,756	12,326,756	12,326,756	12,326,756	
34	2.4333	7,300,047	12,653,416	12,653,416	12,653,416	12,653,416	12,653,416	12,653,416	
35	2.4978	7,493,499	12,988,731	12,988,731	12,988,731	12,988,731	12,988,731	12,988,731	
36	2.5640	7,692,076	13,332,932	13,332,932	13,332,932	13,332,932	13,332,932	13,332,932	
37	2.6320	7,895,916	13,686,255	13,686,255	13,686,255	13,686,255	13,686,255	13,686,255	
38	2.7017	8,105,158	14,048,941	14,048,941	14,048,941	14,048,941	14,048,941	14,048,941	
39	2.7733	8,319,945	14,421,238	14,421,238	14,421,238	14,421,238	14,421,238	14,421,238	
40	2.8468	8,540,423	14,803,401	14,803,401	14,803,401	14,803,401	14,803,401	14,803,401	
41	2.9222	8,766,745	15,195,691	15,195,691	15,195,691	15,195,691	15,195,691	15,195,691	
42	2.9997	8,999,063	15,598,377	15,598,377	15,598,377	15,598,377	15,598,377	15,598,377	
43	3.0792	9,237,539	16,011,733	16,011,733	16,011,733	16,011,733	16,011,733	16,011,733	
44	3.1608	9,482,333	16,436,044	16,436,044	16,436,044	16,436,044	16,436,044	16,436,044	
45	3.2445	9,733,615	16,871,600	16,871,600	16,871,600	16,871,600	16,871,600	16,871,600	
46	3.3305	9,991,556	17,318,697	17,318,697	17,318,697	17,318,697	17,318,697	17,318,697	
47	3.4188	10,256,332	17,777,642	17,777,642	17,777,642	17,777,642	17,777,642	17,777,642	
48	3.5094	10,528,125	18,248,750	18,248,750	18,248,750	18,248,750	18,248,750	18,248,750	
49	3.6024	10,807,120	18,732,342	18,732,342	18,732,342	18,732,342	18,732,342	18,732,342	
50	3.6978	11,093,509	19,228,749	19,228,749	19,228,749	19,228,749	19,228,749	19,228,749	
		<b>\$316,508,943</b>	<b>\$548,615,501</b>	<b>\$615,274,000</b>	<b>\$483,200,820</b>	<b>\$446,846,661</b>	<b>\$404,985,461</b>	<b>\$357,503,773</b>	<b>\$303,386,345</b>

At 2.65% 60 year Total = \$3,564,062,778  
 At 4.00% 60 year Total = \$5,802,623,386.00  
 At 5.00% 60 year Total = \$8,380,371,697.00