



Brevard County Board of County Commissioners

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 1827, Version: 1

F. 11

Subject:

Brevard County Federal Shore Protection Project North Reach; Amendment to Memorandum of Agreement with Bureau of Ocean Energy Management and the U.S. Army Corps of Engineers to Use Outer Continental Shelf Sand for North Reach Project Renourishment.

Fiscal Impact:

No direct fiscal impact, but failure to execute agreement may result in loss of \$11 million in federal funding dedicated for the project.

Dept/Office:

Natural Resources Management Office

Requested Action:

It is requested the Board authorize the Chair to execute an amendment to BOEM Negotiated Agreement No. OCS-A-0526, substantially in the form of the attached draft, subject to County Attorney and Risk Management Approval.

Summary Explanation and Background:

On July 9, 2019 the Board approved execution of a Memorandum of Agreement with Bureau of Ocean Energy Management (BOEM) and the U.S. Army Corps of Engineers to Use Outer Continental Shelf Sand for beach nourishment within the Brevard County South Reach and Mid Reach (executed copy attached). Since that time the U.S. Army Corps of Engineers (Corps) has secured approximately \$11 million in federal funding to renourish the North Reach, paying 100% of the construction cost. The Corps seeks to bid this work in August 2020, so that a contract can be awarded this fiscal year and construction can be completed by May 1, 2021.

The BOEM agreement executed in 2019 did not include sand placement in the North Reach. An amendment to that agreement has been prepared by BOEM that allows up to 720,000 cubic yards of sand to be placed in the North Reach. A draft copy of this proposed amendment is attached but is still in review by staff at BOEM, the Corps, and Brevard County.

The US Army Corps seeks to have this amendment executed prior to August 1 in order to avoid delaying advertisement of the North Reach project. Delay of advertisement and subsequent failure of the Corps to award a contract by September 30th could cause loss of the \$11 million in federal funding dedicated to the project this fiscal year.

Clerk to the Board Instructions:

Final documents will be provided for execution as soon as available.

copy attached). Since that time the U.S. Army Corps of Engineers (Corps) has secured approximately \$11 million in federal funding to renourish the North Reach, paying 100% of the construction cost. The Corps seeks to bid this work in August 2020, so that a contract can be awarded this fiscal year and construction can be completed by May 1, 2021.

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Clerk to the Board Instructions:

Final documents will be provided for execution as soon as available.

Per Carol Gerundo & Mike McBarry
NO ATTACHMENTS, nec., NO SIGNATURES nec.

Deborah Thomas

From: McGarry, Michael J <Mike.Mcgarry@brevardfl.gov>
Sent: Monday, August 17, 2020 8:58 AM
To: Deborah Thomas; Donna Scott
Cc: Kimberly Powell; Gerundo, Carol; Berntson, Paula A
Subject: ITEM F.1 BOCC July 21 meeting date FW: Brevard County First Amendment to MOA OCS-A 0526
Attachments: Brevard First Amendment to MOA OCS-A 0526 Executed_WetSignature.pdf

Donna and Deborah,

The executed copy of the contract amendment for our agreement with BOEM and the Army Corps is attached (ITEM F.1 BOCC July 21 meeting date). I believe from past experience for a contract with another government agency the PDF may suffice for your records. BOEM will get me the original so if you want that as well let me know and I will get it to you as well. In the meantime I wanted to get this in your records without delay.

Thank you,
Mike McGarry

From: Brandt, Leighann B <Leighann.Brandt@boem.gov> In
Sent: Thursday, August 13, 2020 7:50 PM
To: McGarry, Michael J <Mike.Mcgarry@brevardfl.gov>; Mora, Millan A CIV USARMY CESAJ (USA) <Milan.A.Mora@usace.army.mil>
Cc: Finnegan, Colleen R. <Colleen.Finnegan@boem.gov>; Wikel, Geoffrey L <Geoffrey.Wikel@boem.gov>; Reidenauer, Jeffrey A <Jeffrey.Reidenauer@boem.gov>; Piatkowski, Douglas N <Douglas.Piatkowski@boem.gov>; Golladay, Jennifer L <Jennifer.Golladay@boem.gov>
Subject: Brevard County First Amendment to MOA OCS-A 0526

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Mike and Milan,

BOEM is pleased to provide the attached executed amendment authorizing the extraction of additional OCS sand resources and placement on the North Reach of the Brevard County Shore Protection Project. Two hard copies each will also be sent to the County and USACE for your records, each with original signatures.

Please feel free to reach out with any questions.
Thank you!

Leighann

Leighann Brandt, P.G.
Coastal Geologist
Bureau of Ocean Energy Management
45600 Woodland Road, VAM-MMD

Sterling, VA 20166

T: 703-787-1570

leighann.brandt@boem.gov

<http://www.boem.gov/>

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July 22, 2020

M E M O R A N D U M

TO: Virginia Barker, Natural Resources Management Director

RE: Item F.1. Brevard County Federal Shore Protection Project North Reach; Amendment to Memorandum of Agreement with Bureau of Ocean Energy Management (BOEM) and the U.S. Army Corps of Engineers to Use Outer Continental Shelf Sand for North Reach Project Renourishment

The Board of County Commissioners, in regular session on July 21, 2020, executed and approved an amendment to BOEM Negotiated Agreement No. OCS-A-0526, subject to County Attorney and Risk Management approval.

Upon execution of the Agreement, please return a fully-executed Agreement to this office for inclusion of the official record.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Kimberly Powell, Deputy Clerk

/cld

cc: County Attorney
Risk Manager

First Amendment to BOEM Negotiated Agreement No. OCS-A 0526

**MEMORANDUM OF AGREEMENT
AMONG THE BUREAU OF OCEAN ENERGY MANAGEMENT
OF THE DEPARTMENT OF THE INTERIOR
AND THE
U.S. ARMY CORPS OF ENGINEERS
OF THE DEPARTMENT OF THE ARMY
AND
BREVARD COUNTY, FLORIDA**

**REGARDING THE USE OF OUTER CONTINENTAL SHELF SAND RESOURCES
FOR THE BREVARD COUNTY, FLORIDA SHORE PROTECTION PROJECT
IN BREVARD COUNTY, FLORIDA**

Title I. Explanatory Recitals

WHEREAS, on August 29, 2019, the Department of the Interior's ("DOI") Bureau of Ocean Energy Management ("BOEM") and the Department of the Army, acting through the U.S. Army Corps of Engineers ("USACE"), with the cooperation of Brevard County (the "County", collectively the "Parties"), entered into Negotiated Agreement OCS-A 0526, which authorized the use of up to 1,300,000 cubic yards of Outer Continental Shelf ("OCS") sediment resources from the Canaveral Shoals II Borrow Area (the "CSII Borrow Area") in a shore protection project, i.e., to conduct the initial nourishment of the Mid-Reach and periodic renourishment of the South-Reach segments of the Brevard County, Florida Shore Protection Project along the Brevard County shoreline (the "Project");

WHEREAS, on April 24, 2020, the County submitted a written request to add the North-Reach segment of the Project to the placement areas, and increase the use of OCS sediment resources from the CSII Borrow Area from 1,300,000 cubic yards to 2,020,000 cubic yards;

WHEREAS, on May 18, 2020, BOEM separately recognized the need to modify or clarify a few responsibilities of the signatories to the noncompetitive negotiated agreement;

THEREFORE, this Amendment to BOEM Negotiated Agreement No. OCS-A 0526 modifies the MOA as follows:

Title I (A) is replaced with the following:

A. Pursuant to the authority and in accordance with Section 101(b)(7) of the Water Resources Development Act of 1996 (P.L. 104-303) as amended by Section 3045(a) of the Water Resources Development Act of 2007 (P.L. 110-114), the Department of the Army, acting through the United States Army Corps of Engineers, Jacksonville District ("USACE"), with the cooperation of Brevard County, Florida (the "County"), is endeavoring to conduct the initial nourishment of the Mid-Reach segment and periodic renourishment of the beach along South-Reach and North-Reach

segments of the Brevard County, Florida Shore Protection Project shoreline. USACE will also be conducting a periodic renourishment of the Patrick Air Force Base segment of the Brevard County shoreline on behalf of the 45th Space Wing, in association with this construction event, under a separate Memorandum of Agreement.

Title II (A) is replaced with the following:

A. The Department of the Interior (“DOI”), acting through the Bureau of Ocean Energy Management (“BOEM”), enters into this Memorandum of Agreement (“MOA”) with the County and USACE (collectively with DOI or BOEM, the “Parties”) providing for the use of up to 2,020,000 cubic yards of Outer Continental Shelf sand resources (“OCS sand resources”) for the Project under the authority of Section 8(k)(2) of the Outer Continental Shelf Lands Act (“OCSLA”) (43 U.S.C. § 1337(k)(2)). The term “OCS sand resources” means the sediment deposits found on or below the surface of the seabed on the Outer Continental Shelf (“OCS”), as defined in Section 2(a) of the OCSLA (43 U.S.C. § 1331(a)). The total 2,020,000 cubic yards includes 500,000 cubic yards for the Mid-Reach segment, 800,000 cubic yards for the South-Reach segment and 720,000 cubic yards for the North-Reach segment. It does not include 600,000 cubic yards for the Patrick Air Force Base segment, for which USACE has executed a separate agreement. This MOA authorizes the use of the Canaveral Shoals II Borrow Area (the “CSII Borrow Area”), as designated and delineated in Table 1 and on the attached maps (**Attachment 1**), in accordance with the terms of this MOA. After removal of the sand resources from the OCS and placement of those resources as specified in this MOA, BOEM has no jurisdiction over those sand resources unless they return to the OCS.

Table 1. CSII Borrow Area Coordinates

Point	Latitude	Longitude	Easting	Northing
1	28.418717	80.448451	833,454.9	1,485,342.9
3	28.411554	80.431310	838,976.9	1,482,764.3
5	28.392439	80.439102	836,504.3	1,475,802.4
7	28.396557	80.452666	832,136.4	1,477,279.8
8	28.403957	80.458609	830,213.8	1,479,961.6
10	28.415809	80.454180	831,618.0	1,484,277.4

Note: Longitude and Latitude in Geographic Coordinate System NAD 1983, Easting and Northing in Florida State Plane Coordinate System (ft) NAD 1983.

Title II (B) is replaced with the following:

B. BOEM, under the authority delegated by the Secretary of the Interior, is authorized, pursuant to Section 8(k)(2) of the OCSLA (43 U.S.C. § 1337(k)(2)) to enter into this MOA concerning the potential use of OCS sand resources.

BOEM has determined that the Project meets the requirements of Section 8(k)(2)(A)(i) of the OCSLA. Therefore, in accordance with Section 8(k)(2), and subject to the terms and conditions contained herein, BOEM hereby authorizes the use of OCS sand resources from the CSII Borrow Area, identified in Table 1, for the construction undertaken in furtherance of the Project. The Parties acknowledge that under the terms of Section 8(k)(2)(B), BOEM will not assess any fee directly or indirectly against USACE or the County for the use of the OCS sand resources described herein.

Nothing in this MOA is intended to abrogate or diminish the Secretary of the Interior's authority under the OCSLA to oversee and regulate the removal of OCS sand resources. Pursuant to 30 CFR 583.330, failure to comply with any applicable law or any provision, term, or condition of this agreement may result in termination of the agreement at the sole discretion of BOEM, referral to an appropriate Federal or State agency with jurisdiction for possible enforcement, or both. The failure to comply in a timely and satisfactory manner with any provision, term or condition of this agreement may also delay or prevent BOEM's approval of future requests for use of OCS sand by the parties to this agreement.

The MOA may be terminated by BOEM consistent with provisions in 30 CFR 583.350. If USACE or the County violates any provisions of this MOA, BOEM may, by written notice, suspend the MOA and order any further operations of USACE, the County, or its contractors under this agreement to cease, except such operations as may be necessary to remedy any violations. If USACE or the County fails to remedy violations within thirty (30) days after receipt of suspension notice, BOEM may, by written notice, terminate this MOA. In the event that BOEM suspends or terminates the MOA, neither the USACE or the County will be entitled to compensation as a result of expenses or lost revenues resulting from the suspension or termination.

Title III is replaced with the following:

This MOA is intended to facilitate construction of the Brevard County, Florida Shore Protection Project along the North, Mid, and South-Reach shorelines. This MOA authorizes the USACE to extract up to 2,020,000 cubic yards of OCS sand resources to nourish the Mid-Reach and re-nourish the South-Reach and North-Reach segments of the Brevard County shoreline. The OCS sand resources must be extracted from the CSII Borrow Area (see **Attachment 1**).

Title IV (C) is replaced with the following:

C. This MOA applies only to the extraction, transportation, and placement of OCS sand resources as described above. The USACE or County must ensure that anyone performing any activity under this MOA is contractually bound to follow the obligations, terms, and conditions of this MOA. This MOA will terminate or expire (1) upon USACE sending written notice that it has obtained sufficient OCS sand resources to complete the Project, up to 2,020,000 cubic yards, or (2) three years from the date of the original execution of this MOA, whichever occurs first. Upon request by USACE, the Parties may agree to extend the terms of this MOA, as necessary, to provide the USACE and its contractor(s) with additional time to complete the Project. The Parties acknowledge that there may be a need for future OCS sand resources for periodic maintenance, augmentation or construction purposes. BOEM, USACE, and the County may enter into subsequent agreements for the use of additional OCS sand resources for the Project, consistent with each Party's responsibilities under applicable law.

This Amendment may be executed in counterparts, each of which will be deemed to be an original. The signatures on this Amendment may be executed on separate pages and all of which together will constitute one and the same agreement.

Title IV (D)(9) is replaced with the following:

9. Encounter of Ordnance

The encounter of ordnance is possible on the OCS, and it is the responsibility of the USACE, County, its agents, and/or its contractor(s) to proactively manage this risk and any resulting situation should the need arise. The USACE, County, and/or its agents must address how the encounter of ordnance will be handled in the Plan that is prepared pursuant to Paragraph 1. If the USACE, County and/or its contractors encounter any ordnance while conducting dredging activities at FCBA, it will report the discovery within 24 hours to Dr. Jeff Reidenauer, Chief, BOEM Marine Minerals Division, at (703) 787-1851 and dredgeinfo@boem.gov.

Title IV (D)(12) is replaced with the following:

12. Other Responsibilities

BOEM does not warrant that the OCS sand resources used in this Project are suitable for the purpose for which they are intended by the USACE or the County. BOEM's responsibility under this MOA is limited to the authorization of access to OCS sand resources from the CS II Borrow Area as described herein, and therefore BOEM disclaims any and all responsibility for the physical and financial activities undertaken, damages or liabilities, incidents or injuries, or any type of negligence by the other Parties in pursuit of the Project.

The USACE and/or the County, its agent(s), and its contractor(s) agree to hold BOEM harmless from any claims for loss, costs, damages, injuries to persons, or expenses caused by, or resulting from, any operation under this MOA; to the extent authorized by law, the USACE, County, their agent(s), and contractor(s) agree to indemnify BOEM for any such claim. However, the USACE, County, or their agent(s) and contractor(s) are not responsible to BOEM for any loss, cost, damage, injury, or expense that results from (1) negligence of BOEM, other than the commission or omission of a discretionary function or duty, whether or not the discretion involved is abused, or (2) the USACE or County's compliance with a BOEM order or directive imposed under this MOA against which the USACE or County files an administrative appeal before the cause of action for the claim arises and pursues it diligently thereafter.

The USACE and County or their contractor(s) must notify BOEM of any encounter of hazards on the OCS and any OCS sediment placed on the beach that has unsuitable characteristics relative to native sediment characteristics. The specific location where unsuitable sediment was dredged, or where hazards were encountered, within the CS II Borrow Area must be delineated and said location must be provided to BOEM for future planning purposes. Additionally, any encounter of ordnance must be reported to BOEM using the process outlined in Paragraph 9.

Attachment 1 is replaced with the attached maps.

Attachment 2 is replaced with the attached Environmental Compliance Requirements.

[The remainder of this page was intentionally left blank. Signature Pages to follow.]

Amendment to BOEM Negotiated Agreement No. OCS-A 0526

MEMORANDUM OF AGREEMENT
AMONG THE BUREAU OF OCEAN ENERGY MANAGEMENT
OF THE DEPARTMENT OF THE INTERIOR
AND THE
U.S. ARMY CORPS OF ENGINEERS
OF THE DEPARTMENT OF THE ARMY
AND
BREVARD COUNTY, FLORIDA

REGARDING THE USE OF OUTER CONTINENTAL SHELF SAND RESOURCES
FOR THE BREVARD COUNTY, FLORIDA SHORE PROTECTION PROJECT
IN BREVARD COUNTY, FLORIDA

Signatory Page

Colleen Finnegan

Colleen Finnegan
Acting Chief, Office of Strategic Resources
Bureau of Ocean Energy Management
Department of the Interior

Andrew D. Kelly
Colonel, U.S. Army Corps of Engineers
Jacksonville District

Date: 8/11/2020

Date: _____

Brevard County Board of County
Commissioners By:

Bryan Andrew Lober

Bryan Andrew Lober, Chair

As approved by the Board on: 8/4/2020

Attest:

Scott Ellis
Scott Ellis, Clerk

Reviewed for legal form and content by:

Christine Valliere

Christine Valliere, Assistant County Attorney

Amendment to BOEM Negotiated Agreement No. OCS-A 0526

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Signatory Page



Colleen Finnegan
Acting Chief, Office of Strategic Resources
Bureau of Ocean Energy Management
Department of the Interior

Date: 8/11/2020



Andrew D. Kelly
Colonel, U.S. Army Corps of Engineers
Jacksonville District

Date: 31 July 2020

Brevard County Board of County
Commissioners By:

Bryan Andrew Lober, Chair

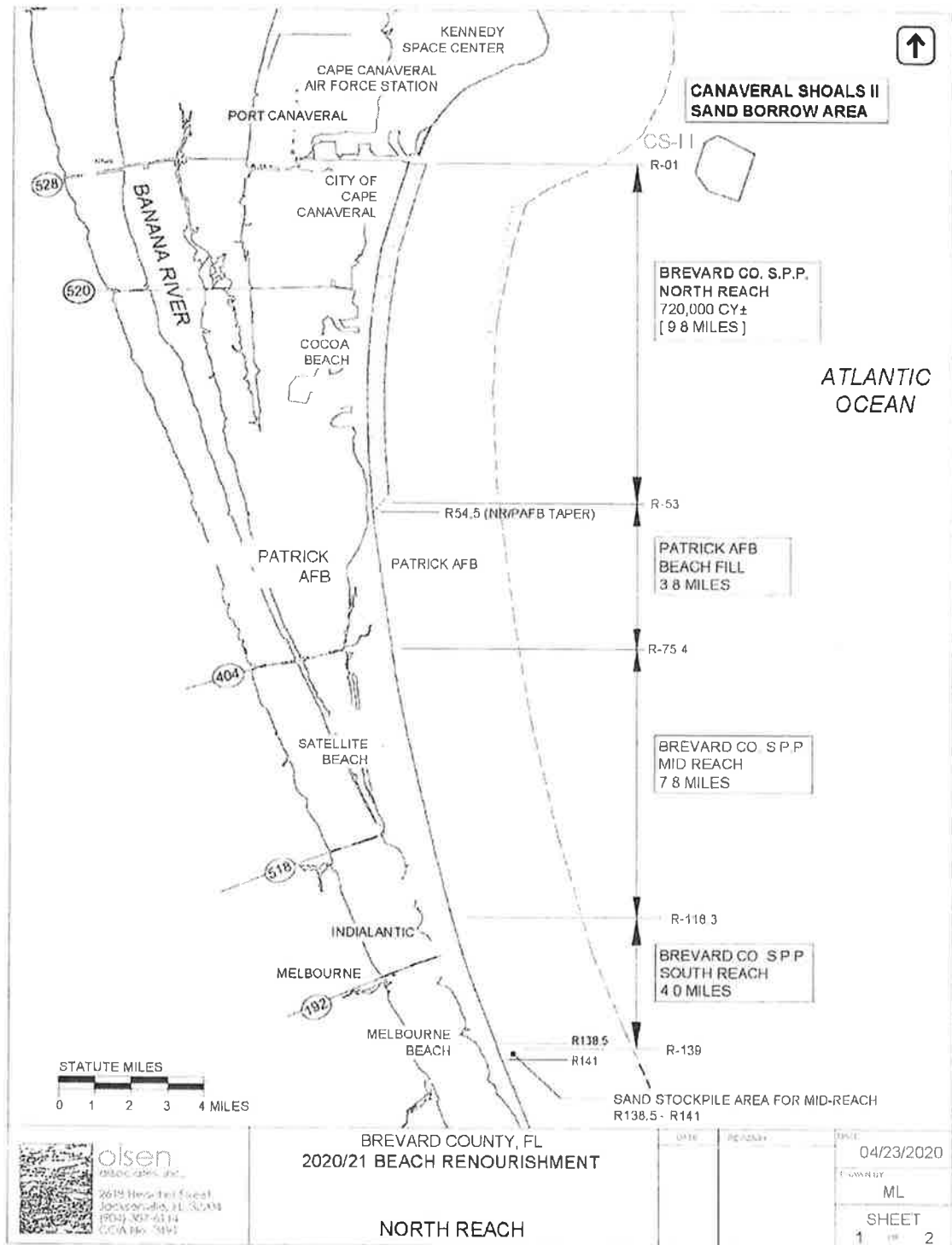
As approved by the Board on: _____

Attest: _____
Scott Ellis, Clerk

Reviewed for legal form and content by:

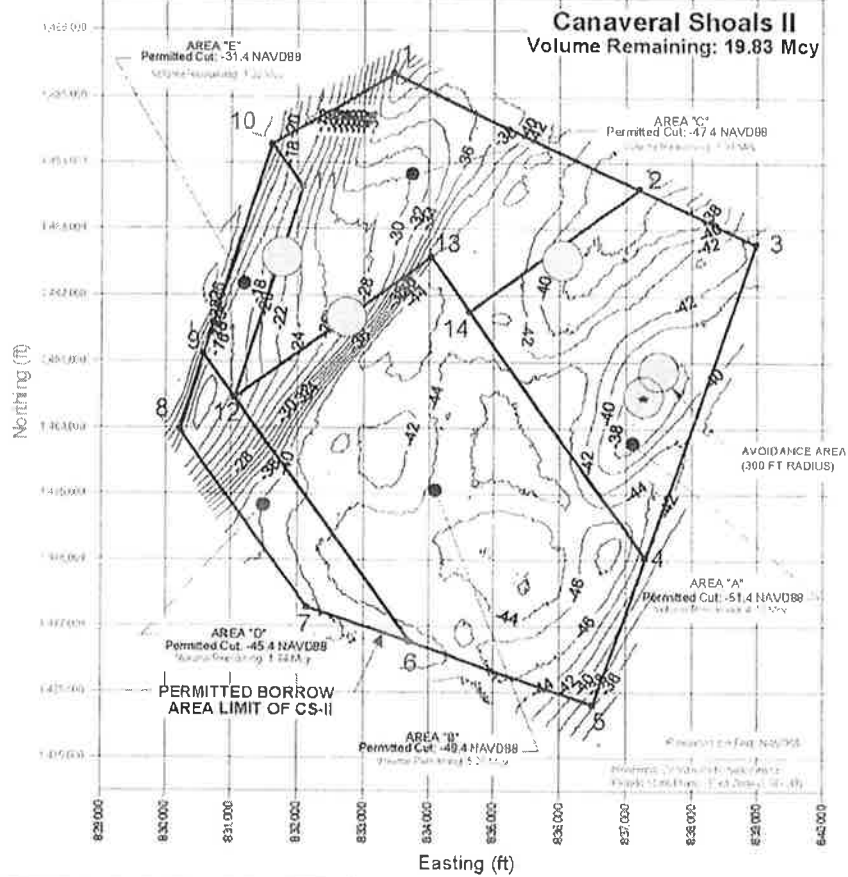
Christine Valliere, Assistant County Attorney

Attachment 1
CSII Borrow Area and Placement Sites



Brevard North, Mid, and South-Reach Placement Areas

Oct 2019 Bathymetric Survey

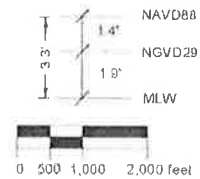


#	Northing (ft, NAD83)	Easting (ft, NAD83)	North Latitude (WGS84)	West Longitude (WGS84)
1	1,405,342.9	833,654.9	28.018712	80.448451
2	1,403,592.9	837,202.5	28.013856	80.436814
3	1,402,764.3	838,276.9	28.011554	80.431110
4	1,478,022.5	837,272.8	28.378535	80.435619
5	1,475,002.4	836,501.1	28.392119	80.439102
6	1,476,749.8	833,703.4	28.395080	80.447800
7	1,477,719.8	837,136.4	28.396552	80.452666
8	1,479,961.6	830,213.6	28.403952	80.450002
9	1,481,100.7	830,594.4	28.407085	80.451440
10	1,404,777.4	831,610.0	28.015002	80.454100
11	1,403,522.7	832,087.5	28.013003	80.452729
12	1,480,845.9	831,651.9	28.405729	80.455989
13	1,482,577.6	834,027.6	28.411104	80.446700
14	1,491,744.8	831,674.6	28.408806	80.444053

exterior boundary

Easting (ft, NAD 83)	Northing (ft, NAD 83)
838,039.0	1,482,629.7
837,484.7	1,480,881.7
831,788.1	1,482,582.5
832,730.4	1,481,884.1
837,258.0	1,480,480.0

* ACOUSTIC RECEIVER



BREVARD COUNTY, FL
2020/21 BEACH RENOURISHMENT

CANAVERAL SHOALS II BORROW AREA

04/23/2020

ML

SHEET

2 OF 2

Note: Volume estimates calculated by Olsen Associates, Inc.
Canaveral Shoals II Borrow Area Map

Attachment 2 Environmental Compliance Requirements

The following referenced documents contain required environmental compliance responsibilities to be implemented by USACE and/or the County. Each of these documents and their associated requirements (e.g., Reasonable and Prudent Measures / Terms and Conditions (ESA), Conservation Recommendations (MSA), cultural resource avoidance buffers, (NHPA), permit conditions (CZMA), etc.) are located at these locations:

<https://www.saj.usace.army.mil/About/Divisions-Offices/Planning/Environmental-Branch/Environmental-Documents/> and <https://www.saj.usace.army.mil/About/Divisions-Offices/Planning/Environmental-Branch/Environmental-Compliance/#Brevard>.

It is the responsibility of USACE and/or the County to ensure compliance with these as well as any other applicable environmental requirements. USACE will prepare and provide to BOEM before commencing construction an Environmental Compliance Matrix (ECM), in coordination with the County and BOEM, to document all environmental requirements and identify roles and responsibilities to ensure compliance prior to, during, and after construction. USACE will ensure that all requirements relevant to the construction contract are integrated into the contract plans and specifications as appropriate.

NEPA:

- 2005. *Environmental Assessment. Issuance of a Noncompetitive Lease for Canaveral Shoals II Sand and Gravel Borrow Area. Brevard County Beach Erosion Control Project and Memorandum of Agreement with Patrick Air Force Base for Canaveral Shoals II Sand and Gravel Borrow Area. Minerals Management Service. Herndon, VA.*
- 2009. *Environmental Assessment. Issuance of a Negotiated Agreement for Use of Outer Continental Shelf Sand for Canaveral Shoals in the Brevard County (South Reach) Shore Protection Project. MMS 2009-047. 31 pp + apps.*
- 2011. *Final Integrated General Reevaluation Report (GRR) and Supplemental Environmental Impact Statement (SEIS); Brevard County, Florida; Hurricane and Storm Damage Reduction Project Mid Reach Segment. U.S. Army Corps of Engineers Jacksonville District (August 2010 (Revised April 2011).*
- 2013. *Environmental Assessment. Issuance of Outer Continental Shelf Sand from Canaveral Shoals II in the Brevard County Shore Protection Project (SPP) North Reach and South Reach. BOEM 2013-01151. 46 pp + apps.*
- 2016. *Final Environmental Assessment. Proposed Use of Upland Quarries as an Additional Source of Sand Brevard County, Florida Hurricane and Storm Damage Reduction Project Mid-Reach Segment. U.S. Army Corps of Engineers. August 4, 2016.*
- 2017. *Issuance of a Negotiated Agreement for Use of Outer Continental Shelf Sand from Canaveral Shoals II in the Brevard County Shore Protection Project (North Reach and South Reach); Environmental Assessment. U.S. Department of the Interior Bureau of Ocean Energy Management (September 2017).*
- 2019. *Supplemental Environmental Assessment on Proposed Stockpile Area; Brevard County Florida Shore Protection Project Mid-Reach Segment; Brevard County, FL. U.S.*

*Army Corps of Engineers Jacksonville District and Bureau of Ocean Energy
Management (Cooperating Agency).*

ESA:

- U.S. Fish and Wildlife Statewide Programmatic Biological Opinion (SPBO) (March 13, 2015)
- U.S. Fish and Wildlife Service Programmatic Piping Plover Biological Opinion (P3BO) (May 22, 2013)
- U.S. Fish and Wildlife Service Decision Document, Brevard County Mid-Reach) SPBO and P3BO) (March 7, 2019)
- U.S. Fish and Wildlife Service Decision Document, Brevard County South-Reach (SPBO and P3BO) (May 14, 2019)
- South Atlantic Regional Biological Opinion for Dredging and Material Placement in the Southeastern US (March 27, 2020) (2020 SARBO)
- Brevard Mid-Reach Beach Nourishment (SAJ-2005-8688) (Consultation Number F/SER/2005/06003) (September 4, 2008)

FFH:

- National Marine Fisheries Service Habitat Conservation Division letter dated January 12, 2005 (NMFS conservation recommendations associated with North Reach, South Reach, and PAFB project)
- National Marine Fisheries Service Habitat Conservation Division letter dated January 22, 2010 (NMFS comments on Draft GRR/SEIS)
- National Marine Fisheries Service Habitat Conservation Division letter dated April 20, 2012 (NMFS Conservation Recommendations in response to public notice associated with Permit No. SAJ-2005-8688)
- Email dated March 29, 2019 from Pace Wilber (NMFS) to Wendy Dauberman-Zerby (USACE)

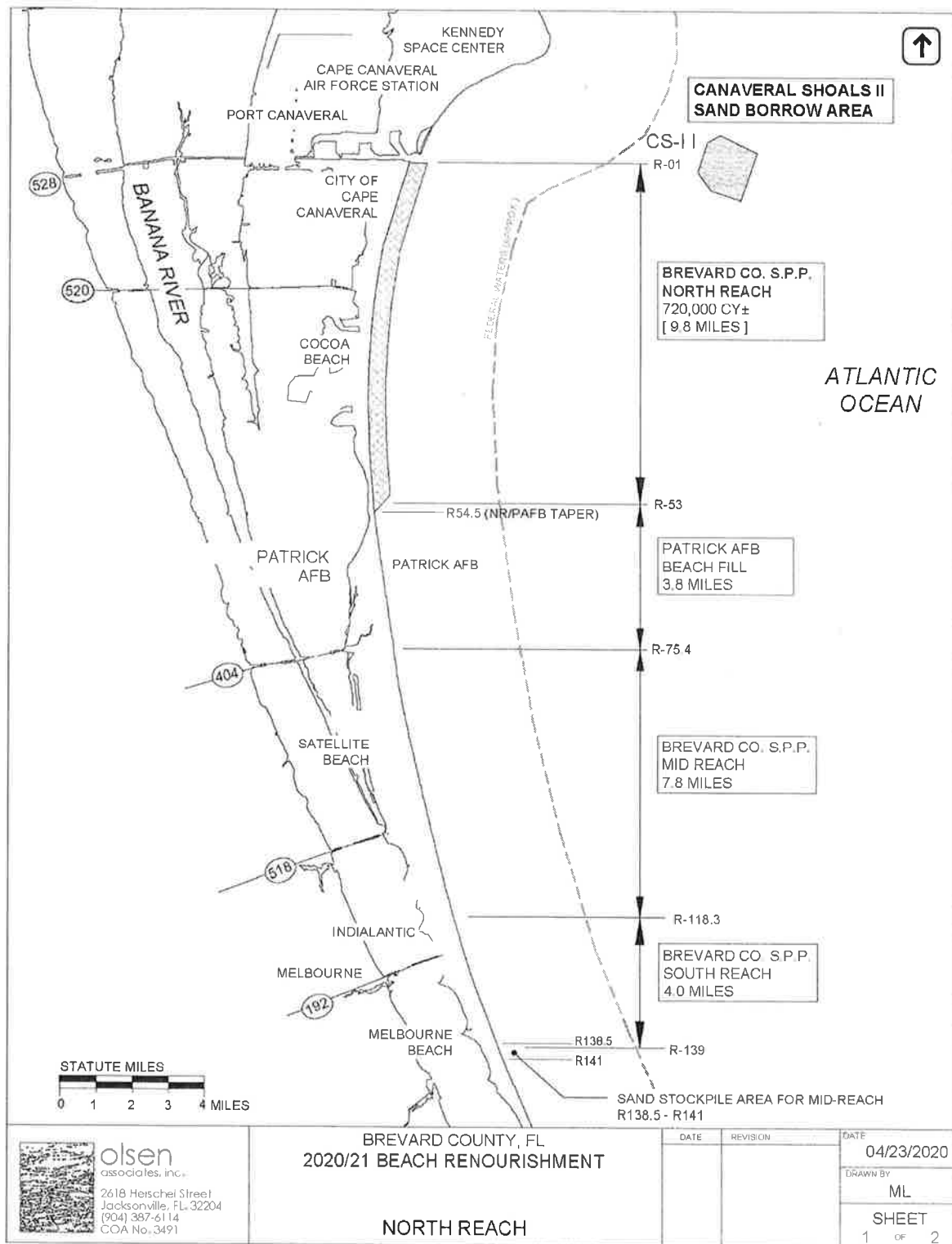
NHPA:

- USACE letter to Tim Parsons, Ph.D., SHPO (dated May 03, 2019)
- SHPO response letter to USACE (DHR Project File No.: 2015-0809-C) (dated May 15, 2019)

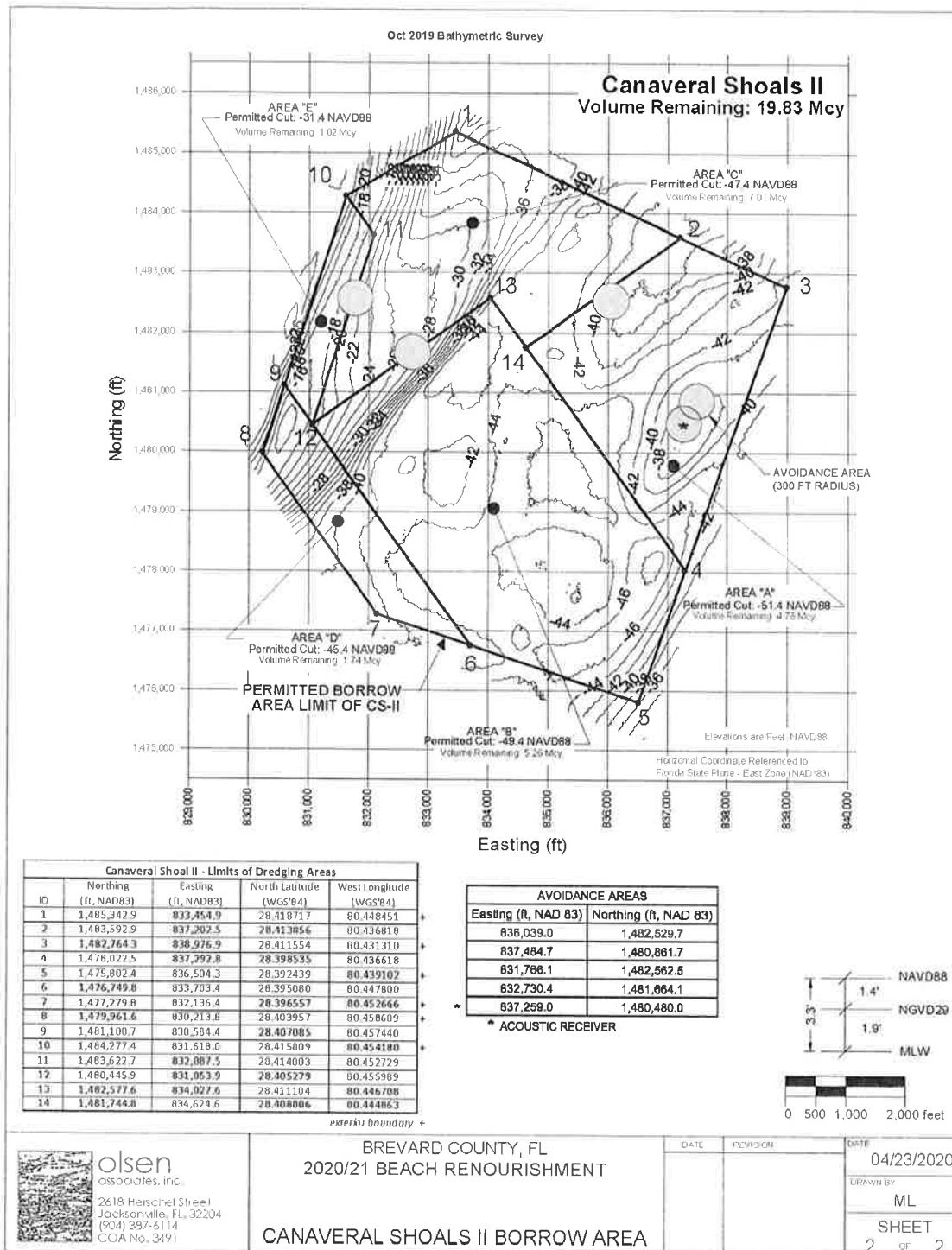
JCP:

- Permit No. 0134869-009-JC
- Permit No. 0254479-001-JC
- Permit Modification No. 0254479-005-JN
- Permit No. 0137212-016-JC
- Permit Modification No. 0137212-017-JN

Attachment 1
CSII Borrow Area and Placement Sites



Brevard North, Mid, and South-Reach Placement Areas



Note: Volume estimates calculated by Olsen Associates, Inc.
Canaveral Shoals II Borrow Area Map

Attachment 2 Environmental Compliance Requirements

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NEPA:

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- 2011. *Final Integrated General Reevaluation Report (GRR) and Supplemental Environmental Impact Statement (SEIS); Brevard County, Florida; Hurricane and Storm Damage Reduction Project Mid Reach Segment. U.S. Army Corps of Engineers Jacksonville District (August 2010 (Revised April 2011)).*
- 2013. *Environmental Assessment. Issuance of Outer Continental Shelf Sand from Canaveral Shoals II in the Brevard County Shore Protection Project (SPP) North Reach and South Reach. BOEM 2013-01151. 46 pp + apps.*
- 2016. *Final Environmental Assessment. Proposed Use of Upland Quarries as an Additional Source of Sand Brevard County, Florida Hurricane and Storm Damage Reduction Project Mid-Reach Segment. U.S. Army Corps of Engineers. August 4, 2016.*
- 2017. *Issuance of a Negotiated Agreement for Use of Outer Continental Shelf Sand from Canaveral Shoals II in the Brevard County Shore Protection Project (North Reach and South Reach); Environmental Assessment. U.S. Department of the Interior Bureau of Ocean Energy Management (September 2017).*
- 2019. *Supplemental Environmental Assessment on Proposed Stockpile Area; Brevard County Florida Shore Protection Project Mid-Reach Segment; Brevard County, FL. U.S.*

*Army Corps of Engineers Jacksonville District and Bureau of Ocean Energy
Management (Cooperating Agency).*

ESA:

- U.S. Fish and Wildlife Statewide Programmatic Biological Opinion (SPBO) (March 13, 2015)
- U.S. Fish and Wildlife Service Programmatic Piping Plover Biological Opinion (P3BO) (May 22, 2013)
- U.S. Fish and Wildlife Service Decision Document, Brevard County Mid-Reach) SPBO and P3BO) (March 7, 2019)
- U.S. Fish and Wildlife Service Decision Document, Brevard County South-Reach (SPBO and P3BO) (May 14, 2019)
- South Atlantic Regional Biological Opinion for Dredging and Material Placement in the Southeastern US (March 27, 2020) (2020 SARBO)
- Brevard Mid-Reach Beach Nourishment (SAJ-2005-8688) (Consultation Number F/SER/2005/06003) (September 4, 2008)

EFH:

- National Marine Fisheries Service Habitat Conservation Division letter dated January 12, 2005 (NMFS conservation recommendations associated with North Reach, South Reach, and PAFB project)
- National Marine Fisheries Service Habitat Conservation Division letter dated January 22, 2010 (NMFS comments on Draft GRR/SEIS)
- National Marine Fisheries Service Habitat Conservation Division letter dated April 20, 2012 (NMFS Conservation Recommendations in response to public notice associated with Permit No. SAJ-2005-8688)
- Email dated March 29, 2019 from Pace Wilber (NMFS) to Wendy Dauberman-Zerby (USACE)

NHPA:

- USACE letter to Tim Parsons, Ph.D., SHPO (dated May 03, 2019)
- SHPO response letter to USACE (DHR Project File No.: 2015-0809-C) (dated May 15, 2019)

JCP:

- Permit No. 0134869-009-JC
- Permit No. 0254479-001-JC
- Permit Modification No. 0254479-005-JN
- Permit No. 0137212-016-JC
- Permit Modification No. 0137212-017-JN

**MEMORANDUM OF AGREEMENT
AMONG THE BUREAU OF OCEAN ENERGY MANAGEMENT
OF THE DEPARTMENT OF THE INTERIOR
AND THE
CORPS OF ENGINEERS
OF THE DEPARTMENT OF THE ARMY
AND
BREVARD COUNTY, FLORIDA**

**REGARDING THE USE OF OUTER CONTINENTAL SHELF SAND RESOURCES
FOR CONSTRUCTION OF THE MID AND SOUTH REACHES OF THE BREVARD
COUNTY, FLORIDA SHORE PROTECTION PROJECT IN BREVARD COUNTY, FLORIDA**

BOEM Negotiated Agreement No. OCS-A 0526

Title I. Explanatory Recitals

- A.** Pursuant to the authority and in accordance with Section 101(b)(7) of the Water Resources Development Act of 1996 (P.L. 104-303) as amended by Section 3045(a) of the Water Resources Development Act of 2007 (P.L. 110-114), the Department of the Army, acting through the United States Army Corps of Engineers, Jacksonville District (USACE), with the cooperation of Brevard County, Florida (the "County"), is endeavoring to conduct the initial nourishment of the Mid-Reach segment and periodic renourishment of the beach along South-Reach segment of the Brevard County, Florida Shore Protection Project shoreline. USACE will also be conducting a periodic renourishment of the Patrick Air Force Base segment of the Brevard County shoreline on behalf of the 45th Space Wing, in association with this construction event, under a separate Memorandum of Agreement.
- B.** USACE and the County have undertaken the Brevard County, Florida Shore Protection Project, in furtherance of the aforementioned goal (herein referred to as the "Project").
- C.** Prior to award of the contract for Project construction, the County and USACE will have procured lands, easements, and rights-of-way (collectively, "Land Rights") as necessary from upland landowners, other property rights holders, public entities, and other persons and entities of appropriate scope and duration to facilitate the Project.
- D.** USACE, which is acting as the project manager for the Project, now seeks to obtain sand in a manner that minimizes costs and leverages Federal resources.

Title II. Purpose and Authority

- A.** The Department of the Interior (DOI), acting through the Bureau of Ocean Energy Management (BOEM), enters into this Memorandum of Agreement (MOA) with the County and USACE (collectively with DOI or BOEM, the "Parties") providing for the use of up to 1,300,000 cubic yards of Outer Continental Shelf sand resources ("OCS sand resources") for the Project under the authority of Section 8(k)(2) of the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. § 1337(k)(2)). The term "OCS sand resources" means the sediment deposits found on or below the

surface of the seabed on the Outer Continental Shelf (OCS), as defined in Section 2(a) of the OCSLA (43 U.S.C. § 1331(a)). This total of 1,300,000 cubic yards includes 500,000 cubic yards for the Mid-Reach segment and 800,000 cubic yards for the South-Reach segment. It does not include 600,000 cubic yards for the Patrick Air Force Base segment, for which USACE anticipates executing a separate agreement. This MOA authorizes the Canaveral Shoals II Borrow Area (hereinafter called the CSII Borrow Area), as designated and delineated in Table 1 and on the attached maps (**Attachment 1**), in accordance with the terms of this MOA. After removal of the sand resources from the OCS and placement of those resources as specified in this MOA, BOEM has no jurisdiction over those sand resources unless they return to the OCS.

Table 1. CSII Borrow Area Coordinates

Point	Latitude	Longitude	Easting	Northing
1	28.418717	80.448451	833,454.9	1,485,342.9
3	28.411554	80.431310	838,976.9	1,482,764.3
5	28.392439	80.439102	836,504.3	1,475,802.4
7	28.396557	80.452666	832,136.4	1,477,279.8
8	28.403957	80.458609	830,213.8	1,479,961.6
10	28.415809	80.454180	831,618.0	1,484,277.4

Note: Longitude and Latitude in Geographic Coordinate System NAD 1983. Easting and Northing in Florida State Plane Coordinate System (ft) NAD 1983

B. BOEM, under the authority delegated by the Secretary of the Interior, is authorized, pursuant to Section 8(k)(2) of the OCSLA (43 U.S.C. § 1337(k)(2)) to enter into this MOA concerning the potential use of OCS sand resources.

BOEM has determined that the Project meets the requirements of Section 8(k)(2)(A)(i) of the OCSLA. Therefore, in accordance with Section 8(k)(2), and subject to the terms and conditions contained herein, BOEM hereby authorizes the use of OCS sand resources from the CSII Borrow Area identified in Table 1 for the construction undertaken in furtherance of the Project. The Parties acknowledge that under the terms of Section 8(k)(2)(B), BOEM will not assess any fee against the County or USACE for the use of the OCS sand resources described herein.

Nothing in this MOA is intended to abrogate or diminish the Secretary of the Interior's authority under the OCSLA to oversee and regulate the removal of OCS sand resources.

C. USACE enters into this MOA in compliance with requirements of Sections 8(k)(2)(A)(i) and 8(k)(2)(D) of the OCSLA. The County, along with USACE, enters into this MOA in compliance with the requirements of Section 8(k)(2)(A)(i) of the OCSLA.

Nothing in this MOA is intended to impede or hinder the County's or USACE's ability to complete the Project or abrogate or diminish either Parties' authority or responsibilities under applicable law, including but not limited to the Clean Water Act (CWA) (33 U.S.C §§ 1251 *et seq.*), Water Resources Development Act of 1996 (P.L. 104-303, §101(b)); National Environmental Policy Act (NEPA) (42 U.S.C. §4321 *et seq.*), Endangered Species Act (ESA) (16 U.S.C. §1531 *et. seq.*), Magnuson-Stevens Fishery Conservation and Management Act (MSA) (16 U.S.C. §801 *et. seq.*), Marine Mammal Protection Act (MMPA) (16 U.S.C. §1361 *et. seq.*), National Historic Preservation Act (NHPA) (54

U.S.C. §300101 *et. seq.*), Migratory Bird Treaty Act (MBTA) (16 U.S.C. §§703-712), or the Coastal Zone Management Act (CZMA) (16 U.S.C. §1451 *et. seq.*).

Title III. Description of the Authorized Activity

This MOA is intended to facilitate construction of the Brevard County, Florida Shore Protection Project along the Mid and South-Reach shorelines. This MOA authorizes the USACE to extract up to 1,300,000 cubic yards of OCS sand resources to nourish the Mid-Reach and re-nourish the South-Reach segments of the Brevard County shoreline. The OCS sand resources must be extracted from the CSII Borrow Area (see **Attachment 1**).

Title IV. Provisions

A. BOEM authorizes the use of OCS sand resources from the CSII Borrow Area for the Project. The USACE or its contractor(s) may only extract, transport, and place such OCS sand resources from the borrow area in accordance with the terms and conditions set forth below and in **Attachment 2**. Except as provided above, the Parties agree that all other aspects of the Project's execution and completion remain as described in the Project Cooperation Agreement between the Department of the Army and Brevard County, Florida, for Construction of the Brevard County, Florida Shore Protection Project, entered into on 20th of April 2000, and any subsequent amendments thereto and the 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 entered into on 31st of August 2016.

B. All written notifications, requests, submissions, and deliverables, unless otherwise stated, should be sent to BOEM at:

Chief, Marine Minerals Division
Attention: Jeffrey Reidenauer, Ph.D.
Bureau of Ocean Energy Management
45600 Woodland Road, VAM-LD
Sterling, Virginia 20166

All electronic notifications, submissions, and deliverables to BOEM should be sent to dredgeinfo@boem.gov.

All written notifications, requests, submissions, and deliverables to the USACE should be sent to:

Jacksonville District
U.S. Army Corps of Engineers
Attn: Shelley Trulock, Project Manager
701 San Marco Boulevard
Jacksonville, FL 32207

All written notifications, requests, submissions, and deliverables to Brevard County should be sent to:

Attn: Mr. Michael McGarry
Beach Management Coordinator
Brevard County, Natural Resource Management Department
2725 Judge Fran Jamieson Way
Viera, Florida 32940-6605

C. This MOA applies only to the extraction, transportation, and placement of OCS sand resources as described above. This MOA will terminate or expire (1) upon USACE sending written notice that it has obtained sufficient OCS sand resources to complete the Project, up to 1,300,000 cubic yards, or (2) three years from the date of execution of this MOA, whichever occurs first. Upon request by USACE, the Parties may agree to extend the terms of this MOA as necessary to provide USACE and its contractor(s) with additional time to complete the Project. The Parties acknowledge that there may be a need for future OCS sand resources for periodic maintenance, augmentation or construction purposes. BOEM, USACE, and the County may enter into subsequent agreements, for the use of additional OCS sand resources for the Project, consistent with each Party's responsibilities under applicable law.

D. BOEM, USACE, and the County recognize that planning and coordination among the Parties will ensure that responsibilities related to OCSLA, other applicable Federal laws, and this Congressionally-authorized Project are carried out and accommodated in an efficient and timely manner so that the Project schedule will not be unnecessarily delayed or compromised. All Parties recognize that BOEM, as a Bureau in the DOI, has certain responsibilities for the orderly, timely, and efficient recovery of OCS minerals using the best available technology while ensuring environmental stewardship and compliance. Moreover, the Parties further recognize that USACE has certain stewardship and environmental compliance responsibilities that are separate and distinct from the responsibilities of BOEM. To these ends, and with respect to the Project, BOEM, USACE, and the County agree to the following terms:

1. Plans and Performance Requirements

The USACE will include this MOA as a reference document in the advertised "Construction Solicitation and Specifications Plan" (hereinafter referred to as the "Plan"). The USACE will ensure that all operations at the CSII Borrow Area are conducted in accordance with the final approved Plan and all terms and conditions in this MOA, as well as all applicable statutes, regulations, orders and any guidelines or directives specified or referenced herein. The USACE will send BOEM a copy of the Plan and any modification to the Plan, when publically available.

The dredging method for removing sand from the CSII Borrow Area will be consistent with those evaluated in all applicable NEPA documents and approved in the authorizing documents, as well as project permits. The USACE will allow BOEM to review and comment on modifications to the Plan that may affect the borrow area or pipeline corridors on the OCS, including the use of submerged or floated pipelines to directly convey sediment from the borrow area to the placement site. BOEM will deliver these comments in a timely fashion so as to not unnecessarily delay the USACE's construction contract or schedule.

If dredging and/or conveyance methods are not wholly consistent with those evaluated in relevant NEPA documents prepared by BOEM for this Project, those included in the environmental and cultural resource consultations, and those authorized by relevant project permits, additional environmental review may be necessary. If the additional NEPA, consultations, or permit modifications would impact or otherwise supplement the provisions of the MOA, an amendment may be required.

The USACE will notify BOEM electronically at least 72 hours prior to the commencement, and within 24 hours after termination, of operations at the CSII Borrow Area. BOEM will electronically notify the USACE in a timely manner of any OCS activity within the jurisdiction of the DOI that may adversely affect the USACE's ability to use OCS sand resources for the Project.

Prior to the commencement of construction, the USACE will electronically provide BOEM with a summary of the construction schedule consistent with Paragraph 15 of this MOA. The USACE, at the reasonable request of BOEM or the Bureau of Safety and Environmental Enforcement (BSEE), will allow any authorized Federal inspector to access the site of any operation, when permitted by safety regulations, and will provide BOEM or BSEE any documents and records that are pertinent to occupational or public health, safety, environmental protection, conservation of natural resources, or other use of the OCS as may be requested.

The USACE and the County may combine submittals, notifications, and reports associated with this MOA with those associated with the OCS-A 0527 MOA entitled, "Regarding the Use of Outer Continental Shelf Sand Resources for Construction of the Patrick Air Force Base Reach of the Brevard County Shore Protection Project in Brevard County, Florida."

2. Environmental Responsibilities and Environmental Compliance

The USACE is the lead agency on behalf of the Federal Government to ensure the Project complies with applicable environmental laws, including but not limited to the CWA, ESA, MSA, NHPA, and CZMA, and any consultations or limitations imposed thereunder. The USACE will serve as the lead Federal agency for ESA Section 7 consultation concerning protected species under the purview of the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS). The USACE will instruct its contractor(s) to implement the mitigation terms, conditions, and measures required by the USFWS, NMFS, Florida Department of Environmental Protection (FDEP), and BOEM pursuant to applicable Federal and State laws and regulations prior to commencement of activities authorized under this MOA, including extraction, transportation and placement of sand resources from the CSII Borrow Area (**Attachment 2**). Electronic copies of all relevant correspondence, monitoring data, and reports related to the activities covered by this MOA will be provided electronically to BOEM within 14 days of issuance (including, but not limited to, observer and dredging reports, and reports required by relevant project permits) unless the reports are required sooner by this MOA or applicable law, the permits, or the consultations. Construction may not commence until the pre-construction requirements have been completed.

3. Pre-Construction Notification of Activity in or near the Borrow Area

The USACE will invite BOEM to attend a pre-construction meeting that describes the USACE's and/or its contractor's or agent's plan and schedule to construct the Project.

4. Dredge Positioning

During all phases of the Project, the USACE will ensure that the dredge and any bottom-disturbing equipment is outfitted with an onboard global positioning system (GPS) capable of maintaining and recording location within an accuracy range of no more than plus or minus 3 meters. The GPS needs to be installed as close to the hydraulic dredge as is practicable or needs to use appropriate instrumentation to accurately represent the position of the hydraulic dredge. During dredging operations, the USACE will immediately notify BOEM electronically if dredging occurs outside of the approved borrow area. Such notification will be made as soon as possible after the time USACE becomes aware of dredging outside of the approved borrow area.

Anchoring, spudding, or other bottom disturbing activities are not authorized outside of the approved borrow area on the OCS, unless there are immediate concerns of safety, navigation risks or emergency situations.

The USACE will coordinate with the National Dredging Quality Management (DQM) program in advance of construction commencement to provide appropriate project specific information, inform them of BOEM's role in the project and relevant MOA stipulations, and develop a coordination plan to ensure that all DQM related deliverables in accordance with this MOA are internally reviewed and delivered to BOEM on time and in accordance with BOEM formatting requirements. The USACE will provide BOEM, electronically, with all appropriate Dredging Quality Management (DQM) data acquired during the Project using procedures jointly developed by the USACE's National Dredging Quality Management (DQM) Data Program Support Center and BOEM. The USACE will submit the DQM data, including draghead, cutterhead, or other hydraulic or mechanical dredging device depth every two weeks. If available, the USACE will also submit Automatic Identification System (AIS) data for vessels qualifying under the International Maritime Organization's (IMO) International Convention for the Safety of Life at Sea.

5. Dredge Operation

Dredging will occur preferentially in naturally accreting areas of the shoal complex, avoiding erosional areas of the shoal to the extent possible, and will avoid creating deep depressions or pits.

The final, approved Plan (required pursuant to Paragraph 1) will include provisions designed to maximize the removal of sand from each sub-area of each provided borrow area. The purpose of these provisions is to avoid "wasting" sediment that could be used to renourish the beach now and in the future.

6. Submittal of Production and Volume Information

The USACE, in cooperation with the dredge operator, will submit to BOEM a summary of the dredge track lines, outlining any deviations from the Plan every two weeks. This will include a color-coded plot of the draghead, cutterhead, or other hydraulic or mechanical dredging device, showing any horizontal or vertical dredge violations. The dredge track lines must show dredge status: hoteling, dredging, transiting, or unloading. This map will be in PDF format.

At least every two weeks, the USACE will electronically provide a report of the construction progress including estimated volumetric production rates to BOEM. The USACE's project completion report, as described below, will also include production and volume information, including Daily Operational Reports.

7. Local Notice to Mariners

The USACE will require its contractor(s) for the Project to place a notice in the U.S. Coast Guard Local Notice to Mariners regarding the timeframe and location of dredging and construction operations in advance of commencement of dredging.

8. Marine Pollution Control and Contingency Plan

The USACE will require its contractor(s) and subcontractor(s) to prepare for and take all necessary precautions to prevent discharges of oil and releases of waste or hazardous materials that may impair water quality. In the event of such an occurrence, notification and response will be in accordance with applicable requirements of 40 C.F.R. Part 300. All dredging and support operations under this MOA will be compliant with U.S. Coast Guard regulations and the U.S. Environmental Protection Agency's Vessel General Permit, as applicable. The USACE will notify BOEM of any noncompliant discharges and remedial actions taken, and will provide copies of reports of the incident and resultant actions electronically.

9. Encounter of Ordnance

If USACE or its contractors encounter any ordnance while conducting dredging activities at CSII Borrow Area, it will report the discovery within 24 hours to Dr. Jeff Reidenauer, Chief, BOEM Marine Minerals Division, at (703) 787-1851 and dredgeinfo@boem.gov.

10. Bathymetric Surveys

The USACE will provide BOEM with pre- and post-dredging bathymetric surveys of the Borrow Area. The USACE or its contractor will conduct a pre-dredging survey of the Borrow Area within 60 days prior to the commencement of dredging and will provide the data to BOEM for review via dredgeinfo@boem.gov, allowing for a minimum of 7 working days for BOEM to provide concurrence before the USACE or its contractor commences dredging. A qualified hydrographic surveyor, independent from the dredging/construction contractor, needs to conduct and oversee the survey, and must approve the survey results before transmitting them to BOEM. The USACE or its contractor will conduct post-dredging survey of the Borrow Area within 60 days after the completion of dredging. Given available funding, BOEM recommends that the USACE conduct additional bathymetric surveys of the Borrow Area one (1) and three (3) years after the completion of dredging to document borrow area evolution and provide information to inform future decisions and consultations regarding the use of OCS sand resources. The USACE or its contractor will perform surveys, error analysis, and reporting in accordance with the most recent edition of the National Oceanic and Atmospheric Administration's (NOAA's) Office of Coast Survey Hydrographic Survey Field Procedure Manual. Survey standards and requirements are specified and can be found on the Coast Survey Document Library (<https://www.nauticalcharts.noaa.gov/publications/docs/standards-and-requirements/specs/hssd-2017.pdf>).

For bathymetric surveys, one hundred percent coverage using multi-beam bathymetric survey methods is required. All bathymetric data will be roll, pitch, heave, and tide corrected using best practices. Sound velocity corrections will be applied based on measurements made during and throughout the duration of the survey using a profiling sound velocity meter to obtain water column sound velocities with casts that log the entire water column to the seafloor. Survey lines of the specific dredge area will be established at intervals necessary to provide 100 percent coverage. All survey lines will extend at least 100 meters (328 feet) beyond the edge of the Borrow Area limits as defined in this MOA.

The USACE or its contractor will collect all data in such a manner that post-dredging bathymetric surveys are compatible with the pre-dredging bathymetric survey data to enable the latter to be subtracted from the former to calculate the volume of sand removed, the shape of the excavation, and the nature of post-dredging bathymetric change. Pre-dredge bathymetric survey transects will be reoccupied during the post-dredging surveys. The USACE or its contractor will conduct surveys using kinematic GPS referenced to a GPS base station occupying an established (NAVD 88 vertical control) monument within 15 kilometers (9 miles) of the survey area, a National Geodetic Survey real-time network, or a water-level gauge deployed within the vicinity of the Borrow Area and referenced to an established monument (NAVD 88 vertical control), unless alternative methods are approved by BOEM. Pre- and post-dredging surveys will be referenced to the same water-level gauge, tide gauge, real-time network, benchmark, or BOEM-approved method. An uncertainty or error analysis will be conducted on the bathymetric dataset based on calculated differences of measured elevations (depths) at all transect crossings (also note that other best practices typically employed to identify potential error or quantify uncertainty, such as daily bar-checks, will be conducted and documented). The USACE or its contractor will submit a methods section and results of the uncertainty analysis, field notes, and metadata to BOEM with the processed bathymetric data products.

If data accuracy, coverage, quality, or other parameters for either pre- or post-dredging surveys are not sufficient to provide for accurate comparisons between the pre-dredge and post-dredge surveys (e.g., do not meet specifications and standards discussed or referenced above), BOEM may require USACE or its contractor to conduct a new survey (at the pre-dredge and/or post-dredge phase).

The delivery format for bathymetry data submission is an ASCII file containing x, y, z data and a digital elevation model in a format agreed upon between BOEM and USACE in writing. The horizontal data will be provided in the NAD 83 Florida State Plane East, U.S. survey feet. Vertical data will be provided in the NAVD 88, U.S. survey feet unless otherwise specified. An 8.5 x 11 inch plan view plot of the pre- and post-construction data will be provided showing the survey vessel navigation tracks, as well as contour lines at appropriate elevation intervals. A plot of the digital elevation model will also be provided. These plots will be provided in Adobe PDF format. Images and descriptions of side scan sonar or bathymetric anomaly targets will be included and identified on an index map.

11. Archaeological Resources

Onshore Prehistoric or Historic Resources

If the USACE discovers any previously unknown historic or archeological resources while accomplishing the activity on Brevard County beaches, the USACE will notify BOEM of any

finding. The USACE will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

Nearshore Prehistoric or Historic Resources

The USACE or its contractor must maintain avoidance buffers around three targets in the nearshore area within the vicinity of the pump-out location for the Mid-Reach stockpile area that will be located at Spessard Holland Park. See **Table 2** for target location and avoidance buffers.

Table 2. Anomalies to be avoided During Dredge Pump-out Operations

Target	Area/Block	FL East State Plane Coordinates NAD 1983 (X / Y Coordinate)	Minimum Avoidance Radius (ft)	Note
USACE-003	Nearshore pumpout	801516/ 1353423	250	Cultural Resource
USACE-004	Nearshore pumpout	801063/ 1353396	175	Cultural Resource
USACE-005 (M02)	Nearshore pumpout	804128/ 1355184	150	Cultural Resource

Offshore Prehistoric or Historic Resources

The USACE or its contractor must avoid the following anomalies (listed in **Table 3**) during dredging operations by a radius of at least 300 feet around the target coordinates:

Table 3. Anomalies to be avoided During Dredging Operations

Target	Area/Block	Amplitude (gammas)	Duration (ft)	FL East State Plane Coordinates NAD 1983 (X / Y Coordinate)	Minimum Avoidance Radius (ft)	Note
USACE - 006 (M35)	Canaveral Shoals II	51	125	836039/1482530	300	Cultural Resource
USACE - 007 (M47)	Canaveral Shoals II	61	165	837485/1480862	300	Cultural Resource
USACE - 008 (M57)	Canaveral Shoals II	147	140	831766/1482563	300	Cultural Resource
USACE - 009 (M61)	Canaveral Shoals II	52	100	832730/1481664	300	Cultural Resource
USACE - 0010 (C2-C13)	Canaveral Shoals II	36	110	837259/ 1480480	300	Cultural Resource

The following targets (listed in **Table 4**) are acoustic receivers, which are operational instruments used in a BOEM scientific study. These receivers are co-located with the above listed cultural resource targets and do not require additional avoidance measures. BOEM provides these coordinates for situational awareness.

Table 4. Acoustic Receivers Present in CSII Borrow Area

Target	Area/Block	FL East State Plane Coordinates NAD 1983 (X / Y Coordinate)	Note
DRE 1	Canaveral Shoals II	836097/1482615	Acoustic Receiver
DRE 2	Canaveral Shoals II	837220/1480453	Acoustic Receiver
DRE 10	Canaveral Shoals II	831729/1482569	Acoustic Receiver
DRE 11	Canaveral Shoals II	832825/1481734	Acoustic Receiver

In the event that the Parties and/or dredge operators discover any archaeological resources prior to dredging operations in the CSII Borrow Area or in the vicinity of pump-out operations, the USACE will report the discovery to the Marine Minerals Division Chief at BOEM, electronically, in a timely manner. The USACE Planning Division will coordinate with BOEM on the measures needed to evaluate, avoid, protect, and, if needed, mitigate adverse impacts from an unanticipated discovery. If investigations determine that the resource is significant, the Parties will together determine how best to protect it.

If the Parties and/or dredge operators discover any archaeological resources while conducting dredging operations, the USACE will require that dredge and/or pump-out operations be halted immediately and avoid the resource per the requirements of the USACE specifications for unanticipated finds. The USACE will then immediately report the discovery electronically to the Marine Minerals Division Chief at BOEM. The USACE will coordinate with BOEM on the measures needed to evaluate, avoid, protect, and, if needed, mitigate adverse impacts from an unanticipated discovery. If investigations determine that the resource is significant, the Parties will together determine the necessary further action required and how to best protect the resource.

12. Responsibilities

BOEM does not warrant that the OCS sand resources used in this Project are suitable for the purpose for which they are intended by the USACE and the County. BOEM's responsibility under this Project is limited to the authorization of access to OCS sand resources from the CSII Borrow Area as described in this MOA, and therefore BOEM disclaims any and all responsibility for the physical and financial activities undertaken by the other Parties in pursuit of the Project.

13. Project Completion Report

Consistent with Paragraph 15, the USACE will submit a project completion report to BOEM within 120 days following completion of the activities authorized under this MOA. The USACE should send this report and supporting materials electronically. The report will contain, at a minimum, the following information:

- the names and titles of the project managers overseeing the effort (for the USACE, the engineering firm (if applicable), and the contractor), including contact information (phone numbers, mailing addresses, and email addresses);
- a narrative including the location and description of the Project, the final, as-built features, boundaries, and acreage, including the restored beach width and length;
- the final total volume of material extracted from the borrow area and the volume of material actually placed on the beach or shoreline (including a description of the volume calculation method used to determine these volumes);
- notation that USACE has confirmed that BOEM has received the full set of DQM data, in ASCII files, containing the x, y, z coordinates and time stamp of the cutterhead or drag arm locations;
- a narrative discussing the construction sequences and activities, and, if applicable, any problems encountered and solutions implemented;
- a list and description of any construction change orders issued, if applicable;
- a table showing the various phases of the Project construction, the types of construction equipment used, the nature of their use;
- a list and description of any safety-related issues or accidents reported during the life of the project;
- a narrative and any appropriate tables describing any environmental surveys or efforts associated with the Project;
- a table listing significant construction dates beginning with bid opening and ending with final acceptance of the Project by the USACE;
- digital appendices containing the as-built surveys, beach-fill cross-sections, and survey data;
- metadata appropriate to electronic deliverables; and
- any additional pertinent comments.

14. Reporting Compliance

The USACE will designate in advance of construction a single point of contact (and preferably a back-up contact), who is responsible for facilitation of compliance with all MOA requirements. The USACE will provide this contact information to BOEM, electronically, at least 30 days in advance of dredging and construction operations.

The Parties will attempt to reasonably comply with the provisions of this MOA. Should there be an allegation of a failure to comply, the alleged failure will be corrected as soon as possible and/or

resolved jointly among BOEM, USACE and the County, including through the dispute resolution process identified in Paragraph 16.

15. Sharing of Information

Consistent with the purpose stipulated by the Parties in Title II, and to the extent allowed by law, policy and regulation, the USACE, the County, and BOEM agree to: (1) share all information needed for or generated from the Project, including the sharing of implementation and other applicable schedules; (2) provide such information to the requesting agency as expeditiously as possible; and (3) work to ensure that all required completion report information is received.

The Parties to this MOA acknowledge that information and reports required by and/or exchanged pursuant to the subject Project may include confidential business information, proprietary information, or other sensitive information that should be protected from disclosure.

Any Party, contractor or agent of one of the Parties requesting that information or reports provided pursuant to this MOA be treated as confidential, will prominently mark the information and report as "Confidential" along with the basis for the claim of confidentiality. Any cover correspondence submitted with the information or report will likewise note the claim of confidentiality. To the extent practicable, a Party to this MOA may only request information that has been marked as "Confidential" and is in the possession of another Party to this MOA if the information is needed by the requesting Party to carry out their obligations under this MOA or if the information is necessary for the requesting Party to fulfill their obligations under the law. The Party in possession of the information requested may work with the requesting party to determine if the information may be shared without waiving the confidential nature of the material.

The Parties further agree that they will notify the other Parties as soon as possible, in writing, of any request by any person seeking the release or disclosure of information marked "Confidential" in whole or in part, including, but not limited to, requests pursuant to Court orders, discovery, subpoenas, or other compulsory process, or public access request under applicable Federal or State law. Notification will be considered timely if it provides the Parties or individuals claiming the information or report is confidential a reasonable opportunity to seek a Court order to prevent release or disclosure. Any disputes regarding requests for information or the confidential nature of the information requested will be resolved according to applicable law and through the dispute resolution process identified in Paragraph 16. If the Party or individual claiming the information or report is confidential fails to obtain a timely Court order preventing the release or disclosure of the information, the Party in possession of the information will release it to the extent required by applicable law.

16. Resolution of Disputes

The Parties agree to make every attempt to settle any disputes regarding this MOA at the lowest operational level. In the case of a (1) substantial disagreement between BOEM and USACE or between BOEM and the County with respect to any aspect of BOEM's authorization of the use of OCS sand resources in accordance with the terms and conditions as specified or (2) any alleged breach by a Party of the terms and conditions as specified herein, the undersigned will designate a senior management official in their respective agencies to state the area(s) of disagreement or

alleged breach in writing and present such statement to the other Parties for consideration. If resolution is not reached within 60 days, the undersigned may request the active participation of the District Commander, Jacksonville District of the USACE, the Chief of the Office of Strategic Resources of BOEM, and the County Administrator or designee for Brevard County.

17. Miscellaneous

This MOA will not affect any pre-existing or independent relationships or obligations among DOI, USACE, and the County, including any other relationships or obligations between BOEM and USACE, or any other units of such Departments.

All rights in the CSII Borrow Area not expressly granted to USACE and the County are hereby reserved to BOEM. BOEM reserves the right to authorize other uses in the CSII Borrow Area that will not unreasonably interfere with activities authorized under this MOA. BOEM will allow USACE and the County to review and comment on any proposed authorizations for the use of OCS sand resources in the CSII Borrow Area while this MOA is in effect.

Nothing herein is intended to conflict with current USACE, County, or BOEM statutes or regulations. If the terms of this MOA are inconsistent with existing statutes or regulations of any of the Parties entering into this MOA, then those portions of this agreement which are determined to be inconsistent will be invalid, but the remaining terms and conditions not affected by the inconsistency will remain in full force and effect. At the first opportunity for review of the MOA after such inconsistency is identified, all necessary changes will be accomplished either by an amendment to this MOA or by entering into a new MOA, whichever is deemed expedient to the interest of the Parties.

This agreement may be executed in two (2) or more counterparts, each of which will be deemed an original. The signatures to this agreement may be executed on separate pages, and when attached to this agreement will constitute one complete document.

[This rest of this page was intentionally left blank. Signature Pages to follow.]

MEMORANDUM OF AGREEMENT
AMONG
THE BUREAU OF OCEAN ENERGY MANAGEMENT
OF THE DEPARTMENT OF THE INTERIOR
AND THE
CORPS OF ENGINEERS
OF THE DEPARTMENT OF THE ARMY
AND
BREVARD COUNTY, FLORIDA

REGARDING THE USE OF OUTER CONTINENTAL SHELF SAND RESOURCES
FOR CONSTRUCTION OF THE MID AND SOUTH-REACHES OF THE BREVARD COUNTY
SHORE PROTECTION PROJECT IN BREVARD COUNTY, FLORIDA

BOEM Negotiated Agreement No. OCS-A 0526

Signatory Page

L. Renee Orr
Chief, Strategic Resources Office
Bureau of Ocean Energy Management
Department of the Interior

Andrew D. Kelly
Colonel, U.S. Army Corps of Engineers
Jacksonville District

Date: _____

Date: 8/28/19

Brevard County Board Of County Commissioners
By:

Kristine Isnardi, Chair

As approved by the Board on: _____

Attest: _____
Scott Ellis, Clerk

Reviewed for legal form and content by:

Christine Valliere, Assistant County Attorney

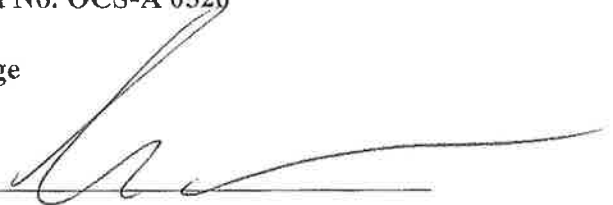
MEMORANDUM OF AGREEMENT
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L. Renee Orr
Chief, Strategic Resources Office
Bureau of Ocean Energy Management
Department of the Interior



Andrew D. Kelly
Colonel, U.S. Army Corps of Engineers
Jacksonville District

Date: _____

Date: 8/28/19

Commissioners

A _____, 2020

A
S

Re _____

Christine Valliere, Assistant County Attorney

**MEMORANDUM OF AGREEMENT
AMONG
THE BUREAU OF OCEAN ENERGY MANAGEMENT
OF THE DEPARTMENT OF THE INTERIOR
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CORPS OF ENGINEERS
OF THE DEPARTMENT OF THE ARMY
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BOEM Negotiated Agreement No. OCS-A 0526

Signatory Page




for L. Renee Orr
Chief, Strategic Resources Office
Bureau of Ocean Energy Management
Department of the Interior

Date: 8/29/2019

Andrew D. Kelly
Colonel, U.S. Army Corps of Engineers
Jacksonville District

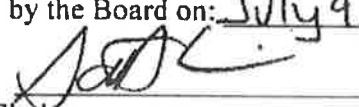
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Brevard County Board Of County Commissioners
By:

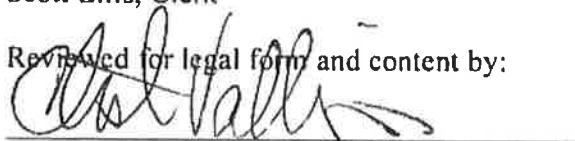


Kristine Isnardi, Chair

As approved by the Board on: July 9, 2019

Attest: 
Scott Ellis, Clerk

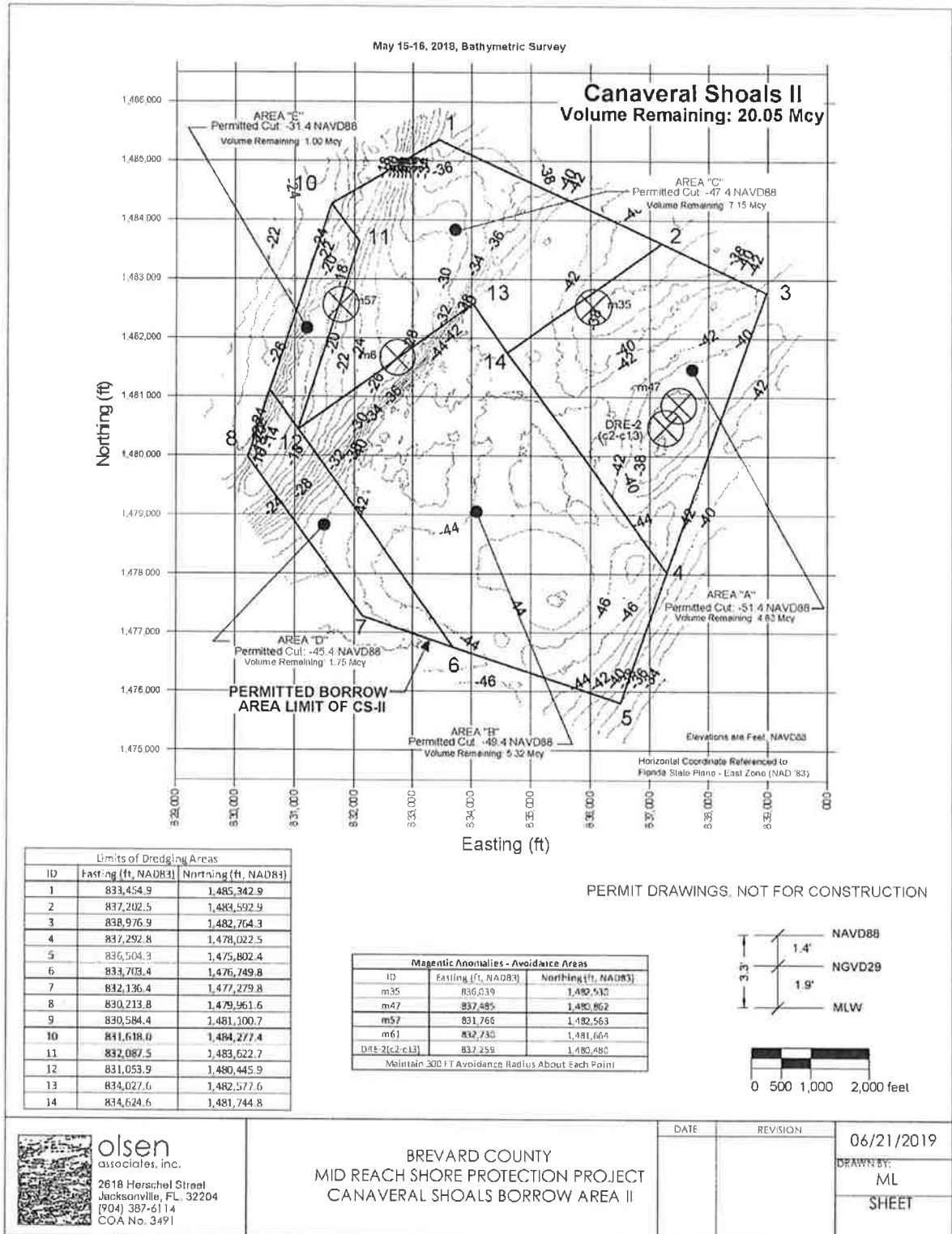
Reviewed for legal form and content by:



Christine Valliere, Assistant County Attorney

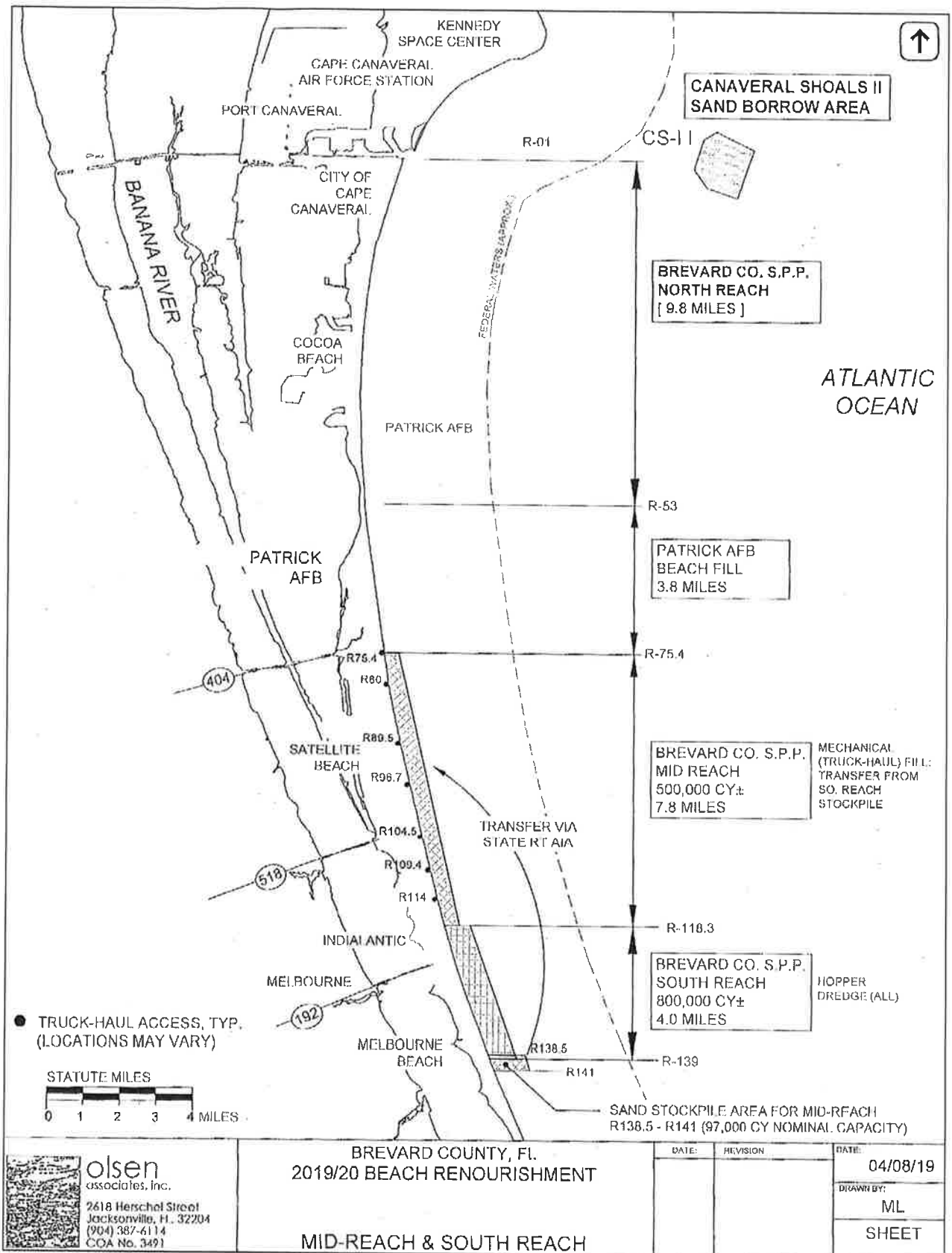
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Attachment 1
CSII Borrow Area Map and Placement Sites



Note: Volume estimates calculated by Olsen Associates, Inc.

Canaveral Shoals II Borrow Area Map



Attachment 2

Environmental Compliance Requirements

The following referenced documents contain required environmental compliance responsibilities to be implemented by USACE and/or the County. Each of these documents and their associated requirements (e.g., Reasonable and Prudent Measures / Terms and Conditions (ESA), Conservation Recommendations (MSA), cultural resource avoidance buffers, (NHPA), permit conditions (CZMA), etc.) are located at these locations:

<https://www.saj.usace.army.mil/About/Divisions-Offices/Planning/Environmental-Branch/Environmental-Documents/> and <https://www.saj.usace.army.mil/About/Divisions-Offices/Planning/Environmental-Branch/Environmental-Compliance/#Brevard>.

It is the responsibility of USACE and/or the County to ensure compliance with all of these environmental requirements. USACE will prepare and provide to BOEM before commencing construction an Environmental Compliance Matrix (ECM), in coordination with the County and BOEM, to document all environmental requirements and identify roles and responsibilities to ensure compliance prior to, during, and after construction. USACE will ensure that all requirements relevant to the construction contract are integrated into the contract plans and specifications as appropriate.

NEPA:

- 2005. *Environmental Assessment. Issuance of a Noncompetitive Lease for Canaveral Shoals II Sand and Gravel Borrow Area. Brevard County Beach Erosion Control Project and Memorandum of Agreement with Patrick Air Force Base for Canaveral Shoals II Sand and Gravel Borrow Area. Minerals Management Service. Herndon, VA.*
- 2009. *Environmental Assessment. Issuance of a Negotiated Agreement for Use of Outer Continental Shelf Sand for Canaveral Shoals in the Brevard County (South Reach) Shore Protection Project. MMS 2009-047. 31 pp + apps.*
- 2011. *Final Integrated General Reevaluation Report (GRR) and Supplemental Environmental Impact Statement (SEIS); Brevard County, Florida; Hurricane and Storm Damage Reduction Project Mid Reach Segment. U.S. Army Corps of Engineers Jacksonville District (August 2010 (Revised April 2011)).*
- 2013. *Environmental Assessment. Issuance of Outer Continental Shelf Sand from Canaveral Shoals II in the Brevard County Shore Protection Project (SPP) North Reach and South Reach. BOEM 2013-01151. 46 pp + apps.*
- 2016. *Final Environmental Assessment. Proposed Use of Upland Quarries as an Additional Source of Sand Brevard County, Florida Hurricane and Storm Damage Reduction Project Mid-Reach Segment. U.S. Army Corps of Engineers. August 4, 2016.*
- 2017. *Issuance of a Negotiated Agreement for Use of Outer Continental Shelf Sand from Canaveral Shoals II in the Brevard County Shore Protection Project (North Reach and South Reach); Environmental Assessment. U.S. Department of the Interior Bureau of Ocean Energy Management (September 2017).*
- 2019. *Supplemental Environmental Assessment on Proposed Stockpile Area; Brevard County Florida Shore Protection Project Mid-Reach Segment; Brevard County, FL. U.S. Army Corps of Engineers Jacksonville District and Bureau of Ocean Energy Management (Cooperating Agency).*

ESA:

- U.S. Fish and Wildlife Statewide Programmatic Biological Opinion (SPBO) (March 13, 2015)
- U.S. Fish and Wildlife Service Programmatic Piping Plover Biological Opinion (P3BO) (May 22, 2013)
- U.S. Fish and Wildlife Service Decision Document, Brevard County Mid-Reach)SPBO and P3BO) (March 7, 2019)
- U.S. Fish and Wildlife Service Decision Document, Brevard County South Reach (SPBO and P3BO) (May 14, 2019)
- South Atlantic Regional Biological Opinion for Continued Hopper Dredging of Channels and Borrow Areas in the Southeastern US (September 25, 1997) (Currently under re-initiation)
- Brevard Mid-Reach Beach Nourishment (SAJ-2005-8688) (Consultation Number F/SER/2005/06003) (September 4, 2008)

EFH:

- National Marine Fisheries Service Habitat Conservation Division letter dated January 12, 2005 (NMFS conservation recommendations associated with North Reach, South Reach, and PAFB project)
- National Marine Fisheries Service Habitat Conservation Division letter dated January 22, 2010 (NMFS comments on Draft GRR/SEIS)
- National Marine Fisheries Service Habitat Conservation Division letter dated April 20, 2012 (NMFS Conservation Recommendations in response to public notice associated with Permit No. SAJ-2005-8688)
- Email dated March 29, 2019 from Pace Wilber (NMFS) to Wendy Dauberman-Zerby (USACE)

SHPO:

- USACE letter to Tim Parsons, Ph.D., SHPO (dated May 03, 2019)
- SHPO response letter to USACE (DHR Project File No.: 2015-0809-C) (dated May 15, 2019)

JCP:

- Permit No. 0254479-001-JC
- Permit Modification No. 0254479-005-JN
- Permit No. 0137212-016-JC
- Permit Modification No. 0137212-017-JN

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