



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.36.

5/18/2021

Subject:

Request Authority for Chair to Request and Sign an Amendment to Project Partnership Agreement with U.S. Army Corps of Engineers

Fiscal Impact:

none

Dept/Office:

County Attorney's Office

Requested Action:

Request Authority for Chair to Request and Sign an Amendment to the Project Partnership Agreement with U.S. Army Corps of Engineers for the construction of the Brevard County, Florida Shore Protection Project Mid-Reach Segment.

Summary Explanation and Background:

Brevard County signed a Project Partnership Agreement (PPA) with the U.S. Army Corps of Engineers on August 31, 2016 regarding beach renourishment. County Staff is recommending an amendment to the PPA. This amendment would provide parity between the PPA and the U.S. Army Corps beach easement. Currently, the PPA requires "continued public use" but the Corps easement requires "public use and access." The Amendment would revise Article II, paragraph L to state "For shores, other than Federal Shores, protected pursuant to this Agreement using Federal funds, the Non-federal Sponsor shall ensure the public use and access of such shores compatible with the authorized purpose of the project." Request the Board authorize the Chair to request the amendment and to sign any documentation regarding this amendment, subject to review of the County Attorney's Office.

Clerk to the Board Instructions:

Return a copy of the signed Amendment and the Board's memorandum to the County Attorney's Office



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

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Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

May 19, 2021

M E M O R A N D U M

TO: Eden Bentley, County Attorney

RE: Item F.36., Request Authority for Chair to Request and Sign Amendment to Project Partnership Agreement (PPA) with U.S. Army Corps of Engineers

The Board of County Commissioners, in regular session on May 18, 2021, authorized the Chair to request and sign an amendment to PPA with U.S. Army Corps of Engineers for the construction of the Brevard County, Florida Shore Protection Project Mid-Reach Segment; and authorized the Chair to sign any documentation regarding this amendment, subject to review of the County Attorney's Office. Enclosed is the executed Amendment, Certificate of Authority, and Certification Regarding Lobbying.

Upon execution by all parties, please return the fully-executed Amendment to this office for inclusion in the official minutes.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, reading "Kimberly Powell".

Kimberly Powell, Clerk to the Board

/cld

Encls. (3)

AMENDMENT 1
PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
BREVARD COUNTY, FLORIDA
FOR CONSTRUCTION OF THE BREVARD COUNTY, FLORIDA
SHORE PROTECTION PROJECT MID-REACH SEGMENT

This Amendment No. 1 is entered into this 18 day of May, 2021 by and between the following Parties: 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 Chair of the Brevard County Board of County Commissioners.

WITNESSETH THAT:

WHEREAS the Parties entered into a Project Partnership Agreement on August 31, 2016; and

WHEREAS, the Parties desire to amend Article II, paragraph L.

NOW, THEREFORE, the Parties agree as follows:

1. Article II, Paragraph L is amended by striking the current paragraph and replacing it with the following: "For shores, other than Federal Shores, protected pursuant to this Agreement using Federal funds, the Non-Federal Sponsor shall ensure the public use and access of such shores compatible with the authorized purpose of the Project."
2. All other terms of the original agreement remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

BY: _____

PRINTED NAME: _____

TITLE: _____


DATE: _____

BREVARD COUNTY, FLORIDA

BY: 
Rita Pritchett, Chair

As approved by the Board of County
Commissioners on MAY 18 2021

ATTEST:


Rachel Sadoff, Clerk

CERTIFICATE OF AUTHORITY

I, Eden Bentley, 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 18th day of May 2021.

BY: 

Eden Bentley
County Attorney
Brevard County, Florida

CERTIFICATION REGARDING LOBBYING

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

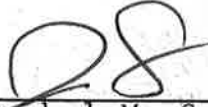

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection 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 no less than \$10,000 and not more than \$100,000 for each such failure.

ATTEST:


Rachel M. Sadoff, Clerk BY: 

Rita Pritchett
Chair, Brevard County
Board of County Commissioners

DATE: MAY 18 2021