

**F. Consent Agenda - Natural Resources Management
ITEM 4.**



**AGENDA REPORT
May 7, 2019**

Certification of Lands Mid Reach

SUBJECT:

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

FISCAL IMPACT:

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

DEPT/OFFICE:

Natural Resources Management

REQUESTED ACTION:

It is requested that the Board: (1) Authorize the Chair to execute all Certifications of Lands for the Mid Reach of the Brevard County Shore Protection Project as prepared by the County Attorney's Office; (2) Authorize the Chair to execute Brevard County Shore Protection Project Mid Reach Segment Construction Access and Staging Consent of Use; and (3) Authorize the Chair to execute Brevard County Shore Protection Project Mid Reach Segment Consent of Use.

SUMMARY EXPLANATION and BACKGROUND:

On August 31, 2016, the Board of County Commissioners entered into a Project Partnership Agreement with the US Army Corps of Engineers to serve as the local sponsor for the Mid Reach Brevard County Shore Protection Project. This agreement requires that Brevard, as the local sponsor, acquire the real estate interest ("lands") required for the project. Staff has acquired 168 of the 173 easements required for the Mid Reach. On October 23, 2018, the Board approved a Resolution of Necessity and directed the County Attorney's Office to proceed with the "quick take" process to acquire the final five easements. The Order of Taking Hearing to complete the "quick take" is scheduled for May 13, 2019.

The County has also acquired Consents of Use (COU) from the cities of Indian Harbour Beach and Satellite Beach for the use of lands managed by the cities as required by the project. The County Attorney's Office has prepared COUs for County owned or managed lands to authorize use of those lands by the US Army Corps. These COUs (attached) address both sand placement and construction access and staging.

The US Army Corps has requested that Brevard certify lands for the Mid Reach project prior to the end of June. This timeline is essential to allow construction to begin November 1, 2019 as planned. In order to meet this deadline, staff is requesting authority for the Chair and County Attorney's Office to proceed with certification of all lands with current easements or COUs in place, and also with certification of the final five easements upon the successful conclusion of the May 13th Order of Taking Hearing. The Certification of Lands and Attorney's Title Certificate for those lands currently in hand is attached and a second Certification of Lands and Attorney's Title Certificate will be provided once the final five easements are obtained.

CLERK TO THE BOARD INSTRUCTIONS:

Chairman & Clerk signatures required on two originals of each document. Contact Mike McGarry at 321-537-1779 for pick-up.

ATTACHMENTS:

Description

- ▢ **Attorney title certificate Mid Reach**
- ▢ **Mid Reach Construction Access Consent of Use**
- ▢ **MidReach Sand Consent of Use**
- ▢ **Mid Reach Certification of Lands #1**



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

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

May 8, 2019

M E M O R A N D U M

TO: Virginia Barker, Natural Resources Management Director

RE: Item F.4., Certification of Lands Mid-Reach

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

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/cmw

Encls. (6)

cc: Contracts Administration

ATTORNEY'S TITLE CERTIFICATE

Title Certificate Number 1

I, Christine Valliere, Assistant County Attorney for the Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida, with its principal office at 400 South Street, Titusville, Florida, do hereby certify that the County is vested with the recited estates, permits and authorizations in the lands shown on the Brevard County Shore Protection Project Mid-Reach Segment Easement Certification Map dated April 23, 2019.

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

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

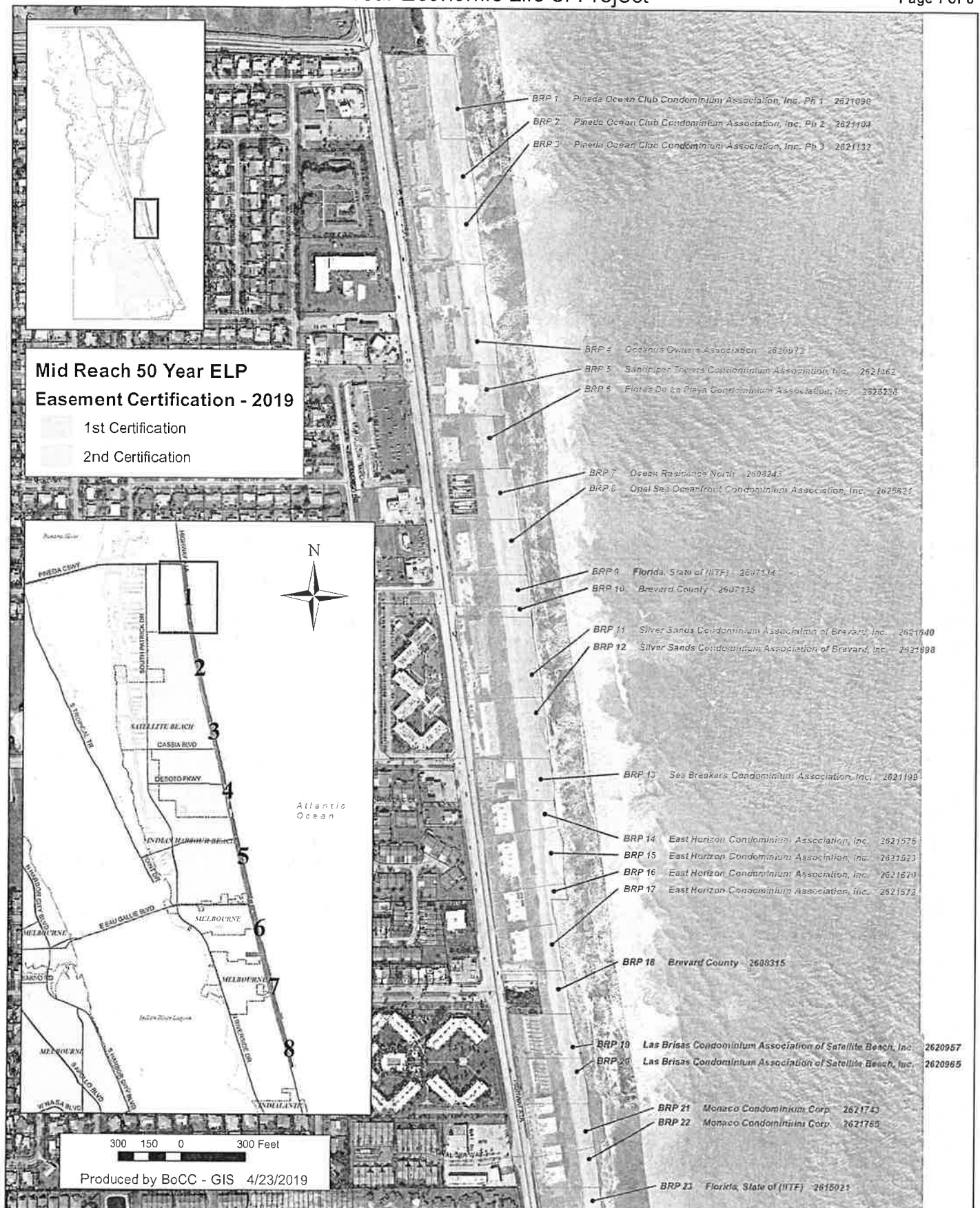
Dated and Signed this 26th day of April, 2019.

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

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

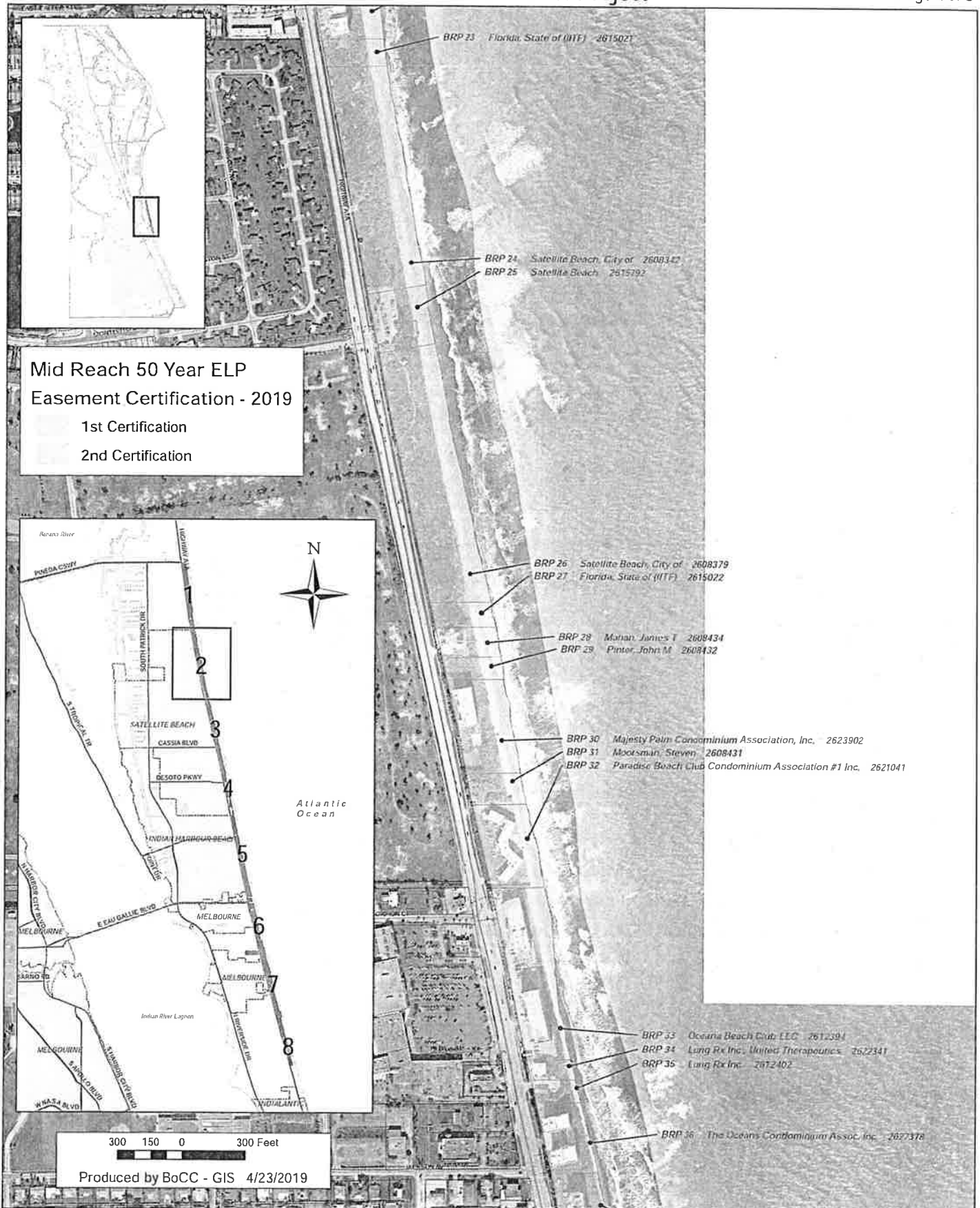
Brevard County Shore Protection Project Easement Certification Map - 2019 50 Year Economic Life of Project

Page 1 of 8



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

Page 2 of 8

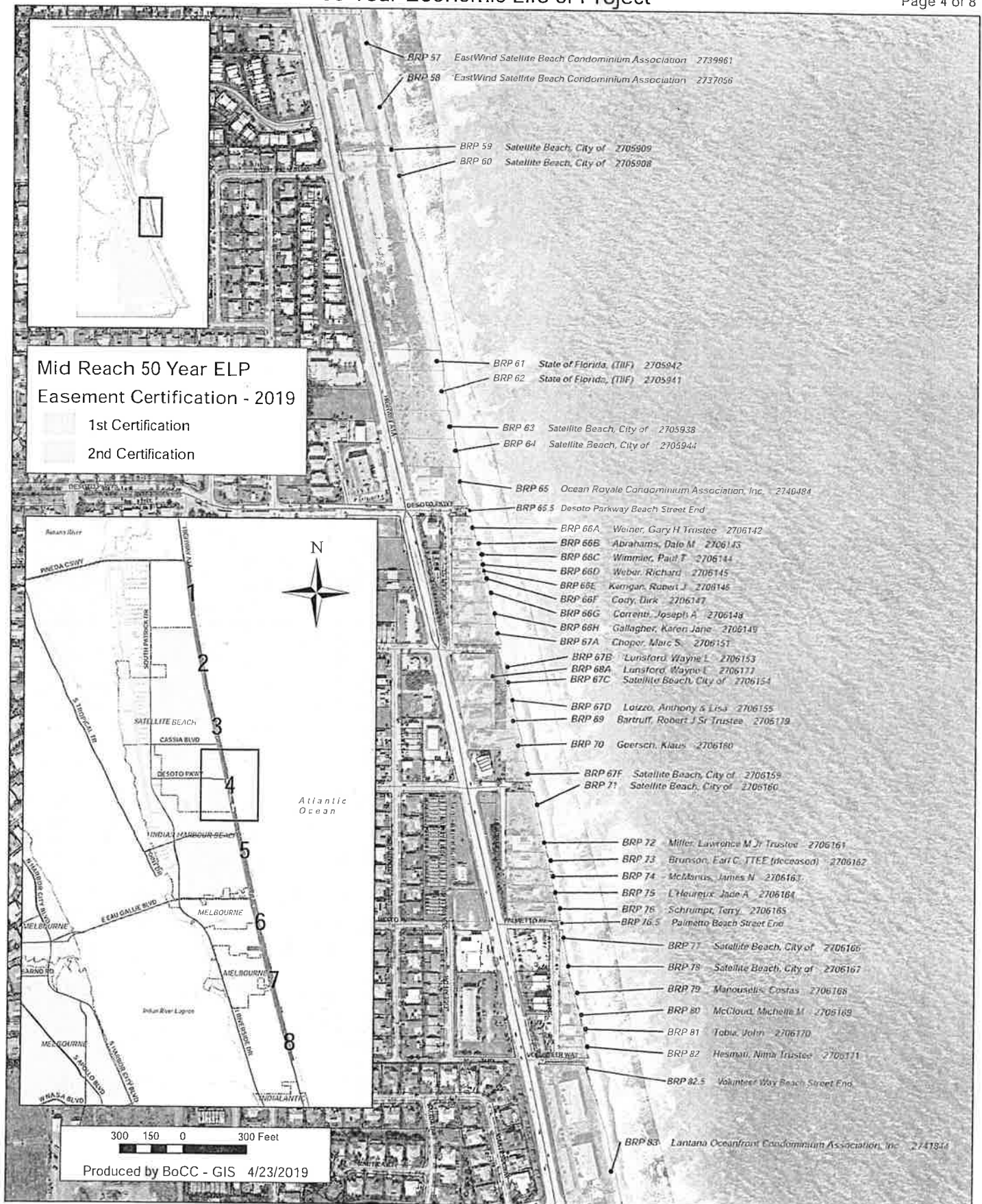


Brevard County Shore Protection Project Easement Certification Map - 2019 50 Year Economic Life of Project

Page 3 of 8



Page 4 of 8

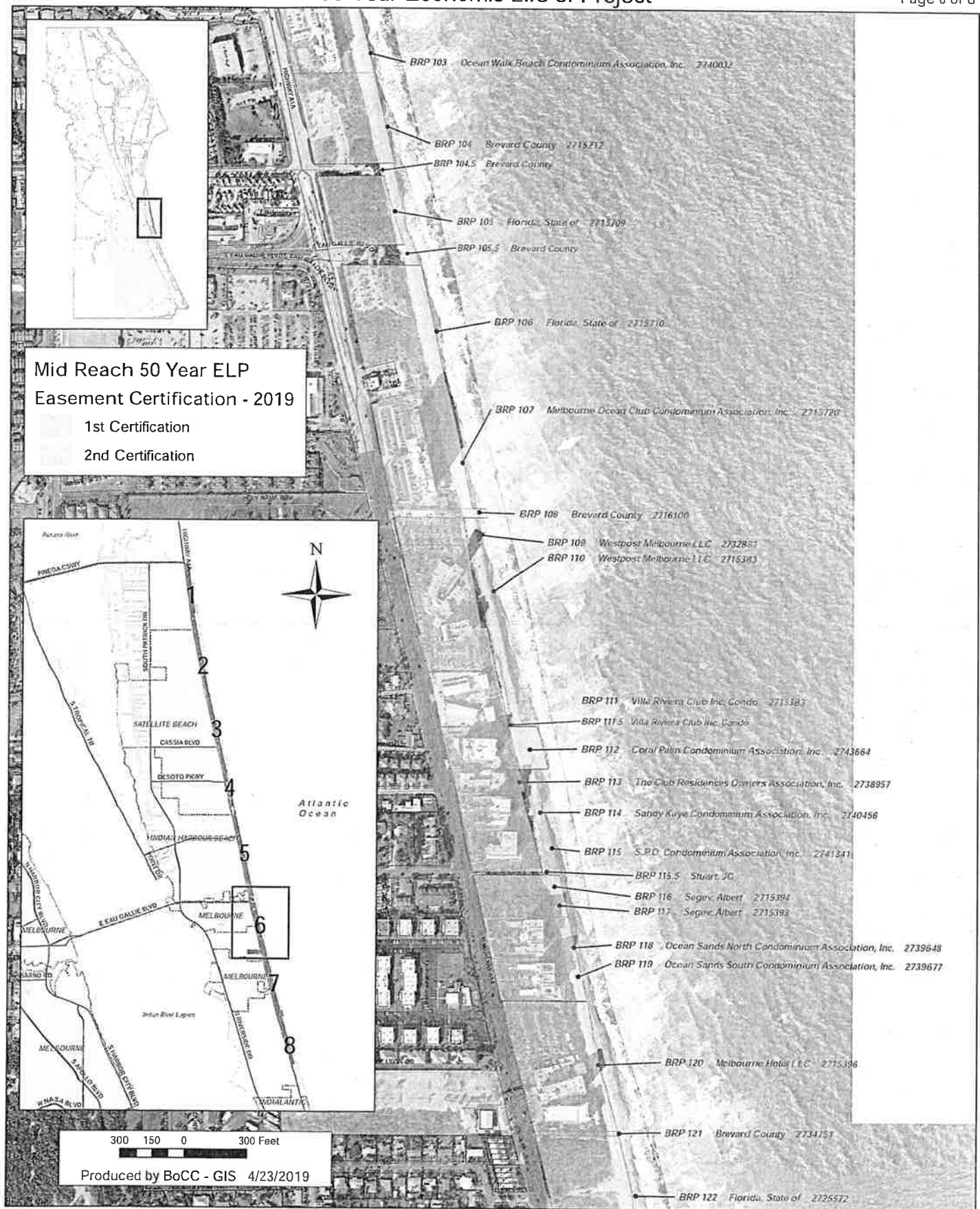


Page 5 of 8



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

Page 6 of 8



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

Page 7 of 8



Page 8 of 8



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

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

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

The term of this consent of use shall commence on the date the United States Army Corps of Engineers ("Corps") awards the contract for the construction of 2019/2020 renourishment of the Brevard County Shore Protection Project South Reach Segment and shall terminate fifty (50) years after the date of completion of the first construction of the project. In the event the Corps or the County fails to award the contract for construction of the Brevard County Shore Protection Project South Reach Segment on or before December 31, 2025, this consent of use shall automatically terminate and be cancelled of record.

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

Signed, sealed and delivered in the presence of:

GRANTOR:

Board of County Commissioners of
Brevard County, Florida

Christina M. Willes

By: Kristine Isnardi, CHAIR

Witness: Gummy Bax

Name and Title


ATTEST: Scott Ellis

As approved by Board May 7, 2019

SCOTT ELLIS, CLERK

Witness:

Deborah W. Harris

 **DEBORAH W. THOMAS**
Notary Public - State of Florida
Commission # FF 997773
My Comm. Expires Jun 10, 2020
Bonded through National Notary Assn.

1. South Patrick Residents Association (S.P.R.A.) Park (BRP 18); Tax Account No. 2608315; Pt Of Lot 1 E Of A1A As Des In Orb 376 Pg 605
2. Irene H. Canova Beach Park (BRP 104, 104.5, 105, 105.5); Tax Account No. 2715212; Part Of Lot 1 As Des In Db 368 Pg 33 & Vacated St Rd R/W As Des In Db 249 Pg 482
3. Crowne Plaza South Public Beach Access (BRP 121)
4. Howard E. Futch Memorial Park at Paradise Beach Park North (BRP 122); Tax Account 2725572; S 606.56 Ft Of N 1006.56 Ft Of Govt Lot 5 E Of A1A Known As Tract 3
5. A portion of Tax Parcel 2848545; Spessard Holland Beach Park; described as:

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

AND

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

BREVARD COUNTY SHORE PROTECTION PROJECT
MID-REACH SEGMENT
CONSENT OF USE

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

A temporary and assignable consent of use and right-of-way for a fifty-year term intended to be concurrent with the duration of the project in, on, over and across the hereinafter described land in Schedule A, for use by the Grantee, its representatives, agents, contractors and assigns, to construct; maintain; repair; rehabilitate; and replace; a public beach, a dune system and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to deposit sand; to accomplish any alterations of contours on said land; to construct berms and dunes; to nourish and renourish periodically; to move, store and remove equipment and supplies; to erect and remove temporary structures; and to perform any other work necessary and incident to the construction, periodic renourishment and maintenance of the Brevard County Shore Protection Project Mid-Reach Segment, together with the right of public use and access; to plant vegetation on said dunes and berms; to facilitate preservation of dunes and vegetation through the limitation of access to dune areas; to trim, cut, fell, and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures and obstacles within the limits of the Consent of Use agreement; reserving, however, to the grantor, its successors and assigns, the right to construct dune overwalk structures in accordance with any applicable Federal, State or local laws or regulations, and further reserving to the Grantor, its successors and assigns all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and consents of use hereby acquired; subject however to existing easements for public roads and highways, public utilities, railroads and pipelines.

The term of this consent of use shall commence on the date the United States Army Corps of Engineers ("Corps") awards the contract for the first construction of the Brevard County Shore Protection Project Mid-Reach Segment

and shall terminate fifty (50) years after the date of completion of the first construction of the project. In the event the Corps or the County fails to award the contract for construction of the Brevard County Shore Protection Project Mid-Reach Segment on or before December 31, 2025, this consent of use shall automatically terminate and be cancelled of record.

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

GRANTOR:

Christine M. Willey
Witness: Christine M. Willey
Tammy Rowe
Witness: Tammy Rowe

Board of County Commissioners of
Brevard County, Florida
By: [Signature]
Name and Title

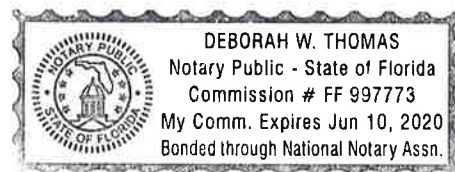
STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 7 day of May, 2019, by KRISTINE ISNARDI, as CHAIR of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced as identification.

ATTEST:

[Signature]
SCOTT ELLIS, CLERK

Deborah W. Thomas
Printed Name: DEBORAH W. THOMAS
Notary Public – State of Florida
My Commission Expires: 6/10/2020



SCHEDULE A

All of that land which lies east of the seaward-most occurrence of the plus 14 foot elevation contour, as measured vertically from the National Geodetic Vertical Datum, or the seaward edge of the eroded dune bluff, defined by the seaward limit of continuous vegetation, or seawall, whichever is further seaward, of the lands lying within the following parcel of real property:

1. Seagull Park (BRP 10); Tax Account No. 2607135; S 50 Ft Of N 1/2 Of Lot 2 E Of Hwy A1A
2. South Patrick Residents Association (S.P.R.A.) Park (BRP 18); Tax Account No. 2608315; Pt Of Lot 1 E Of A1A As Des In Orb 376 Pg 605
3. Green Parcel (BRP 50); Tax Account No. 2612225; Michigan Beach, Replat Of Pt Of S 70.87 Ft Of Lot 7 ; N 54.13 Ft Of Lot 8 Blk A
4. Dinkin Parcel (BRP 92); Tax Account No. 2732038; Part Of NE 1/4 Of SW 1/4 Lying E Of A1A As Desc In Orb 3094 Pg 422
5. Canova Beach Park (BRP 104); Tax Account No. 2715212; Part Of Lot 1 As Des In Db 368 Pg 33 & Vacated St Rd R/W As Des In Db 249 Pg 482
6. Irene H. Canova Park (BRP 104.5, 105, 105.5; 106); Tax Parcel 2715709; Canova Beach Sec B Blk 1 & Vacated St Rd R/W As Des In Db 249 Pg 529; and Tax Parcel 2715710; Canova Beach Sec A That Part Of Lots 1 Thru 4 & 6 Thru 11 Blk 1 & N 1/2 Of Vac Eau Gallie Ct On S As Desc In Orb 2911 Pg 2314
7. Radisson South Public Beach Access (BRP) 108
8. Coral Palm Condo Public Beach Access (BRP 111.5)
9. Coral Way Public Beach Access (BRP 115.5)
10. Crowne Plaza South Public Beach Access (BRP 121)
11. Howard E. Futch Memorial Park at Paradise Beach Park North (BRP 122 & 123); Tax Account 2725572; S 606.56 Ft Of N 1006.56 Ft Of Govt Lot 5 E Of A1A Known As Tract 3; and Tax Account 2725765; Pt Of S 300 Ft Of Govt Lot 5 E Of A1A As Des In Orb 2262 Pg 2894
12. Howard E. Futch Memorial Park at Paradise Beach (BRP 124); Tax Account No. 2725576; S 1304.10 Ft Of Govt Lot 6 E Of A1A Pars 10 & 11.1

CERTIFICATION OF LANDS

Certificate Number: 1
Project Name: Brevard County Shore Protection Project
Segment: Mid- Reach Segment

The Board of County Commissioners of Brevard County, Florida, (hereinafter referred to as "County") as Local Sponsor of the Brevard County Shore Protection Project authorized by Public Law Section 101(b)(7) of the Water Resources Development Act of 1996, Public Law 104-303 and Section 3045(a) of the Water Resources Development Act of 2007, Public Law 110-114, under Project Partnership Agreement dated August 31, 2016, does hereby certify that the below described lands are approved for use in the Brevard County Shore Protection Project Mid-Reach Segment and shall not be conveyed, transferred, or otherwise altered or encumbered without express written consent of the Department of the Army acting by and through the Assistant Secretary of the Army for Civil Works or the designated representative.

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


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

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


- Beach Storm damage Reduction Easement (for private lands)
- Temporary Beach Storm Damage Reduction Consent of Use (for public lands)
- Temporary Construction Access and Staging Consent of Use (for public lands)
- Consolidated Joint Coastal Permit and Sovereign Submerged Lands Authorization Permit/Authorization Number: 0254479-001-JC/Permit Modification No. 0254479-004-JN

BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA

Dated: May 7, 2019


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

ATTEST:



SCOTT ELLIS, CLERK