



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.1.

10/1/2020

Subject:

Memorandum of Agreement with the East Central Florida Regional Planning Council to assist Brevard County with addressing deficiencies in the County's 2017 Evaluation and Appraisal Report (EAR), as identified by the Florida Department of Economic Opportunity (DEO).

Fiscal Impact:

\$70,000 - Available per Resolution No. 2020-030 Approving Third Quarter Supplemental Budget for Fiscal Year 2019-2020.

Dept/Office:

Natural Resources Management Department (NRM)/Planning & Development Department (P&D)

Requested Action:

Staff requests that the Board authorize the County Manager to execute a Memorandum of Agreement (MOA) with the East Central Florida Regional Planning Council (ECFRPC) to assist Brevard County with addressing deficiencies in the County's 2017 Evaluation and Appraisal Report (EAR), as identified by the Florida Department of Economic Opportunity (DEO) per SB 1094 (Laws of Florida No. 2015-69), an act relating to the peril of flood requirements for the Coastal Management element of local Comprehensive Plans.

Summary Explanation and Background:

Comprehensive Plan Evaluation and Appraisal Report Background

Every seven years, in accordance with Rule Chapter 73C-49, Florida Administrative Code, each local government must determine whether there is a need to amend the Comprehensive Plan to reflect changes in statutory requirements that have been enacted since the previous EAR was implemented. In May 2015 the Governor passed SB 1094 (Laws of Florida No. 2015-69), an act relating to the peril of flood; amending section 163.3178(2), F.S.; specifying requirements for the Coastal Management element required for local Comprehensive Plans. The amended statute (known commonly as "Peril of Flood" statute) requires the following:

- (f) A redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:
 - 1. Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.
 - 2. Encourage the use of best practices development and redevelopment principles,

- strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency.
3. Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state.
 4. Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable floodplain management regulations set forth in 44 C.F.R. part 60.
 5. Require that any construction activities seaward of the coastal construction control lines established pursuant to s. 161.053 be consistent with chapter 161.
 6. Encourage local governments to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.

Due to this legislation, the County was required to update the Coastal Management Elements to meet these requirements. Other proposed modifications in the EAR included scrivener's error corrections, updates of agency names, and other minor revisions. Of note in the staff report is the County response to section 163.3178(2)(f)1., F.S. and proposed language, below:

"In its Comprehensive Plan, Brevard County has development and redevelopment principles and strategies that reduce the flood risk in coastal areas; however, not specifically related to climate change and sea-level rise. The East Central Florida Regional Planning Council (ECFRPC) received funding from the Florida Department of Environmental Protection (FDEP) to develop a Regional Resiliency Action Plan (RRAP) for Brevard and Volusia Counties focusing on resiliency and sustainability related to climate change. Brevard County will participate and serve on the steering committee. This effort will provide data and analysis required to develop a RRAP and the associated Comprehensive Plan policies. In the interim, the following policy statement (Coastal Management Element, Objective 6, Coastal High Hazard Areas, Policy 6.6,) is proposed:

"Brevard County shall participate in the East Central Florida Regional Planning Council's state-funded project to develop a RRAP focusing on resiliency and sustainability. Once complete, Brevard County shall include in the Coastal Management Element development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of climate change."

On November 2, 2017, the Board approved the transmittal of Brevard's EAR-based Amendments 2017-2.2 (attached) to the State Land Planning Agency Department of Economic Opportunity (DEO) and other State review agencies for State Coordinated Review. DEO acknowledged that, pursuant to Section 163.3191(2), Florida Statutes, the EAR amendments were received on November 13, 2017.

DEO Transmittal Objection

On January 12, 2018, DEO issued its Objection Recommendation and Comments (ORC) Report (attached) to Brevard County. They stated that the proposed amendments do not provide a coastal redevelopment component in the Coastal Management Element that address sections 163.3178(2)(f)1-3 F.S. They further

stated, "Though an action plan for Brevard County may emerge from the ongoing ECFRPC and FDEP project, there is presently sufficient data, available tools and statutory direction for the County to move ahead under the current plan update to develop a coastal redevelopment component that addresses how to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise."

DEO recommended revising the amendment, prior to adoption, to provide a coastal redevelopment component within the Coastal Management Element that addresses how to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. Specific recommendations include:

- Identification of at-risk coastal areas, including areas that have historically experienced flooding and coastal inundation. This should be accomplished by using available models and mapping tools, to better identify those portions of the community most vulnerable to the effects of projected sea-level rise and future coastal flooding hazard.
- In these areas, identify the public and private resources at risk to flood hazard including; public facilities and infrastructure, cultural, historic and natural resources important to the community, and certain private assets/investments located, or planned to be located within the affected areas (e.g., elder care and important medical facilities).
- Developing specific redevelopment principles, strategies, and engineering solutions based upon the community's values, capacity, and projected fiscal resources, that will allow better protection identified areas of flood risk. The county should seek to minimize impacts to identified facilities and resources and improve the community's resilience to disasters and aid rapid post-disaster social and economic recovery actions.

DEO also recommended that, before adoption, the county coordinate with the ECFRPC as, in addition to developing the aforementioned action plan for the region, has expert staff familiar with the Peril of Flood requirements needed to address Section 163.3178(2)(f)1-3 F.S. And upon completion of the ongoing RRAP, future amendments may provide data and analyses updates and additional redevelopment principles, strategies, and engineering solutions.

DEO took into consideration the ongoing efforts of ECFRPC, and the future resulting data and analyses that would likely benefit the County in policy development. In a letter dated June 4, 2019, DEO extended the Amendment No. 17-3ER adoption date to December 5, 2021 to allow time to address the objection and submit a revised proposed amendment.

Brevard County staff has been working diligently to respond to the deficiencies of the proposed EAR Amendments:

- The County participated in ECFRPC's development of the RRAP (attached), which was completed in December 2018 and adopted unanimously by the Board on March 27, 2019 (Resolution 19-039 attached). The goal of the RRAP is to increase the ability of local and regional stakeholders to implement resiliency and climate adaptation strategies across disciplines. Aiming to improve safety, long-term resilience, and sustainability across sectors, expand economic sustainability and response to vulnerabilities within the community. The section entitled "Regional Planning for Sea-Level Rise"

establishes a range of expected rises utilizing three projection rate curves and short/long term planning horizons. However, the plan does not fully address Peril of Flood requirements.

- In September 2019, Brevard County executed a Memorandum of Understanding (MOU), joining the East Central Florida Regional Resiliency Collaborative (ECFR2C) as one of the counties in the East Central Florida region committed to implementing resilience measures as guiding principles for the future. Staff serve on the Steering Committee and Technical Advisory Committees (TACS).
- Staff undertook drafting of additional policies to address Peril of Flood. However, upon informal consultation with DEO, we have good reason to believe that DEO will find the subsequent policies inadequate to address Peril of Flood.

In its ORC Report, DEO recommended that the County consult with ECFRPC, as it has expert staff familiar with the Peril of Flood requirements needed to address Section 163.3178(2)(f)1-3 F.S. Additionally, ECFRPC has successfully developed Peril of Flood policies for five municipalities within Brevard County. The proposed scope of services was developed to assist the County with addressing this matter. NRM requested and received \$70,000 from FY18-19 balance forward funds to contract with ECFRPC to complete the necessary data analysis and policy development for Peril of Flood.

ECFRPC MOA

Attached for Board consideration is the MOA for ECFRPC to perform the following services:

Task 1: Vulnerability Assessment & Community Engagement.

Task 1 is analysis of Brevard County's social, economic and functional vulnerability to current and future flooding resulting from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of projected sea level rise. ECFRPC will build on a previous vulnerability assessment completed by ECFRPC for the Space Coast Transportation Planning Organization (TPO) in 2018 that focused specifically on assets that contribute to transportation functionality within Brevard County. Cross-departmental collaboration during this project will augment the TPO study, adding appropriate data (e.g., floodplain data, areas of known nuisance flooding, recent drainage studies) and additional analyses where gaps are identified to best evaluate all areas, facilities and resources within unincorporated Brevard County. To maintain regional consistency, this project will utilize the RRAP's recommended approach to planning for sea level rise. Future sea level rise inundation impacts will be assessed at baseline planning horizons (2040, 2070 and 2100) utilizing U.S. Army Corps of Engineers (USACE) and National Oceanographic Atmospheric administration (NOAA) projection rate curves.

Community engagement during Task 1 will include conducting an interactive online public survey and presentation of findings at public meetings. The goal of the public survey is to assess community values regarding assets of concern in Brevard County that may be affected by flooding or projected sea level rise and potential strategies to mitigate such hazards. ECFRPC will present the results of the public survey along with findings of the vulnerability assessment at a minimum of two public meetings in Brevard County to gather additional information and comments. Deliverables of Task 1 include a Vulnerability Analysis Report and a Public Engagement Report.

Task 2: Strategy and Policy Development.

Task 2 will focus on developing strategies and engineering solutions to minimize impacts of flood hazard to facilities and resources and improve community's resilience to disasters. Based on community values and Brevard County's capacity to act, including available and projected fiscal resources, draft policies that guide the decision-making process for future development, infrastructure projects and programs to assist local economic growth and community resilience will be developed for implementation in the Comprehensive Plan.

Draft proposed Comprehensive Plan amendments in strike-through and underline format will be produced through cross-departmental collaboration based on the information and data obtained through the vulnerability assessment and public engagement. The development of the amendments will also be based on strategies and input from RW Parkinson, Inc. to ensure compatibility with the actions and recommendations in the Indian River Lagoon Action Plan. Legal expertise from Florida Sea Grant will also be utilized to provide input from other locales, legal interpretations, guidance and other relevant input. Proposed amendments will include examples of strategies, principles, and related engineering solutions that reduce flood risk in coastal areas of Brevard County, and site development techniques that may reduce losses to the local government and property owners due to coastal flooding.

Any and all Comprehensive Plan amendments developed under this MOA are subject to Brevard County Attorney's Office review and approval. The Board has final authority to approve or deny the submittal to DEO of any and all amendments for Adoption.

Value of Peril of Flood MOA

Per Section 163.3191 F.S., any local government that fails to submit proposed amendments necessary to reflect changes in state requirements within the established time frame may not amend its Comprehensive Plan until such time as it complies. While this would be an unfortunate situation, there are more compelling reasons to proceed. Planning for resilience to reduce flood risk in Brevard means our communities, infrastructure, and economy will be more able recover from shocks and stressors, including storm events and rising surface waters.

Our neighboring coastal counties of Volusia and Indian River have adopted policies to comply with Peril of Flood. The ECFRPC has developed Peril of Flood policies for Satellite Beach, Melbourne Beach, Rockledge, and Cocoa; and are in the process of finalizing policies for Cape Canaveral.

Credit Ratings

Ratings firms like Moody's Investors Services, Inc. (Moody's) are beginning to focus on climate change. Moody's has issued numerous papers assessing climate risk, and purchased a majority stake in Four Twenty Seven, a firm offering on-demand risk analytics to support investment strategies and climate risk disclosures, and data products with over 1,000,000 climate risk scores for counties, cities, and real estate assets globally. New Orleans and Port Arthur, Texas, experienced credit downgrades after major hurricanes. Conversely, in 2018 Moody's upgraded the City of Miami's primary bond rating from A1 to Aa2, in part due to the positive nature of the Miami Forever Bond Program as the city was proactively addressing sea level rise (SLR) and affordable housing, in addition to noting that city resiliency was important to continue to grow tourism,

population growth, and downtown development. The lower interest rate on the Miami Forever Bond Program will reduce the long-term costs to residents.

Existing Flood Risk Data

Online flood risk analysis tools are readily available online:

- Realtor.com® integrates Floodfactor.com data; including flood risk information on for-sale and off-market properties. Properties display a Flood Factor™ score from First Street Foundation, a nonprofit research and technology group, representing its cumulative risk of flooding over a thirty-year mortgage. Realtor.com® also displays property FEMA Flood Zone, providing an improved understanding of their flood risk.
- Corelogic.com is publicly traded provider of consumer, financial and property data, analytics and services to business and government.
- Myfloodrisk.org has tools to determine flood risk, estimate potential flood losses, and assess insurance coverage gaps.

As citizens have access to an unprecedented amount of risk data, they become more savvy when making decisions related to investing in a community, whether buying a home or opening a business.

FEMA National Flood Insurance Program (NFIP)

The FEMA NFIP Community Rating System (CRS) credits lower flood insurance rates. CRS is partly an activity-based program. By undertaking certain activities, like enhanced public outreach regarding SLR and resiliency, and hazard disclosure considering future threats from climate change and SLR, a CRS community can gain points and potentially increase in class. CRS is also a regulatory program. By codifying and enforcing regulatory standards that surpass the minimum NFIP requirements, a CRS Community can again be rewarded with points (credits) that lower flood insurance rates charged for properties within that community.

Through policy leadership and collaboration across multiple City departments, the City of Miami Beach improved its CRS score from Class 6 to Class 5, which increased flood insurance premiums savings from 20 to 25% citywide effective May 1, 2019; and is expected to increase community insurance savings by \$1.7 million annually.

Requested action

Staff requests that the Board authorize the County Manager to execute the attached MOA with ECFRPC.

Clerk to the Board Instructions:

None.

BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS

CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: East Central Florida Regional Planning Council		2. Amount: \$70,000.00	
3. Fund/Account #: 0004		4. Department Name: Natural Resources	
5. Contract Description: Services for Resiliency Planning Grant 2020			
6. Contract Monitor: Darcie McGee		8. Contract Type: INTERGOVT/STATE	
7. Dept/Office Director: Virginia Barker			
9. Type of Procurement: Exempt from Competition			

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

APPROVAL

COUNTY OFFICE

YES

NO

SIGNATURE

User Agency

☒
☐

Calkins, Tad

Digitally signed by Calkins, Tad
DN: cn=Calkins, Tad, email=calkins@brevard.gov
Date: 2020.08.12 14:32:22 -0400

Purchasing

☐
☐

Risk Management

☐
☐

County Attorney

☐
☐

SECTION III - CONTRACTS MANAGEMENT DATABASE CHECKLIST

APPROVAL

COUNTY OFFICE

YES

NO

SIGNATURE

User Agency

☐
☐

Barker, Virginia

Digitally signed by Barker, Virginia
Date: 2020.08.12 13:13:01 -0400

Purchasing

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☐

Risk Management

☒
☐

County Attorney

☒
☐

[Handwritten Signature]
[Handwritten Signature] 8/24/2020

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status, Title, Type, and Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date, Effective Date, and Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Contract Form with County Attorney/ Risk Management/ Purchasing Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>



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

Telephone: (321) 637-2001

Fax: (321) 264-6972

Kimberly.Powell@brevardclerk.us

October 2, 2020

M E M O R A N D U M

TO: Virginia Barker, Natural Resources Management Director

RE: Item F.1., Memorandum of Agreement (MOA) with East Central Florida Regional Planning Council (ECFRPC) to Assist with Addressing Deficiencies in the County's 2017 Evaluation and Appraisal Report (EAR) Identified by the Florida Department of Economic Opportunity (DEO)

The Board of County Commissioners, in regular session on October 1, 2020, approved and authorized the County Manager to execute a MOA with ECFRPC to assist with addressing deficiencies in the County's 2017 EAR as identified by the DEO per SB 1094, Laws of Florida No. 2015-69, an act relating to the peril of flood requirements for the Coastal Management element of local Comprehensive Plans. Enclosed is an executed Memorandum of Agreement.

Upon execution by East Central Florida Regional Planning Council, please return a fully-executed Memorandum of Agreement to this office for inclusion in the official minutes.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK


Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Finance
Budget

**MEMORANDUM OF AGREEMENT
BETWEEN
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS
AND
THE EAST CENTRAL FLORIDA REGIONAL PLANNING COUNCIL**

THIS MEMORANDUM OF AGREEMENT (the Agreement"), by and between the BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS, (hereinafter referred to as the "COUNTY") with its principal address located at 2725 Judge Fran Jamieson Way, Viera, Florida 32940, and the EAST CENTRAL FLORIDA REGIONAL PLANNING COUNCIL (hereinafter referred to as the "ECFRPC"), with its principal address located at 455 N. Garland Ave, Orlando, Florida 32801 is made and entered into as of the date of last signature below (the "Effective Date"). The COUNTY and the ECFRPC are sometimes hereinafter referred to as a "Party" and collectively as the "Parties."

WITNESSETH

WHEREAS, the COUNTY has been awarded grant funding from the Florida Department of Environmental Protection in DEP Grant Agreement Number R2112 in the amount of \$70,000.00 in order to complete the Planning for Resiliency in Brevard County project; and

WHEREAS, the COUNTY wishes to engage the services of the ECFRPC to accomplish the tasks associated with the Planning for Resiliency in Brevard County project specifically appropriated by the Florida Department of Environmental Protection and DEP Grant Agreement Number R2112 for the COUNTY; and

WHEREAS, the ECFRPC represents that it possesses the requisite skills, knowledge, qualifications and experience to perform the tasks described herein; and

WHEREAS, the ECFRPC desires to enter into this Memorandum of Agreement with regard to the implementation of the work plan described herein.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, the Parties agree as follows:

1. STATEMENT OF WORK

ECFRPC agrees to provide services to be performed under this Agreement in accordance with the Work Plan attached herein as EXHIBIT A and as specifically required by the Florida Department of Environmental Protection ("DEP") in DEP Grant Agreement Number R2112, a copy of DEP Grant Agreement Number R2112, including all exhibits to the same, is attached

hereto and incorporated by this reference as EXHIBIT B. ECFRPC shall comply with all provisions of this Agreement and all grant requirements as set forth in EXHIBIT B. Failure of ECFRPC to comply with all terms, conditions and requirements of this Agreement including any grant requirements set forth in EXHIBIT B, may result in the termination of this Agreement by the COUNTY pursuant to Section 8 (b) hereinbelow.

2. PERIOD OF PERFORMANCE

This Agreement shall run from the date of last signature below and shall remain in effect until May 30, 2021, unless otherwise amended.

3. CONSIDERATION AND PAYMENT

(a) BREVARD COUNTY hereby agrees to pay to ECFRPC \$ 70,000.00 on a fixed price basis to perform the services associated with the DEP Grant Agreement # R2112 as specifically described in the Work Plan, a copy of which is attached and incorporated by this reference as EXHIBIT A. Payments shall be made in accordance with the terms and conditions of this Agreement and EXHIBIT A. The COUNTY's performance and obligation to pay under this Agreement is contingent upon the COUNTY's receipt of the grant funds awarded to the COUNTY under the DEP Grant Agreement Number R2112 attached hereto and incorporated by this reference as EXHIBIT B.

(b) ECFRPC shall submit invoices in accordance with the compensation guidelines as set forth in the Work Plan attached as EXHIBIT A, to the following address:

BREVARD COUNTY
Natural Resources Management Department
2725 Judge Fran Jamieson Way, Bldg A, Room 219
Viera, FL 32940
Attn: Robin Johnson

(c) BREVARD COUNTY shall send payment of the invoice amounts to ECFRPC within 30 days of receipt of a complete invoice and reporting package.

4. PERFORMANCE

ECFRPC will provide diligent efforts in performing the services under this Agreement and services will be rendered at a level commensurate with professional standards acceptable in the discipline and within the scope of the project to the satisfaction of BREVARD COUNTY.

5. REPORTS

ECFRPC shall prepare and submit to BREVARD COUNTY all necessary technical information as reasonably required by BREVARD COUNTY in the performance of the Agreement, including reporting packages and invoicing.

6. SUBAGREEMENTS

(a) The ECFRPC shall be responsible for all work performed and all expenses incurred in connection with the development and implementation of the services, programs, and activities under this Agreement.

(b) The ECFRPC may, as appropriate and in compliance with applicable law, subcontract the performance of the services set forth in this Agreement, including entering into subcontracts with vendors for services and commodities, *provided, however*, that the ECFRPC shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract. The ECFRPC shall not enter into subcontracts in which the COUNTY could be held liable to a subcontractor for any expenses or liabilities. THE ECFRPC shall defend and hold the COUNTY harmless of any liabilities incurred under any of the subcontracts entered into by the ECFRPC. The ECFRPC shall be liable for all work performed and all expenses incurred as a result of any subcontract.

(c) Any and all contracts that the ECFRPC executes with a person or organization under which such person or organization agrees to perform economic development services or similar business assistance services on behalf of the ECFRPC shall include provisions requiring that such person or organization report on performance, account for proper use of funds provided under the contract (including the provision of audit rights pursuant to Section 10, AUDIT AND PUBLIC RECORDS LAW, when applicable), coordinate with other components of state and local economic development systems, and avoid duplication of existing state and local services and activities.

(d) Any and all contracts that the ECFRPC executes with a person or organization shall include provisions whereby the ECFRPC and the subcontractors expressly agree to abide by all local, state, and federal laws and all requirements of this Agreement including all terms and conditions of Exhibits A and B.

(e) The ECFRPC will provide the COUNTY with a list and copies of all subcontracts, which means those entered into necessary to the performance of the ECFRPC's functions and duties related to its core mission, issued in conjunction with the projects undertaken and funds expended in the performance of this Agreement.

7. SUBORDINATION

This Memorandum of Agreement is subordinate to DEP Grant Agreement Number R2112 between BREVARD COUNTY and DEP, a copy of which is attached hereto and incorporated herein by reference as EXHIBIT B, and

nothing in this Agreement shall conflict with or otherwise contravene the intent of the provisions of the DEP Grant Agreement.

8. TERMINATION AND REMEDIES

- (a) Notwithstanding Sections 9 or 19 below, this Agreement and the performance of all work under this Agreement may be terminated by either party with sixty (60) days written notice to the other party.
- (b) The COUNTY may terminate this Agreement for cause upon twenty four (24) hours written notice from the date notice is sent by the COUNTY. Cause includes, but is not limited to, ECFRPC's improper or ineffective use of funds provided under this Agreement; fraud, lack of compliance with any applicable rules, regulations, statutes, or laws; failure to timely perform any of ECFRPC's obligations under this Agreement as determined in the sole discretion of the COUNTY, and/or submission of reports that are incorrect or incomplete in any material respect. In the event of termination under this subsection, the COUNTY may demand that ECFRPC return to COUNTY any funds determined in the sole discretion of the COUNTY that ECFRPC expended in violation of the the terms and conditions of this Agreement or any applicable law, rule or regulation governing the use of the funds or pursue any other legal or equitable remedies available to the COUNTY. Pursuit of any of the above remedies does not preclude the COUNTY from pursuing any other remedies in this Agreement or provided at law or in equity.

9. FORCE MAJEURE

- (a) No party shall be liable for any delays in or failure of performance due to strike, riot, fire, storm, and explosion, War, act of God, governmental action, embargo, epidemic or any other cause beyond the reasonable control of such party. The Party affected shall promptly notify the other in writing of the nature, cause, date of commencement thereof, the anticipated extent of such delay and whether it is anticipated that any completion dates will be affected thereby.
- (b) In the event of any delay resulting from such causes and provided the affected party has promptly notified the other and exercised due diligence as provided in Section 9 (a), the time of performance of each of the Parties hereunder (including payment of monies) shall be extended for a time period equal the period of such delay.

10. AUDIT AND PUBLIC RECORDS LAW

ECFRPC agrees to keep full, clear and accurate books and records. Within fifteen (15) days following written request by BREVARD COUNTY, ECFRPC shall make available for inspection and/or audit any and all records related to its performance under this Agreement. Said records are subject to inspection

and audit, at the sole expense of BREVARD COUNTY, by representatives of BREVARD COUNTY during reasonable business hours throughout the term of this Agreement and for the five (5) years immediately following BREVARD COUNTY'S final payment to ECFRPC under this Agreement. In the event an audit is initiated by BREVARD COUNTY during the five (5) years following the BREVARD COUNTY'S final payment, ECFRPC agrees to retain any and all records associated with this Agreement until such time as any disputes arising therefrom are resolved. If any provision of this section is inconsistent with BREVARD COUNTY audit requirements, the more stringent shall prevail. BREVARD COUNTY is subject to Chapter 119, Florida Statutes, and other provisions of law related to Florida's Public Records Act. **IF ECFRPC HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDIA STATUTES, TO ECFRPC'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (321) 633-2016; Sandra.SanzGarcia@brevardfl.gov; Brevard County Natural Resources Management Department, ATTN: Records Custodian, 2725 Judge Fran Jamieson Way, A-219, Viera, FL 32940.**

11. INDEMNIFICATION AND INSURANCE

- (a) To the extent permitted by Florida law, ECFRPC agrees to indemnify, hold harmless and defend BREVARD COUNTY and its respective trustees, officers, employees and agents against any and all claims for death, illness, personal injury, property damage, and improper business practices arising from the negligence or misconduct of ECFRPC or its employees, students or agents in connection with the performance of this Agreement.
- (b) ECFRPC, at its own expense, shall keep in force and at all times maintain during the term of this Agreement:
 - i. General Liability Insurance: General Liability Insurance issued by responsible insurance companies and in a form acceptable to BREVARD COUNTY, with combined single limits of not less than One Million Dollars (\$1,000,000) for Bodily Injury and Property Damage per occurrence.
 - ii. Certificates of Insurance: ECFRPC shall provide BREVARD COUNTY with a Certificate of Insurance for general liability coverage. Said liability policy shall provide that BREVARD COUNTY be an additional insured. BREVARD COUNTY shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the COUNTY

and licensed and authorized under the laws of the State of Florida.

- (c) Neither Party shall be liable to the other Party for any special, indirect, incidental or, consequential damages, however caused and whether grounded in tort (including negligence), or any other theory of liability, even if such other Party has been advised of the possibility of such damages.
- (d) Both Parties shall at all times comply, through insurance or self-insurance, with all statutory workers' compensation and employers' liability requirements covering any and all employees with respect to activities performed under this Agreement.
- (e) BREVARD COUNTY agrees to assume any and all liabilities and claims that may be incurred by BREVARD COUNTY in commercial ventures conducted by BREVARD COUNTY in connection with this Agreement; provided such liabilities and claims are not the result of the negligence or willful misconduct of ECFRPC or its employees, students or agents.

12.WARRANTY

Other than to complete the Agreement in accordance with any statements of work, ECFRPC makes no warranty, express, implied or otherwise, with respect to use, operation, effectiveness or fitness for any particular purpose of its services performed under this Agreement or their results.

13.INDEPENDENT CONTRACTOR

BREVARD COUNTY contracts for the services of ECFRPC as an independent contractor and not as an employee. Nothing herein shall be construed to create a partnership, joint venture or agency relationship between the parties. Neither party shall have the authority to enter into any agreements of any kind on behalf of the other, or to bind or obligate the other to any third party.

14.PUBLICITY

Neither party shall make reference to the other party in any advertising or publicity matter without prior written approval of the other party.

15.CONTRACTOR REPRESENTATIVES

The following serve as the representatives of the areas indicated:

EAST CENTRAL FLORIDA REGIONAL PLANNING COUNCIL:

PROJECT MANAGER:

FISCAL AGENT:

PJ Smith

Julie Bowes

ECFRPC
455 N. Garland Avenue
Orlando, FL 32801
Ph: 407-245-0300 Ext.312
Email: pjsmith@ecfrpc.org

ECFRPC
455 N. Garland Avenue
Orlando, FL 32801
Ph: 407-245-0300 Ext.304
Email: jbowes@ecfrpc.org

BREVARD COUNTY:

PROJECT MANAGER:

Jeffrey Ball
Planning and Development
2725 Judge Fran Jamieson Way
Bldg A, Suite 114
Viera, Florida 32940
Ph: 321-633-2070
Email: Jeffrey.Ball@brevardfl.gov

FISCAL AGENT:

Robin Johnson
Natural Resources Management
2725 Judge Fran Jamieson Way
Bldg A, Suite 219
Viera, Florida 32940
Ph: 321-633-2016
Email: Robin.Johnson@brevardfl.gov

16. REGULATORY COMPLIANCE AND GOVERNING LAW

This Agreement, and any disputes arising under it, shall be governed by and construed in accordance with the laws of the State of Florida. Brevard County shall be the venue and forum for any legal actions arising from or incident to this Agreement. Where a dispute arises from a conflict between ECFRPC's application of this Agreement, ECFRPC shall be responsible for addressing the resolution of the conflict to the satisfaction of BREVARD COUNTY. ECFRPC shall be responsible for obtaining any and all permits.

17. SEVERABILITY AND SURVIVABILITY

The illegality or unenforceability of the whole or any part of the provisions of this Agreement will not affect the continued operation of the remaining provisions. The provisions of Sections 8, 11, 12, 14 and 16 shall survive the termination of this Agreement for a period of five (5) years.

18. ATTORNEY'S FEES

Each party shall be responsible for their own respective attorney's fees incurred arising out of any dispute associated with enforcement and/or interpretation of the terms or conditions of this Agreement.

19. SCRUTINIZED COMPANIES

(a) ECFRPC certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida Statutes. BREVARD COUNTY may immediately terminate this Agreement at its sole option if ECFRPC or its subcontractors are found to have submitted false certification; or if ECFRPC, or its subcontractors are placed

on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

- (b) If this Agreement is for more than one million dollars, ECFRPC further certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes .
- (c) Pursuant to Section 287.135, Florida Statutes , BREVARD COUNTY may immediately terminate this Agreement at its sole option if ECFRPC, its affiliates, or its subcontractors are found to have submitted a false certification; or if ECFRPC, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- (d) ECFRPC agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement. As provided in Section 287.135(8), Florida Statutes , if Federal law ceases to authorize these contracting prohibitions, this section shall become inoperative and unenforceable.

20. ENTIRE AGREEMENT

This Agreement represents the entire understanding of BREVARD COUNTY and ECFRPC, and may only be modified in writing and duly executed by both parties.

[The remainder of this page left intentionally blank.]

THE UNDERSIGNED BY THEIR AUTHORIZED AGENTS HAVE EXECUTED THIS AGREEMENT AS OF THE DATE OF LAST SIGNATURE BELOW.

Signatures of Authorized Officials

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: Frank Abbate

Name: Frank Abbate

Title: County Manager

Date: October 1, 2020

Reviewed for legal form and content for BREVARD COUNTY:

Abigail Forrester Jorandby
Abigail Forrester Jorandby, Assistant County Attorney

EAST CENTRAL FLORIDA REGIONAL PLANNING COUNCIL

By: _____

Name: Hugh W. Harling, Jr.

Title: Executive Director

Date: _____

EXHIBIT A

WORK PLAN

Project Title: Planning for Resiliency in Brevard County

Project Description: This project is aimed at preparing Brevard County for resiliency through a robust process to include conducting a vulnerability analysis, engaging the public, and developing strategies and draft policies to enhance resilience which can then be implemented into the comprehensive plan. Project findings will aid in the preparation of comprehensive plan amendments as part of the County's current Evaluation and Appraisal Report update that will guide the decision-making process for future development, infrastructure projects and actions to support local economic growth and community resilience. Brevard County partners with East Central Florida Regional Planning Council to achieve these goals.

Two main tasks will be completed by ECFRPC during this project: 1) Conduct a Vulnerability Assessment for Brevard County, and 2) Prepare a Strategy and Policy Development to satisfy the "Peril of Flood" requirements referenced below. Task 1 will begin upon project execution and finish on or prior to February 1, 2021. Task 2 will begin before completion of Task 1 and finish on or prior to April 16, 2021.

Project Benefit: The over-arching goal of this project is to identify coastal vulnerabilities specific to the unincorporated areas of Brevard County, provide recommendations, and develop policies to minimize and mitigate the effects of flooding, sea level rise and storm surge. The outputs of Task 1 (including data, maps and report) that identify at-risk areas, facilities and resources will help Brevard County formulate strategies, best management practices, and engineering solutions aimed to increase resilience to flood hazard. Especially high-risk areas and areas with significant resources subject to flood hazard that may be identified during Task 1 will be further evaluated by Brevard County for consideration as Adaption Action Areas. Development and redevelopment principles produced through the completion of Task 2 will guide policy development to improve the County's perseverance following disaster and will assist economic growth and business resilience. The ultimate outcome of the project will be enhanced community resilience through the integration of policies into the Coastal Management Element of Brevard County's Comprehensive Plan that comply with "Peril of Flood" statute (Section 163.3178(2)(f) F.S.).

Project Timeline: The schedule for the project is upon date of execution– April 16, 2021.

Project Tasks Due Dates:

Task No.	Task Title	Deliverable Due Date
1	Vulnerability Assessment	02/01/2021
2	Strategy and Policy Development	04/16/2021

Project Budget: \$70,000 (100% funded by FDEP Grant # R2112)

Project Budget Breakdown by Task:

Task No.	Task Title	Task Amount
1	Vulnerability Assessment	\$ 35,000
2	Strategy and Policy Development	\$ 35,000

Project Total \$70,000

Project Tasks:

Task 1 – Vulnerability Assessment:

Task 1 Goals: 1) identify the current and historic areas within Brevard County that are at-risk to flooding, storm surge and coastal inundation; 2) identify areas vulnerable to projected sea-level rise and anticipated new surge areas; and 3) identify assets of concern in the community. These goals will be achieved by conducting a vulnerability assessment and engaging the community through a public survey and public meetings to identify areas, facilities, and resources at risk to flood hazard within the County.

Task 1 Description: Task 1 will analyze Brevard County's social, economic and functional vulnerability to current and future flooding resulting from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of projected sea level rise. For this project, Task 1 will build on a previous vulnerability assessment completed for the Space Coast Transportation Planning Organization (TPO) in 2018 by the East Central Florida Regional Planning Council (ECFRPC) that focused specifically on assets that contribute to transportation functionality within Brevard County. Cross-departmental collaboration during this project will augment the TPO study, adding appropriate data (e.g., floodplain data, areas of known nuisance flooding, recent drainage studies) and additional analyses where gaps are identified to best evaluate all areas, facilities and resources within unincorporated Brevard County. To maintain regional consistency, this project will utilize the East Central Florida Regional Resilience Action Plan's recommended approach to planning for sea level rise. Future sea level rise inundation impacts will be assessed at baseline planning horizons (2040, 2070 and 2100) utilizing U.S.

Army Corps of Engineers (USACE) and National Oceanographic Atmospheric administration (NOAA) projection rate curves.

Community engagement during Task 1 will include conducting an interactive online public survey and presentation of findings at public meetings. The goal of the public survey is to assess community values regarding assets of concern in Brevard County that may be affected by flooding or projected sea level rise and potential strategies to mitigate such hazards. ECFRPC will present the results of the public survey along with findings of the vulnerability assessment at a minimum of two public meetings in Brevard County to gather additional information and comments.

Deliverables will include two written reports - a Vulnerability Analysis Report and a Public Engagement Report. The Vulnerability Analysis Report will incorporate the data and analyses produced by the vulnerability assessment, provide narrative descriptions and include maps showing at least two sea level rise scenarios in conjunction with current flooding events during high tide, storm surge, flash floods, and stormwater runoff, as appropriate. The Public Engagement Report will summarize results of the interactive online public survey and also include sign in sheets from at least two public meetings, summaries of public comments and copies of any materials presented.

Task 1 Deliverable(s): The ECFRPC will submit all deliverables for each task via one pdf document to the County's Grant Manager on or before the Task/Deliverable Due Date listed in the Project Timeline.

- 1) Vulnerability Analysis Report
- 2) Public Engagement Report including:
 - a. Copies of announcements/advertisements of public workshops/meetings
 - b. Agendas and sign-in sheets from each workshop/meeting, indicating location, date, and time of workshop/meeting
- 3) Presentation(s) from each workshop/meeting
- 4) Brief summary report from each workshop/meeting including attendee input and workshop/meeting outcomes
- 5) Any materials created at each workshop/meeting (as applicable)
 - a. Results from online survey

Task 2 – Strategy and Policy Development:

Task 2 Goals: Develop strategies, principles, and engineering solutions to minimize impacts to facilities and resources identified during Task 1 as at-risk to flood hazard. Outputs will be integrated into draft policies that enhance resilience in Brevard County and can be implemented through comprehensive plan amendments compliant with 163.3178(2)(f) F.S. (Peril of Flood).

Task 2 Description: Task 2 will focus on developing strategies and engineering solutions to minimize impacts of flood hazard to facilities and resources and improve community's resilience to disasters. Based on community values and Brevard County's capacity to act, including available and projected fiscal resources, draft policies that guide the decision-making process for future development, infrastructure projects and programs to assist local economic growth and community resilience will be developed for implementation in the comprehensive plan.

Specifically, draft proposed comprehensive plan amendments in strike-through and underline format will be produced through cross-departmental collaboration based on the information and data obtained through the vulnerability assessment and public engagement. The development of the amendments will also be based on strategies and input from RW Parkinson, Inc. to ensure compatibility with the actions and recommendations in the Indian River Lagoon Action Plan. Legal expertise from Florida Sea Grant will also be utilized to provide input from other locales, legal interpretations, guidance and other relevant input. Proposed amendments will include a minimum of four (4) examples each of strategies, principles, and related engineering solutions that reduce flood risk in coastal areas of Brevard County, and a minimum of four (4) site development techniques that may reduce losses to the local government and property owners due to coastal flooding.

Additionally, draft policies and proposed comprehensive plan amendments resulting from findings of this project will be developed in coordination with Community Planning and Growth staff at the Florida Department of Economic Opportunity (DEO) to ensure consistency with Peril of Flood requirements needed to address Section 163.3178 (2)(f) 1., 2., and 3. of the Florida Statutes.

Task 2 Deliverable(s): The ECFRPC will submit all deliverables for each task via one pdf document to the County's Grant Manager on or before the Task/Deliverable Due Date listed in the Project Timeline.

- 1) Draft proposed comprehensive plan amendments in strike-through and underline format in electronic (pdf) format including a minimum of four (4)

examples each of strategies, principles, and related engineering solutions that reduce flood risk in coastal areas of Brevard County, and a minimum of four (4) site development techniques that may reduce losses to the local government and property owners due to coastal flooding.

- 2) Draft Final Project Report containing the following sections: Executive Summary, Methodology, Outcome and Further Recommendations. The draft Final Project Report must comply with the publication requirements in the DEP Grant Agreement #R2112. Please limit draft final project report to no more than five pages.

PERFORMANCE MEASURES AND COMPENSATION GUIDELINES: The ECFRPC will submit all deliverables for each task via one pdf document to the County's Project Manager on or before the Task/Deliverable Due Date listed in the Project Timeline. The County's Project Manager will review the task/deliverables to verify that they meet the specifications in this Work Plan and this task description, to include any work being performed by any sub-contractor(s). Upon review and written acceptance by the County's Project Manager of all deliverables under this task, the ECFRPC may proceed with payment request submittal. Performance Measures shall require that all deliverables and reports submitted to County will be Americans with Disabilities Act (ADA) Compliant, also known as 508 Compliant, in all formats provided.

QUARTERLY PROGRESS REPORTING: The ECFRPC agrees to submit quarterly progress reports to County Project Manager within three (3) days of end of reporting period. Quarterly reports should include a summary of project accomplishments for the reporting period; a comparison of actual accomplishments to goals for the period; if goals were not met, provide reasons why; provide an update on the estimated time for completion of the task and an explanation for any anticipated delays and identify by task; indicate the percentage of the task that has been completed to date. For the purposes of this reporting requirement, the quarterly reporting periods end on March 31, June 30, September 30 and December 31. The following format should be followed:

Task 1:

- Progress for this reporting period:
- Identify any delays or problems encountered:
- Percentage of task completed:

Task 2:

- Progress for this reporting period:
- Identify any delays or problems encountered:
- Percentage of task completed:

The ECFRPC agrees to include on all publications, printed reports, audiovisuals (including videos, slides, and websites except that unless required under special terms of this Agreement, this requirement does not apply to audiovisuals produced as research instruments or for documenting experimentation or findings and which are not intended for presentation to the general public) or similar materials the DEP logo (which can be found on the Department's website at <https://floridadep.gov/resilience> or by contacting the Department's Grant Manager for a copy) and the following statement:.

"This work was funded in part through a grant agreement from the Florida Department of Environmental Protection, Florida Resilient Coastlines Program, by a grant provided by the Office of Resilience and Coastal Protection. The views, statements, findings, conclusions and recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the State of Florida or any of its subagencies."

The next printed line shall identify the month and year of the publication.

EXHIBIT B

DEP Grant Agreement #R2112

Rick Scott
GOVERNOR



Cissy Proctor
EXECUTIVE DIRECTOR

January 12, 2018

The Honorable Curt Smith
Chairman Brevard County, Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, Florida 32940

Dear Chairman Smith:

The Department of Economic Opportunity has completed its review of the proposed comprehensive plan amendment for Brevard County (Amendment No. 17-3ER), which was received and determined complete on November 13, 2017. We have reviewed the proposed amendment in accordance with the state coordinated review process set forth in Sections 163.3184(2) and (4), Florida Statutes (F.S.), for compliance with Chapter 163, Part II, F.S. Review comments received by the Department from the appropriate reviewing agencies are also enclosed.

Also enclosed is DEO's Objections, Recommendations, and Comments (ORC) Report. The ORC report outlines findings concerning the proposed amendment. We have identified one (1) objection to the proposed changes. The Department is prepared to work with the County to resolve the objection. The County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. Also, please note that Section 163.3184(4)(e)1., F.S., provides that if the second public hearing is not held within 180 days of your receipt of the Department of Economic Opportunity report, the amendment shall be deemed withdrawn unless extended by agreement with notice to the Department of Economic Opportunity and any affected party that provided comment on the amendment. For your assistance, we have enclosed the procedures for final adoption and transmittal of the comprehensive plan amendment.

If you have any questions related to this review, please contact Dan Pennington, at (850) 717-8524, or by email at dan.pennington@deo.myflorida.com.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Stansbury".

James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/dp

Enclosures: ORC Report
Procedures for Adoption
Agency Comments

cc: Hugh Harling, P.E., Executive Director, East Central Florida Regional Planning Council
Erin Sterk, Planning and Zoning Manager, Brevard County

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.floridajobs.org
www.twitter.com/FLDEO | www.facebook.com/FLDEO

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT

PROPOSED COMPREHENSIVE PLAN AMENDMENT

BREVARD COUNTY (DEO No. 17-3ER)

Objection

Section 163.3178(2)(f)(1-3), F.S., directs local governments to update the Coastal Management Element of the comprehensive plan to contain a coastal redevelopment component that addresses how to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. The proposed Brevard County amendments 17-3ER do not provide a coastal redevelopment component in the Coastal Management Element that includes:

1. Development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.
2. Best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency.
3. Site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state.

Though an action plan for Brevard County may emerge from the ongoing ECFRPC and FDEP project, there is presently sufficient data, available tools and statutory direction for the County to move ahead under the current plan update to develop a coastal redevelopment component that addresses how to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise.

Authority: Section 163.3178(2)(f)(1-3), F.S

Recommendation

The County should revise the amendment prior to adoption to update the Coastal Management Element of the comprehensive plan to contain a coastal redevelopment component that addresses how to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise.

The County should consider revising this amendment, prior to adoption, to provide a coastal redevelopment component within the Coastal Management Element that addresses how to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. In a redevelopment component, the objectives and policies should guide the identification of at-risk coastal areas, and in these areas the public and private resources at risk to flood hazard. The County should consider adopting specific redevelopment principles, strategies, and engineering solutions based upon the community's values and capacity, that will allow better protection identified areas of flood risk. Before adopting the proposed amendment, the County may want to coordinate with the East Central Florida Regional Planning Council that, in addition to

developing the aforementioned action plan for the region, has expert staff familiar with the Peril of Flood requirements needed to address Section 163.3178(2)(f)1., 2., and 3., F.S.

A first step may be to identify those areas of the County that currently experience, or have historically experienced, flooding and coastal inundation. These areas may include locations on FEMA Flood Insurance Rate Maps subject to inundation from the 100-year flood, V- and VE zones (coastal velocity hazards), storm surge zones and, areas where localized ponding typically occurs. Some communities include other low elevation areas in close proximity to the coast, or otherwise hydrologically connected, that are subject to flooding, ponding, or wave action. Some southeast Florida communities make a point of documenting areas that experience flooding during astronomical high tides and consider these areas as especially vulnerable to coastal flooding.

After identifying current/historic at-risk areas the County should use/select from available models and tools, to better identify those portions of the community most vulnerable to the effects of projected sea-level rise and future coastal flooding hazard. Some resources available to assist the County in this effort include the mapping tools provided by the National Oceanic and Atmospheric Administration and the University of Florida's GeoPlan Center to identify at-risk flood areas, development and infrastructure, available these web links:

- <https://coast.noaa.gov/digitalcoast/tools/flood-exposure>;
- <http://coast.noaa.gov/digitalcoast/tools/slr>;
- <https://coast.noaa.gov/slrdata/>; and,
- <http://sls.geoplan.ufl.edu>.

With the information identifying areas most vulnerable to flood hazard and projected sea-level rise, the County should further identify assets of concern in the community that may be affected by flooding or projected sea-level rise. This includes identifying the public facilities and infrastructure, cultural, historic and natural resources important to the community, as well as certain private assets/investments located, or planned to be located within the affected areas (e.g., elder care and important medical facilities).

Based upon the County's community values and capacity to act, including available and projected fiscal resources, the County could consider appropriate strategies and engineering solutions that will allow the community to adapt to potential flooding hazards identified. The strategies and engineering solutions should seek to minimize impacts to identified facilities and resources and improve the community's resilience to disasters and aid rapid post-disaster social and economic recovery actions. Upon completion of the ongoing ECFRPC/FDEP action plan, future amendments may provide data and analyses updates and additional redevelopment principles, strategies, and engineering solutions.

One very useful optional tool provided for under Section 163.3164(1) F.S., is the identification of especially high-risk areas and areas with significant resources subject to flood hazard that the County identifies as *Adaptation Action Areas (AAAs)*. Identification of AAAs, coupled with the adoption of strategies prioritizing efforts to minimize and mitigate flood risks in these areas, serves the purpose of helping to prioritizing funding and community adaptation planning. DEO is available to provide further assistance on these planning efforts.

SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS

FOR STATE COORDINATED REVIEW

Section 163.3184(4), Florida Statutes

May 2011

NUMBER OF COPIES TO BE SUBMITTED: Please submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the Department of Economic Opportunity and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ Department of Economic Opportunity identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format;

_____ In the case of future land use map amendment, an adopted future land use map, in **color format**, clearly depicting the parcel, its existing future land use designation, and its adopted designation;

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

_____ Copy of executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for state coordinated review:

The effective date of this plan amendment, if the amendment is not timely challenged, shall be the date the Department of Economic Opportunity posts a notice of intent determining that this amendment is in compliance. If timely challenged, or if the state land planning agency issues a notice of intent determining that this amendment is not in compliance, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Department of Economic Opportunity.

_____ List of additional changes made in the adopted amendment that the Department of Economic Opportunity did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the Department of Economic Opportunity to the ORC report from the Department of Economic Opportunity.



Planning & Development Department
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

November 15, 2016

Mr. Ray Eubanks, Plan Processing Administrator
Division of Community Planning
Dept. of Economic Opportunity
107 East Madison Street, MSC-160
Tallahassee, FL 32399-4120

Re: Brevard County Evaluation & Appraisal Report (EAR) Notification Letter

Dear Mr. Eubanks:

In accordance with the provision of F.S. Chapter 163.3191, please accept this letter as Brevard County's evaluation of its comprehensive plan to determine if plan amendments are necessary to reflect changes in State requirements since the last update of the comprehensive plan.

The County acknowledges the modification to Section 163.3178(1)(f), F.S. enacted during the 2015 Legislative Session, which enumerates requirements of a redevelopment component in the Coastal Management Element. Staff is currently reviewing data compiled by the East Central Florida Regional Planning Council and researching best practices. Accordingly, we are committed to adopting amendments to implement required redevelopment policies as part of the County's second Comprehensive Plan amendment cycle of 2017.

If you have any questions regarding this Evaluation & Appraisal notification letter please contact Robin M. DiFabio, AICP, Director of Planning & Development at (321) 633-2069 or at robin.difabio@brevardfl.gov

Sincerely,

Jim Barfield, Chairman
Board of County Commissioners

cc: Hugh W. Harling, Jr., Executive Director ECFRPC



Florida Department of Transportation

RICK SCOTT
GOVERNOR

719 South Woodland Boulevard
DeLand, Florida 32720

MICHAEL J. DEW
SECRETARY

December 1, 2017

D. Ray Eubanks
Plan Processing Administrator
Florida Department of Economic Opportunity
107 East Madison Street, MSC-160
Tallahassee, FL 32399

SUBJECT: PROPOSED COMPREHENSIVE PLAN AMENDMENT
LOCAL GOVERNMENT: BREVARD COUNTY
DEO #: 17-3ER

Dear Mr. Eubanks,

The Department of Transportation has completed its review of the subject Comprehensive Plan Amendment as requested in Brevard County's transmittal letter dated November 2, 2017.

We appreciate the opportunity to participate in this review process and we offer our technical assistance with this letter. The majority of the EAR-based text amendments are not expected to have significant adverse impacts to the State Highway System (SHS) and the Strategic Intermodal System (SIS). The exceptions are the proposed amendments to Future Land Use Element Objective 2 (Commercial Land Uses), Policy 2.6 (F) and 2.8 (D), which remove the maximum square footage limitations for Neighborhood Commercial and Community Commercial, and defers to Floor Area Ratio limitations.

Due to the potential impacts to State Facilities based on the proposed amendments to these policies, the Department recommends Brevard County continue to monitor impacts to State Facilities through traffic impact analyses, as Neighborhood Commercial and Community Commercial lands develop/redevelop. The Department also recommends Brevard County coordinate with the Department in order to identify appropriate mitigation strategies to address the potential impacts to State facilities.

If you have any questions, you may contact Steve Shams at 386-943-5421 or by e-mail at Steve.Shams@dot.state.fl.us.

Sincerely,

Jean Parlow
Growth Management Coordinator

Attachment

C: Erin Sterk, Brevard County
Fred Milch, ECFRPC
Carmen Monroy, FDOT
Dana Reiding, FDOT

David J. Cooke, FDOT
Jennifer Carver, FDOT
Adam Biblo, DEO

\\D5-Dot.State.FL\Us\5dfs\000\Planning\Growth Management\CPA Project Files\Brevard County\EAR\2017\17-3ER\Proposed\Brevard_Proposed_17-3ER_Cvtr.Docx

www.dot.state.fl.us

COMPREHENSIVE PLAN AMENDMENT PROPOSED REVIEW COMMENTS

Local Government: Brevard County
DEO Amendment #: 17-3ER
Date Amendment Received FDOT: 11/13/2017
Review Comments Deadline: 12/13/2017
Today's Date: 12/1/2017

GENERAL BACKGROUND INFORMATION

Brevard County has submitted the proposed Brevard County 17-3ER large scale Comprehensive Plan Amendment for Evaluation and Appraisal Review (EAR) based text amendments pertaining to the Brevard County Comprehensive Plan. Text amendments to the following Elements of the Comprehensive Plan are included in this transmittal:

- Conservation
- Surface Water
- Recreation and Open Space
- Historic Preservation
- Housing
- Sanitary Sewer
- Solid Waste and Hazardous Materials
- Transportation
- Coastal Management
- Future Land Use
- Public Schools
- Glossary

FDOT Contact:	Steve Shams, MURP In-house Consultant FDOT District 5	Reviewed by:	Tyler K. Johnson, AICP
Telephone:	386-943-5421		Vanasse Hangen Brustlin, Inc.
Fax:	386-943-5713		407-839-4006
E-mail:	Steve.Shams@dot.state.fl.us		407-839-4008
File:	H:\ODC\Planning\Growth Management\CPA Project Files\Brevard County\EAR\2017\17-3ER\Proposed\Brevard_Proposed_17-3ER_Review.docx		
			tjohnson@vhb.com

COMPREHENSIVE PLAN AMENDMENT PROPOSED REVIEW COMMENTS

Local Government: Brevard County
DEO Amendment #: 17-3ER
Date Amendment Received FDOT: 11/13/2017
Review Comments Deadline: 12/13/2017
Today's Date: 12/1/2017

TEXT AMENDMENTS

Elements: Conservation
Surface Water
Recreation and Open Space
Historic Preservation
Housing
Sanitary Sewer
Solid Waste and Hazardous Materials
Transportation
Coastal Management
Future Land Use
Public Schools
Glossary

Rule Reference: Chapter 163, Florida Statutes

Background:

Brevard County has submitted the proposed Brevard County 17-3ER large scale Comprehensive Plan Amendment for Evaluation and Appraisal Review (EAR) based text amendments pertaining to the Brevard County Comprehensive Plan.

The majority of the proposed amendments are not substantive and consist primarily of:

- Corrections of scrivener's errors and grammatical clarification
- Rewording of existing policies to clarify purpose and intent
- Updated references (e.g. Florida Building Codes, State statutes)
- Updated agency names, terminology, and internal policy references
- Update maps based on more recent data sources
- Removal of duplicative policies
- Rearrangement and moving of policy within the Comprehensive Plan
- Add titles to sections

Proposed amendments which do not qualify as any of the above categories are summarized below.

Recreation and Open Space Element

- 1) Acceptable Levels of Service calculations were changed from Park Planning Areas to County-wide.

FDOT Contact:	Steve Shams, MURP In-house Consultant FDOT District 5	Reviewed by:	Tyler K. Johnson, AICP
Telephone:	386-943-5421		Vanasse Hangen Brustlin, Inc.
Fax:	386-943-5713		407-839-4006
E-mail:	Steve.Shams@dot.state.fl.us		407-839-4008
File:	H:\000\Planning\Growth Management\CPA Project Files\Brevard County\EAR\2017\17-3ER\Proposed\Brevard_Proposed_17-3ER_Review.docx		

COMPREHENSIVE PLAN AMENDMENT PROPOSED REVIEW COMMENTS

Local Government: Brevard County
DEO Amendment #: 17-3ER
Date Amendment Received FDOT: 11/13/2017
Review Comments Deadline: 12/13/2017
Today's Date: 12/1/2017

- 2) Objective 1 (Park and Open Space System), Policy 1.8 – Criteria regarding the Greenway Network was eliminated as these functions are being coordinated by the Transportation Planning Organization.
- 3) Objective 1 (Park and Open Space System), Policy 1.10 & 1.11 – Criteria regarding oceanfront and riverfront breezeways was eliminated to avoid future conflicts with current Land Development Regulations.
- 4) Objective 5 (Public and Private Partnerships), Policy 5.2 – Criteria for lands acquisition were eliminated, as the mechanisms to do so do not need to be outlined within the Comprehensive Plan.

Solid Waste and Hazardous Materials Element

- 1) Objective 10 (Intergovernmental Coordination) – Stricken, as coordination requirements have changed. The transmittal indicated State review agency feedback requested as a part of the review of proposed amendments.

The deleted Objective stated "Brevard County shall continue coordinating with the County Departments involved in hazardous material management. Public and private sector entities will be encouraged to become involved in the development of an optimal hazardous materials management system." Associated policies removed directed the County to establish a Hazardous Material Task Force and specified a purpose and outcome goals for the Task Force. As this proposed amendment is not expected to impact State facilities, the Department has no comments or recommendations regarding the text amendment proposed above.

Transportation Element

- 1) Objective 1 (Monitoring and Evaluation), Policy 1.1 (C) 2 – Updated to reflect the current 2040 planning horizon year, changed from 2020.
- 2) Objective 1 (Monitoring and Evaluation), Policy 1.3 (A) 2 and Policy 1.3 (B) – Updated to match FDOT LOS standards.
- 3) Objective 2 (Prioritization of Transportation Improvements), Policy 2.2 – Updated to reflect accurate 6-20 year long-range transportation improvement program horizon.
- 4) Objective 2 (Prioritization of Transportation Improvements), Policy 2.8 – Updated to include transit consideration in roadway reconstruction.

FDOT Contact:	Steve Shams, MURP In-house Consultant FDOT District 5	Reviewed by:	Tyler K. Johnson, AICP
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COMPREHENSIVE PLAN AMENDMENT PROPOSED REVIEW COMMENTS

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- 5) Objective 4 (Multi-modal Transportation), Policy 4.2 (B) – Updated to ensure that review of ADA standards is incorporated into land development regulations
- 6) Objective 5 (Airport, Sea Port, and Rail Facilities) – Updated to include Spaceport within the Objective and subsequent Policy.
- 7) Objective 10 (Intergovernmental Coordination), Policy 8.1 (D) – Stricken, as the Committee is no longer functional.

Coastal Management Element

- 1) Objective 4 (Beaches and Dunes), Figure 1 – "Diagram Reflecting the Spatial Relationship between the FDEP 1981 Coastal Construction Control Line (CCCL) and the Brevard County Coastal Setback Line (CSL)" updated for clarity.
- 2) Objective 6 (Coastal High Hazard Areas), Policy 6.3 – Modified to allow the conversion of on-site septic disposal systems to sewer within the coastal high hazard area zone for projects selected specifically to improve ground and surface water quality.

Future Land Use Element

- 1) Objective 2 (Commercial Land Uses), Policy 2.6 (F) and 2.8 (D) – Updated to remove maximum square footage limitation, antiquated numbers in today's development, and defer to Floor Area Ratio limitations.

The potential effects of this proposed text amendment are further analyzed below.

- 2) Objective 2 (Commercial Land Uses), Policy 2.9, 2.10, and 2.11 – Stricken, as the Small Scale and Large Scale Comp Plan Amendment procedures are the formal mechanism utilized today to propose changes to Commercial Future Land Use boundaries.
- 3) Objective 8 (Developments of Regional Impact), Policy 8.1 – DRI's no longer functioning stricken.
- 4) Objective 18 (Platt Ranch Mixed Use Category) – Stricken, as Platt Ranch parcels were annexed into the City of Melbourne.
- 5) Objective 22 (Mixed Use Development Land Uses) – Stricken, as the Mixed Use Development Future Land Use Designation is no longer utilized.

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Analysis of FLU Element Objective 2, Policies 2.6(F):

The proposed text amendments to FLU Element Objective 2, Policies 2.6(F) are presented in strikethrough/underline format below:

FLUE: Objective 2, Policy 2.6(F) The gross floor area of neighborhood commercial complexes should not exceed a 21,800 square feet and the Floor Area Ratio (FAR) should not exceed of 0.75.

The Comprehensive Plan contains a maximum size of 8 acres for a Neighborhood Commercial cluster, resulting from 2 acres in each corner of an intersection. As there are Neighborhood Commercial FLU lands throughout the County, including parcels of varying sizes, the maximum scenario was used for a conservative analysis of the maximum allowable situation. In this scenario, a total of 87,200 square feet of commercial complex would be allowed. This equates to one commercial complex of 21,800 square feet at each corner of an intersection.

Table 1 below shows the trip generation potential for the currently adopted and proposed future land use policy, and the change in trips as a result of the amendment.

Table 1: Trip Generation Potential of Maximum Allowable Neighborhood Commercial Scenario Affected by Text Amendment to FLUE Objective 2, Policy 2.6(F)

Scenario	Land Use Designation	ITE Land Use Code	Allowed Development		Daily Trips	P.M. Peak Hour Trips
Adopted	Commercial	820	87,200	s.f.	6,690	491
Proposed	Commercial	820	261,360	s.f.	14,112	1,106
Change in Trips					+7,422	+615

Source: ITE Trip Generation Manual 10th Edition
s.f. = square feet

The analysis shows the proposed text amendment would increase the trip generation potential of a maximum allowable neighborhood commercial cluster by 7,422 daily trips and 615 P.M. peak hour trips. These estimates are general and reflect a conservative analysis as this is an estimate of the maximum allowable scenario and does not analyze each instance of Neighborhood Commercial parcels throughout the County. It is not possible to determine with certainty the potential impacts of this proposed text amendment since it is applied throughout the entire County.

FDOT Contact: Steve Shams, MURP In-house Consultant FDOT District 5 Telephone: 386-943-5421 Fax: 386-943-5713 E-mail: Steve.Shams@dot.state.fl.us File: H:\OOC\Planning\Growth Management\CPA Project Files\Brevard County\EAR\2017\17-3ER\Proposed\Brevard_Proposed_17-3ER_Review.docx	Reviewed by: Tyler K. Johnson, AICP Vanasse Hangen Brustlin, Inc. 407-839-4006 407-839-4008 tjohnson@vhb.com
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COMPREHENSIVE PLAN AMENDMENT PROPOSED REVIEW COMMENTS

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The Neighborhood Commercial FLU is a designation used throughout the County, and primarily exists along SR 5/US 1, SR 520, SR 3, and at I-95 interchanges. As Neighborhood Commercial areas exist throughout the County and are located along State facilities, the proposed text amendment has the potential to impact State facilities.

Analysis of FLU Element Objective 2, Policies 2.8(D):

The proposed text amendment to FLU Element Object 2, Policies 2.8(D) are presented in strikethrough/underline format below:

~~FLUE: Objective 2, Policy 2.8(D) The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres.~~

The Comprehensive Plan contains a maximum FAR of 1.0 and a maximum size of 40 acres for Community Commercial land areas. As there are Community Commercial FLU lands throughout the County, including parcels of varying sizes, the two scenarios specified in Policy 2.8(D) were used for a conservative analysis of the maximum allowable situations.

Table 2 below shows the trip generation potential for the currently adopted and proposed future land use policy for Community Commercial parcels 10 acres in size, and the change in trips as a result of the amendment.

Table 2: Trip Generation Potential of a 10-Acre Community Commercial Parcel Affected by Text Amendment to FLUE Objective 2, Policy 2.8(D)

Scenario	Land Use Designation	ITE Land Use Code	Allowed Development	Daily Trips	P.M. Peak Hour Trips
Adopted	Commercial	820	150,000 s.f.	9,674	734
Proposed	Commercial	820	435,600 s.f.	19,974	1,614
Change in Trips				+10,300	+880

Source: ITE Trip Generation Manual 10th Edition
d.u. = dwelling units; s.f. = square feet

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COMPREHENSIVE PLAN AMENDMENT PROPOSED REVIEW COMMENTS

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Table 3 below shows the trip generation potential for the currently adopted and proposed future land use policy for Community Commercial parcels 40 acres in size, and the change in trips as a result of the amendment.

Table 3: Trip Generation Potential of a 40-Acre Community Commercial Parcel Affected by Text Amendment to FLUE Objective 2, Policy 2.8(D)

Scenario	Land Use Designation	ITE Land Use Code	Allowed Development		Daily Trips	P.M. Peak Hour Trips
Adopted	Commercial	820	400,000	s.f.	18,849	1,516
Proposed	Commercial	820	1,742,400	s.f.	51,270	4,504
Change in Trips					+32,421	+2,988

Source: ITE Trip Generation Manual 10th Edition
d.u. = dwelling units; s.f. = square feet

The analysis shows the proposed text amendment would increase the trip generation potential of a 10-acre parcel of Community Commercial by 10,300 daily trips and 880 P.M. peak hour trips and the trip generation potential of a 40-acre parcel of Community Commercial by 32,421 daily trips and 2,988 P.M. peak hour trips. These estimates are general in nature and reflect a conservative analysis as these estimates are based on the two size limits in Policy 2.8(D) and do not analyze each instance of Community Commercial parcels throughout the County. It is not possible to determine with certainty the potential impacts of this proposed text amendment since it is applied throughout the entire County.

The Community Commercial FLU is a designation used throughout the County, and primarily exists along SR 5/US 1, SR 520, SR 3, and at I-95 interchanges. As Community Commercial areas exist throughout the County and are located along State facilities, the proposed text amendment has the potential to impact State facilities.

Technical Assistance:

The majority of the amendments are not expected to have significant adverse impacts to the State Highway System and the Strategic Intermodal System; therefore, the Department does not have comments or recommendations regarding those amendments. The exceptions are the proposed amendments to Future Land Use Element Objective 2 (Commercial Land Uses), Policy 2.6 (F) and 2.8 (D), which remove the maximum square footage limitations for Neighborhood Commercial and Community Commercial, and defers to Floor Area Ratio limitations.

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This proposed amendment in particular has the potential to result in a significant increase in the trip generation potential for the NC and CC areas. As these areas are primarily located along SR 5/US 1, SR 520, SR 3, and at I-95 interchanges, there is potential for significant adverse impacts to the State Highway System (SHS) and the Strategic Intermodal System (SIS).

Due to the potential impacts to state facilities and the inability to accurately determine how the proposed amendments to FLU Element Objective 2, Policies 2.6(F) and 2.8(D) may affect trip generation potential of commercially designated lands throughout the County. The Department recommends as Neighborhood Commercial and Community Commercial lands develop/redevelop, Brevard County continue to monitor impacts to State Facilities through traffic impact analysis and coordinate with the Department in order to identify appropriate mitigation strategies to address potential impacts to State Facilities.

The Department respectfully requests a copy of the adopted plan. Please provide the adopted plan within 10 working days of adoption, in order to assist in facilitating review within the required 30-day time frame from adoption, as required by Statutes (State Coordinated Review Process Section 163.3184(4), Florida Statutes).

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Pennington, Dan

Subject: St Johns River WMD Comments

From: Steve Fitzgibbons [<mailto:SFitzgibbons@sjrwmd.com>]

Sent: Wednesday, December 13, 2017 7:33 AM

To: DCPexternalagencycomments <DCPexternalagencycomments@deo.myflorida.com>

Cc: Sterk, Erin <Erin.Sterk@brevardfl.gov>; robin.difabio@brevardfl.gov

Subject: Brevard County proposed comprehensive plan amendment 17-3ER

Dear Mr. Eubanks,

St. Johns River Water Management District (District) staff have reviewed Brevard County proposed comprehensive plan amendment 17-3ER in accordance with the provisions of Chapter 163, *Florida Statutes*. Based on review of the submitted materials, District staff have no comments on the proposed amendment. If you have any questions or need additional information, please contact me.

Please note that all proposed and adopted comprehensive plan amendments can be submitted to the District by email at sfitzgibbons@sjrwmd.com.

Sincerely,
Steve Fitzgibbons

Steven Fitzgibbons, AICP
Intergovernmental Planner
Governmental Affairs Program
St. Johns River Water Management District
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Jacksonville, FL 32256
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of people.*

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MyFWC.com

December 12, 2017

D. Ray Eubanks, Administrator
Plan Review and Processing
Florida Department of Economic Opportunity
107 East Madison Street
Tallahassee, FL 32399
DCPexternalagencycomments@deo.myflorida.com

RE: Brevard County 17-3ER, EAR Based Amendments 2017-2.2

Dear Mr. Eubanks:

Florida Fish and Wildlife Conservation Commission (FWC) staff has reviewed the above-referenced comprehensive plan amendment package and provides the following comments and recommendations for your consideration in accordance with Chapter 163.3184, Florida Statutes.

Brevard County has submitted evaluation- and appraisal-based amendments to its comprehensive plan in accordance with the state-coordinated review process. As indicated in their transmittal report, the County reviewed each element of the comprehensive plan and made revisions as necessary. FWC staff's primary comment is regarding Chapter II, Objective 4, of the Surface Water Element. Renumbered Policy 4.8, Criterion F, states the following:

All mosquito impoundments should be evaluated and those found to be breached or non-functional should be repaired ~~returned to their natural condition~~ by the appropriate Mosquito Control District. ~~This would include, but not be limited to, removal of existing dikes and re-establishment of historical tidal channels.~~

The term "repair" is vague and we recommend the comprehensive plan's glossary provide a detailed definition. The addition of a statement in criterion F that clarifies the conditions or instances in which repair would be preferred over returning the impoundment to its natural condition would be beneficial. Brevard County has a history of removing dikes around mosquito impoundments and returning these areas to their natural conditions, which is preferred and can result in new potential habitat for a variety of fish and wildlife species. FWC staff is available to provide technical assistance in this regard.

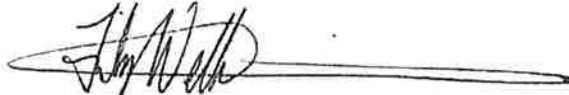
As an editorial note, Chapter I, the Conservation Element, Policies 9.1 and 9.15, refer to the "Florida Game and Fresh Water Fish Commission." This should be changed to the "Florida Fish and Wildlife Conservation Commission."

We appreciate the opportunity to review this proposed comprehensive plan amendment. If you need any further assistance, please do not hesitate to contact our office by email at

D. Ray Eubanks
Page 2
December 12, 2017

FWCConservationPlanningServices@MyFWC.com. If you have specific technical questions, please contact Laura DiGruttolo at (352) 732-1225 or by email at Laura.DiGruttolo@MyFWC.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Fritz Wettstein', is written over a horizontal line.

Fritz Wettstein, Land Use Planning Program Administrator
Office of Conservation Planning Services

fw/ld
ENV 2-3-3
Brevard County 17-3ER_34238_121217

cc: Erin Sterk, Interim Planning and Zoning Manager
Brevard County Planning and Development Department
Erin.Sterk@brevardfl.gov



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

December 6, 2017

VIA EMAIL (Erin.Sterk@brevardfl.gov)

Brevard County BOCC
The Honorable Curt Smith
2725 Judge Fran Jamieson Way, Bldg. A
Room 114
Viera, Florida 32940

Re: DACS Docket # -- 20171114-1017
Brevard County EAR Based Amendments 2017-2.2
Submission dated November 2, 2017

Dear Commissioner Smith:

The Florida Department of Agriculture and Consumer Services (the "Department") received the above-referenced proposed comprehensive plan amendment on November 14, 2017 and has reviewed it pursuant to the provisions of Chapter 163, Florida Statutes to address any potential adverse impacts to important state resources or facilities related to agricultural, aquacultural, or forestry resources in Florida if the proposed amendment(s) are adopted. Based on our review of your county's submission, the Department has no comment on the proposal.

If we may be of further assistance, please do not hesitate to contact me at 850-410-2280.

Sincerely,

A handwritten signature in cursive script that reads "Derek Buchanan".

Derek Buchanan
Budget Director
Office of Policy and Budget

cc: Florida Department of Economic Opportunity
(SLPA #: Brevard County 17-3 ESR)