Agenda Item: **3L- 1**

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	December 1, 2026	(X) Consent ( ) Workshop	( ) Regular ( ) Public Hearing
Department:	Environmental Resources Management		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Amendment Number 2 (Amendment) to the Project Partnership Agreement (PPA) (R2013-1733) between the Department of the Army (DoA) and Palm Beach County (PBC), Florida for Remaining Periodic Nourishment of the Delray Beach Segment (Project) of the PBC, Florida Shore Protection Project to update the estimated Non-Federal sponsor cost share contribution and to extend the project nourishment period an additional six (6) years to 2035.

Summary: The PPA approved in 2013 provides federal cost share for periodic beach nourishment of the Project and 100% federally-funded restoration of storm damages through the Flood Control and Coastal Emergencies Act (FCCE). Amendment Number 1 extended federal participation in the Project by six (6) years to 2029, and included the potential to receive in-kind credit for future locally-sponsored nourishments. Amendment Number 2 extends the project nourishment period for federal participation in the Project by an additional six (6) years to 2035. The Amendment also updates the projected Non-Federal Sponsor contribution for the following non-FCCE nourishment. **There is no cost to the County. District 4 (FXM)**

Background and Justification: The Project was initially authorized by the DoA in 1973 for a period of up to 50 years with the County acting as the non-federal sponsor. Federal authorization and participation in local shore protection projects are critical in maintaining storm protection, recreational space, and sensitive environmental habitat. The Project is the longest running and most successful example of beach nourishment in the County, having created and maintained a beach and dune system over 300 feet in width where the Atlantic Ocean directly met A1A prior to 1973.

Attachments:
1. Amendment Number 2
2. Amendment Number 1
3. Project Partnership Agreement

Recommended by: _____ 10-20-2026 FXM 10/15/26
Department Director **Date**

Approved by: _____ 11/3/26
Chief Deputy County Administrator **Date**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2027	2028	2029	2030	2031
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT					

Is Item Included in Current Budget? Yes x No
Does this item include the use of state funds? Yes No x
Does this item include the use of federal funds? Yes No x

Budget Account No.:
Fund ____ **Department** ____ **Unit** ____ **Object** ____ **Program** ____

B. Recommended Sources of Funds/Summary of Fiscal Impact:
There is no fiscal impact associated with this item.

C. Department Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and /or Contract Dev. and Control Comments:

_____ 10/28/2026
OFMB AH 10/28

_____ 10/29/26
Contract Development & Control ZG 10.29.26

B. Legal Sufficiency:

_____ 10-30-26
Assistant County Attorney

C. Other Department Review:

_____
Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

AMENDMENT NUMBER 1
TO THE
PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
PALM BEACH COUNTY, FLORIDA
FOR REMAINING PERIODIC NOURISHMENT OF THE
DELRAY BEACH SEGMENT
OF THE
PALM BEACH COUNTY, FLORIDA
SHORE PROTECTION PROJECT

R2022 1125

This Amendment Number 1 is entered into this 14th day of October, 2022 by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander for Jacksonville District (hereinafter the "District Commander") and Palm Beach County, Florida (hereinafter the "Non-Federal Sponsor"), represented by the Board of County Commissioners with the Mayor signing on its behalf.

WITNESSETH, THAT:

WHEREAS, on August 27, 2013, the Government and the Non-Federal Sponsor entered into a Project Partnership Agreement (hereinafter the "Agreement") for the remaining periodic nourishment of the Delray Beach Segment of the Palm Beach County, Florida Shore Protection Project (hereinafter the "*Project*", as defined in Article I.A. of the Agreement);

WHEREAS, in accordance with the Agreement, the Delray Beach Segment of the Palm Beach County, Florida Shore Protection Project was initially constructed in 1973, and the authorized periodic nourishment period was set to expire in the year 2023;

WHEREAS, Section 156(e) of the Water Resources Development Act of 1976, Public Law 94-587 (42 U.S.C. 1962d-5f(e)), as most recently amended by Section 1158 of the Water Resources Development Act of 2018, Public Law 115-270, extends the maximum period of federal financial participation in periodic nourishment for an additional six years after the expiration of such period for existing authorized water resources development projects for which the maximum period for nourishment will expire between June 10, 2014 and June 10, 2024;

WHEREAS, pursuant to Section 221(a)(4) of the Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b(a)(4)), a partnership agreement may provide for a non-Federal interest to receive credit toward the non-Federal share of the cost of the project for the value of in-kind contributions made by the non-Federal interest; and

WHEREAS, the Government and the Non-Federal Sponsor desire to amend the Agreement to reflect that the *Project* remains eligible for periodic nourishment until 2029 and to add provisions to allow the Government to afford credit toward the non-Federal share of project costs for the value of in-kind contributions.

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

1. Replace all occurrences of "District Engineer" with "District Commander".

2. Insert after the eighth WHEREAS clause the following:

"WHEREAS, Section 156(e) of the Water Resources Development Act of 1976, Public Law 94-587 (42 U.S.C. 1962d-5f(e)), as most recently amended by Section 1158 of the Water Resources Development Act of 2018, Public Law 115-270, extends the maximum period of federal financial participation in periodic nourishment for an additional six years after the expiration of such period for existing authorized water resources development projects for which the maximum period for nourishment will expire between June 10, 2014 and June 10, 2024;"

3. Insert after the current ninth WHEREAS clause the following:

"WHEREAS, pursuant to Section 221(a)(4) of the Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b(a)(4)), a partnership agreement may provide for a non-Federal interest to receive credit toward the non-Federal share of the cost of the project for the value of in-kind contributions made by the non-Federal interest;"

4. Replace Article I.C. with the following:

"C. The term *"total project costs"* shall mean the sum of all costs incurred by the Non-Federal Sponsor and the Government in accordance with the terms of this Agreement directly related to *periodic nourishment* of the *Project.* Subject to the provisions of this Agreement, the term shall include, but is not necessarily limited to: preconstruction engineering and design costs; engineering and design costs during the *periodic nourishment;* the Non Federal Sponsor's and the Government's costs of investigations to identify the existence and extent of hazardous substances in accordance with Article XIV.A. of this Agreement; the Government's costs of historic preservation activities in accordance with Article XVII.A. and Article XVII.B.l. of this Agreement; the Government's actual construction costs; the Government's supervision and administration costs; the Non-Federal Sponsor's and the Government's costs of participation in the Project Coordination Team in accordance with Article V of this Agreement; the Government's costs of contract dispute settlements or awards; the value of lands, easements, rights-of-way, *relocations,* and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material for which the Government affords credit in accordance with Article IV of this Agreement or for which reimbursement by the Government is required pursuant to Article II.C.3. of this Agreement; the Non-Federal Sponsor's and the Government's costs of audit in accordance with Article X.B. and Article X.C. of this Agreement; and the Non-Federal Sponsor's creditable costs for providing in-kind contributions, if any. The term does not include any costs for operation, maintenance, repair, replacement, or rehabilitation; any costs incurred under the 1973 Agreement or the 1992 Agreement; any costs due to *betterments* under Article II.H.2. of this Agreement; any costs of dispute resolution under Article VII of this Agreement; the Government's costs for data recovery activities associated with

historic preservation in accordance with Article XVII.B.2. and Article XVII.B.3 of this Agreement; or the Non Federal Sponsor's costs of negotiating this Agreement."

5. Replace Article I.F. with the following:

"F. The term "*authorized periodic nourishment period*" shall mean the authorized duration for Federal participation in *periodic nourishment*, which for the *Project* is a period of 56 years from 1973, the date of initiation of initial construction."

6. Insert after Article I.L. the following new Article I.M.:

"M. The term "*in-kind contributions*" means those materials or services provided by the Non-Federal Sponsor that are identified as being integral to the *Project* by the Division Commander for South Atlantic Division (hereinafter the "Division Commander"). To be integral to the *Project*, the material or service must be part of the work that the Government would otherwise have undertaken for design and construction of the *Project*. The in-kind contributions also include any initial investigations performed by the Non-Federal Sponsor to identify the existence and extent of any HTRW that may exist in, on, or under real property interests required for the *Project*; however, it does not include HTRW cleanup and response."

7. Replace Article II.A.3. with the following:

"As of the effective date of Amendment Number 1, $0 of Federal funds is currently projected to be available for *periodic nourishment* of the *Project.* The Government makes no commitment to request Congress to provide additional Federal funds for the *Project.* Further, the Government's financial participation in *periodic nourishment* of the *Project* is limited to the Federal funds that the Government makes available to the *Project."*

8. Replace Articles II.C.2 and II.C.3. with the following:

"2. The Non-Federal Sponsor shall provide funds in accordance with Article VI.B. of this Agreement in the amount necessary to meet the Non-Federal Sponsor's required share of *total project costs* for such iteration of *periodic nourishment* if the Government projects at any time that the collective value of the following contributions that are determined by the Government to be attributable to such iteration of *periodic nourishment* will be less than such required share: (a) the value of the Non-Federal Sponsor's contributions under paragraph C.1. of this Article, as determined in accordance with Article IV of this Agreement; and (b) the value of the Non-Federal Sponsor's contributions under Article IV.H, Article V, Article X, and Article XIV.A. of this Agreement.

3. The Government, subject to the availability of funds, shall refund or reimburse to the Non-Federal Sponsor any contributions in excess of the Non-Federal Sponsor's required share of *total project costs* for such iteration of *periodic nourishment* if the Government determines at any time that the collective value of the following contributions that are determined by the Government to be attributable to such iteration of

periodic nourishment has exceeded such requiredshare: (a) the value of the Non-Federal Sponsor's contributions under paragraph C.2. of this Article; (b) the value of the Non-Federal Sponsor's contributions under paragraph C.1. of this Article, as determined in accordance with Article IV of this Agreement; and (c) the value of the Non-Federal Sponsor's contributions under Article IV.H, Article V, Article X, and Article XIV.A. of this Agreement. After such a determination, the Government, in its sole discretion, may acquire any remaining lands, easements, and rights-of-way required for such iteration of *periodic nourishment,* perform any remaining *relocations* necessary for such iteration of *periodic nourishment,* or construct any remaining improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material required for such iteration of *periodic nourishment* on behalf of the Non-Federal Sponsor. Notwithstanding the acquisition of lands, easements, and rights-of-way, performance of *relocations,* or construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material by the Government under this paragraph, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for any costs of cleanup and response in accordance with Article XIV.C. of this Agreement."

9. Insert after Article II.C.3. the following new Article II.C.4.:

"4. If providing in-kind contributions as a part of its 35 percent cost share, the Non-Federal Sponsor shall obtain all applicable licenses and permits necessary for such work. As functional portions of the work are completed, the Non-Federal Sponsor shall begin operation and maintenance of such work. Upon completion of the work, the Non-Federal Sponsor shall so notify the Government within 30 calendar days and provide the Government with a copy of as-built drawings for the work."

10. Replace the heading of Article IV with the following:

"ARTICLE IV - CREDIT FOR REAL PROPERTY INTERESTS, PLACEMENT AREA IMPROVEMENTS, RELOCATIONS, AND IN-KIND CONTRIBUTIONS"

11. Replace Article IV.A. with the following:

"A. The Government shall include in *total project costs* and afford credit toward the Non Federal Sponsor's share of *total project costs* for the value of the lands, easements, and rights-of way that the Non-Federal Sponsor must provide pursuant to Article III.A. of this Agreement for *periodic nourishment*; for the value of the *relocations* that the Non-Federal Sponsor must perform or for which it must ensure performance pursuant to Article III.B. of this Agreement for *periodic nourishment*; for the value of the improvements required on lands, easements, and rights-of way to enable the disposal of dredged or excavated material that the Non-Federal Sponsor must provide pursuant to Article III.C. of this Agreement for *periodic nourishment*; and the costs of in-kind contributions pursuant to Article IV.H. However, no amount shall be included in *total project costs,* no credit shall be afforded, and no reimbursement shall be provided for the value of any lands, easements, rights-of-way, *relocations,* or improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated

material that have been provided previously as an item of cooperation for another Federal project or provided previously under the 1973 Agreement or the 1992 Agreement. In addition, no amount shall be included in *total project costs,* no credit shall be afforded, and no reimbursement shall be provided for the value of lands, easements, rights-of-way, *relocations,* or improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that were acquired or performed using *Federal program funds* unless the Federal agency providing the funds verifies in writing that such funds are authorized to carry out the *Project.*"

12. Insert after Article IV.G. the following new Article IV.H.:

"H. The Government shall include in *total project costs* and credit towards the Non-Federal Sponsor's share of such costs, the value of *in-kind contributions* that are integral to the *Project.*

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

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

13. Replace Article VI.A.1. with the following:

"1. As of the effective date of Amendment Number 1, *total project costs* are projected to be $28,800,000; the Non-Federal Sponsor's contribution under Article V, Article X, and Article XIV.A. of this Agreement is projected to be $150,000; the Non-Federal Sponsor's contribution of funds required by Article II.C.2. of this Agreement is projected to be $13,269,000; the *non-Federal proportionate share* is projected to be 46.1 percent; the Non-Federal Sponsor's contribution of funds required by Article XVII.B.3. of this Agreement is projected to be $0; the value included in *total project costs* for the value of lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material determined in accordance with Article IV of this Agreement is projected to be $0; the Government's total financial obligations for the additional work to be incurred and the Non-Federal Sponsor's contribution of funds for such costs required by Article II.H. of this Agreement are projected to be $0; and the Non-Federal Sponsor's creditable in-kind contributions are projected to be $0. These amounts and percentage are estimates subject to adjustment by the Government, after consultation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor."

14. All other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment Number 1, which shall become effective upon the date it is signed by the District Commander.

R2022 1125

DEPARTMENT OF THE ARMY

BY: _____
James L. Booth
Colonel, U.S. Army
District Commander

DATE: 14 OCT 22

PALM BEACH COUNTY, FLORIDA

BY: _____
Robert S. Weinroth
Mayor
Board of County Commissioners

DATE: OCT 04 2022

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

_____
COUNTY ATTORNEY

Joseph Abruzzo
Clerk of the Circuit Court & Comptroller
Palm Beach County

By: _____
Deputy Clerk

CERTIFICATE OF AUTHORITY

I, Denise Coffman, do hereby certify that I am the principal legal officer for Palm Beach County, Florida, that Palm Beach County, Florida is a legally constituted public body with full authority and legal capability to perform the terms of the Amendment Number 1 between the Department of the Army and Palm Beach County, Florida in connection with the Remaining Periodic Nourishment of the Delray Beach Segment of the Palm Beach County, Florida Shore Protection Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Amendment, as required by Section 221 of Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and that the person who executed this Amendment on behalf of the Palm Beach County, Florida acted within his statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this _____ day of OCT 04 2022 20___.

Denise Coffman
County Attorney
Palm Beach County, Florida

CERTIFICATION REGARDING LOBBYING

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

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

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

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

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

R2022 1125

Robert S. Weinroth
Mayor
Board of County Commissioners
Palm Beach County, Florida

DATE: OCT 04 2022

AMENDMENT NUMBER 2
TO THE
PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
PALM BEACH COUNTY, FLORIDA
FOR REMAINING PERIODIC NOURISHMENT OF THE
DELRAY BEACH SEGMENT
OF THE
PALM BEACH COUNTY, FLORIDA
SHORE PROTECTION PROJECT

This Amendment Number 2 is entered into this _____ day of _____, 2026, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander for Jacksonville District (hereinafter the "District Commander") and Palm Beach County, Florida (hereinafter the "Non-Federal Sponsor"), represented by the Board of County Commissioners with the Mayor signing on its behalf.

WITNESSETH, THAT:

WHEREAS, on August 27, 2013, the Government and the Non-Federal Sponsor (hereinafter the "Parties") entered into a Project Partnership Agreement (hereinafter the "Agreement") for the remaining periodic nourishment of the Delray Beach Segment of the Palm Beach County, Florida Shore Protection Project (hereinafter the "Project", as defined in Article I.A. of the Agreement);

WHEREAS, on October 14, 2022, the Parties entered into Amendment Number 1 to the Agreement to reflect that the Project remains eligible for periodic nourishment until 2029 and to add provisions to allow the Government to afford credit toward the non-Federal share of Project costs for the value of *in-kind contributions*;

WHEREAS, the Project was initially constructed in 1973, and the authorized periodic nourishment period is set to expire in the year 2029;

WHEREAS, Section 8129(a) of the Water Resources Development Act of 2022, Public Law 117-263, further amended Section 156(e) of the Water Resources Development Act of 1976, Public Law 94-587 (42 U.S.C. 1962d-5f(e)), and provided that, for any existing authorized water resources development project for which the maximum period for nourishment will expire within the 16-year period beginning on June 10, 2014, that project shall remain eligible for nourishment for an additional 12 years after the expiration of such period; and

WHEREAS, the Government and the Non-Federal Sponsor desire to amend the Agreement to reflect that the Project remains eligible for periodic nourishment until 2035.

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

1. Replace the ninth WHEREAS clause with the following:

"Section 8129(a) of the Water Resources Development Act of 2022, Public Law 117-263, further amended Section 156(e) of the Water Resources Development Act of 1976, Public Law 94-587 (42 U.S.C. 1962d-5f(e)), and provided that, for any existing authorized water resources development project for which the maximum period for nourishment will expire within the 16-year period beginning on June 10, 2014, that project shall remain eligible for nourishment for an additional 12 years after the expiration of such period;"

2. Replace Article I.F. with the following:

"F. The term "*authorized periodic nourishment period*" shall mean the authorized duration for Federal participation in *periodic nourishment*, which for the *Project* is a period of 62 years from 1973, the date of initiation of initial construction."

3. Replace Article VI.A.1. with the following:

"1. As of the effective date of Amendment Number 2, *total project costs* are projected to be $37,661,000; the Non-Federal Sponsor's contribution under Article V, Article X, and Article XIV.A. of this Agreement is projected to be $150,000; the Non-Federal Sponsor's contribution of funds required by Article II.C.2. of this Agreement is projected to be $17,437,000; the *non-Federal proportionate share* is projected to be 46.3 percent; the Non-Federal Sponsor's contribution of funds required by Article XVII.B.3. of this Agreement is projected to be $0; the value included in *total project costs* for the value of lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material determined in accordance with Article IV of this Agreement is projected to be $0; the Government's total financial obligations for the additional work to be incurred and the Non-Federal Sponsor's contribution of funds for such costs required by Article II.H. of this Agreement are projected to be $0; and the Non-Federal Sponsor's creditable in-kind contributions are projected to be $0. These amounts and percentage are estimates subject to adjustment by the Government, after consultation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor."

4. All other terms and conditions of the Agreement, as amended, remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment Number 2, which shall become effective upon the date it is signed by the District Commander.

DEPARTMENT OF THE ARMY

BY: _____
Brandon L. Bowman
Colonel, U.S. Army
District Commander

DATE: _____

PALM BEACH COUNTY, FLORIDA

BY: _____
Mayor
Board of County Commissioners

DATE: _____

CERTIFICATE OF AUTHORITY

I, David Ottey, do hereby certify that I am the principal legal officer for Palm Beach County, Florida, that Palm Beach County, Florida is a legally constituted public body with full authority and legal capability to perform the terms of the Amendment Number 2 between the Department of the Army and Palm Beach County, Florida in connection with the Delray Beach Segment of the Palm Beach County, Florida Shore Protection Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Amendment, as required by Section 221 of Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and that the person who executed this Amendment on behalf of Palm Beach County, Florida acted within his/her statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this _____ day of _____ 20___.

_____
David Ottey
County Attorney
Palm Beach County, Florida

CERTIFICATION REGARDING LOBBYING

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

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

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

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

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

_____

Mayor
Board of Palm Beach County Commissioners

DATE: _____

(d)

R2013 1733 DEC 03 2013

PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
PALM BEACH COUNTY, FLORIDA
FOR REMAINING PERIODIC NOURISHMENT OF THE
DELRAY BEACH SEGMENT
OF THE
PALM BEACH COUNTY, FLORIDA
SHORE PROTECTION PROJECT

THIS AGREEMENT is entered into this 29th day of August, 2013, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Jacksonville District and Palm Beach County, Florida (hereinafter the "Non-Federal Sponsor"), represented by the Chair of its Board of County Commissioners.

WITNESSETH, THAT:

WHEREAS, construction of the shore protection project at Palm Beach County from Martin County line to Lake Worth Inlet and from South Lake Worth Inlet to Broward County line, Florida at Palm Beach County, Florida (hereinafter the "Authorized Project") was authorized by Section 101 of the Rivers and Harbors Act of 1962, Public Law 87-874;

WHEREAS, Section 102 of the Rivers and Harbors Act of 1962, Public Law 87-874 authorizes the Secretary to reimburse non-Federal interests for work they perform on beach erosion projects authorized in Section 101 of said Act provided the work performed is approved by the Government and that such reimbursement shall be subject to appropriations and shall not take precedence over other pending projects of higher priority for improvements;

WHEREAS, the Government and Non-Federal Sponsor entered into an agreement dated January 23, 1973 pursuant to Section 102 of the Rivers and Harbors Act of 1962, Public Law 87-874 (hereinafter the "1973 Agreement"), providing for Federal participation, subject to the terms of the agreement, in the costs incurred by the Non-Federal Sponsor for initial construction of the Authorized Project, and the future periodic nourishment of the Authorized Project for a period not to exceed 10 years following completion of the initial construction;

WHEREAS, Section 156 of the Water Resources Development Act of 1976, Public Law 94-587, as amended by Section 934 of the Water Resources Development Act of 1986, Public Law 99-662 (42 U.S.C. 1962d-5f), authorizes the Secretary of the Army to extend participation in shore protection projects, as he deems necessary, for a period not to exceed fifty years from the date of initiation of the initial construction of such project;

WHEREAS, on September 13, 1983, under delegated authority from the Assistant Secretary of the Army (Civil Works), the Chief of Engineers approved extension of the period of Federal participation in the Delray Beach Segment of the Authorized Project from 10 years to 15 years from the date of initiation of construction, in accordance with Section 156 of the Water Resources Development Act of 1976, Public Law 94-587;

WHEREAS, on March 1, 1991, the Acting Assistant Secretary of the Army (Civil Works) approved extension of the period of Federal participation in the Delray Beach Segment of the Authorized Project for an additional 35 years, in accordance with Section 156 of the Water Resources Development Act of 1976, Public Law 94-587, as amended by Section 934 of the Water Resources Development Act of 1986, Public Law 99-662 (42 U.S.C. 1962d-5f);

WHEREAS, the Government and Non-Federal Sponsor entered into an agreement dated September 23, 1992 pursuant to Section 102 of the Rivers and Harbors Act of 1962, Public Law 87-874 (hereinafter the "1992 Agreement"), that includes the extension of Federal participation in the Delray Beach Segment of the Authorized Project for a period of 50 years beginning from the date of initiation of construction of the Delray Beach segment;

WHEREAS, the Government and the Non-Federal Sponsor desire to enter into a Project Partnership Agreement (hereinafter the "Agreement") to provide for the remaining *periodic nourishment* of the Delray Beach Segment of the Authorized Project (hereinafter the "*Project*", as defined in Article I.A. of this Agreement) to be performed by the Government;

WHEREAS, Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213), specifies the cost sharing requirements applicable to the *periodic nourishment* of the *Project*;

WHEREAS, Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended, (42 U.S.C. 1962d-5b) and Section 103(j) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), provide, *inter alia*, that the Secretary of the Army shall not commence construction of any water resources project, or separable element thereof, until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element;

WHEREAS, the Government and Non-Federal Sponsor have the full authority and capability to perform as hereinafter set forth and intend to cooperate in cost sharing and financing of the *Project* in accordance with the terms of this Agreement; and

WHEREAS, the Government and the Non-Federal Sponsor, in connection with this Agreement, desire to foster a partnering strategy and a working relationship between the Government and the Non-Federal Sponsor through a mutually developed formal strategy of commitment and communication embodied herein, which creates an environment where trust and teamwork prevent disputes, foster a cooperative bond between the Government and the Non-Federal Sponsor, and facilitate the successful implementation of the *Project*.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree as follows:

ARTICLE I - DEFINITIONS

A. The term "*Project*" shall mean the Delray Beach Segment of the Authorized Project, consisting of 2.65 miles of shoreline of Delray Beach to restore the primary beach berm to a general width of 100 feet with an elevation of +9 feet NGVD, as generally described in the Palm Beach County, Florida, Shore Protection Project Limited Reevaluation

Report for Delray Beach Fourth Periodic Nourishment, dated July 2001, and approved by the Acting Chief, Planning and Policy Division, Directorate of Civil Works and Management on December 6, 2001.

B. The term "*periodic nourishment*" shall mean the periodic placement of suitable beach material within the area of the *Project* that received initial fill under the 1973 Agreement.

C. The term "*total project costs*" shall mean the sum of all costs incurred by the Non-Federal Sponsor and the Government in accordance with the terms of this Agreement directly related to *periodic nourishment* of the *Project*. Subject to the provisions of this Agreement, the term shall include, but is not necessarily limited to: preconstruction engineering and design costs; engineering and design costs during the *periodic nourishment*; the Non-Federal Sponsor's and the Government's costs of investigations to identify the existence and extent of hazardous substances in accordance with Article XIV.A. of this Agreement; the Government's costs of historic preservation activities in accordance with Article XVII.A. and Article XVII.B.1. of this Agreement; the Government's actual construction costs; the Government's supervision and administration costs; the Non-Federal Sponsor's and the Government's costs of participation in the *Project* Coordination Team in accordance with Article V of this Agreement; the Government's costs of contract dispute settlements or awards; the value of lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material for which the Government affords credit in accordance with Article IV of this Agreement or for which reimbursement by the Government is required pursuant to Article II.C.3. of this Agreement; and the Non-Federal Sponsor's and the Government's costs of audit in accordance with Article X.B. and Article X.C. of this Agreement. The term does not include any costs for operation, maintenance, repair, replacement, or rehabilitation; any costs incurred under the 1973 Agreement or the 1992 Agreement; any costs due to *betterments* under Article II.H.2. of this Agreement; any costs of dispute resolution under Article VII of this Agreement; the Government's costs for data recovery activities associated with historic preservation in accordance with Article XVII.B.2. and Article XVII.B.3 of this Agreement; or the Non-Federal Sponsor's costs of negotiating this Agreement.

D. The term "*financial obligations for periodic nourishment*" shall mean financial obligations of the Government that result or would result in costs that are or would be included in *total project costs*, except for obligations pertaining to the provision of lands, easements, and rights-of-way, the performance of *relocations*, and the construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material.

E. The term "*non-Federal proportionate share*" shall mean the ratio of the Non-Federal Sponsor's total contribution of funds required by Article II.C.2. of this Agreement to total *financial obligations for periodic nourishment*, as projected by the Government.

F. The term "*authorized periodic nourishment period*" shall mean the authorized duration for Federal participation in *periodic nourishment*, which for the *Project* is a period of 50 years from July 1973 the date of initiation of initial fill under the 1973 Agreement.

G. The term "*highway*" shall mean any highway, roadway, street, or way, including any bridge thereof, that is owned by a public entity.

H. The term "*relocation*" shall mean providing a functionally equivalent facility to the owner of a utility, cemetery, *highway*, railroad, or public facility, when such action is authorized in accordance with applicable legal principles of just compensation; or providing a functionally equivalent facility when such action is specifically provided for, and is identified as a relocation, in the authorizing legislation for the *Project* or any report referenced therein. Providing a functionally equivalent facility may take the form of alteration, lowering, raising, or replacement and attendant demolition of the affected facility or part thereof.

I. The term "*functional portion of an iteration of periodic nourishment* " shall mean a portion of an iteration of *periodic nourishment* of the *Project* for which construction has been completed and that can function independently, as determined by the U.S. Army Engineer, Jacksonville District (hereinafter "District Engineer") in writing, although the remainder of such iteration of *periodic nourishment* of the *Project* is not complete.

J. The term "*betterment*" shall mean a difference in the construction of an element of the *Project* that results from the application of standards that the Government determines exceed those that the Government would otherwise apply to the construction of that element. The term does not include any construction for features not included in the *Project* as defined in paragraph A. of this Article.

K. The term "*Federal program funds*" shall mean funds provided by a Federal agency, other than the Department of the Army, plus any non-Federal contribution required as a matching share therefor.

L. The term "*fiscal year*" shall mean one year beginning on October 1 and ending on September 30.

ARTICLE II - OBLIGATIONS OF THE GOVERNMENT AND THE NON-FEDERAL SPONSOR

A. The Government, subject to receiving funds appropriated by the Congress of the United States (hereinafter the "Congress") and using those funds and funds provided by the Non-Federal Sponsor, expeditiously shall perform *periodic nourishment* of the *Project* at such times during the *authorized periodic nourishment period* as the Government, after consultation with the Non-Federal Sponsor, determines such placement to be necessary and economically justified, applying those procedures usually applied to Federal projects, in accordance with Federal laws, regulations, and policies.

1. The Government shall afford the Non-Federal Sponsor the opportunity to review and comment on the solicitations for all contracts, including relevant plans and specifications, prior to the Government's issuance of such solicitations. To the extent possible, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Non-Federal Sponsor with notification of a contract modification is not possible prior to execution of the contract modification, the Government shall provide such notification in writing at the earliest date possible. To the extent possible, the Government also shall afford the Non-Federal Sponsor the opportunity to review and comment on all contract claims prior to resolution thereof. The Government shall consider in good faith the comments of the Non-Federal Sponsor, but the contents of solicitations,

award of contracts or commencement of construction using the Government's own forces, execution of contract modifications, resolution of contract claims, and performance of all work on the *Project* shall be exclusively within the control of the Government.

2. At the time the District Engineer furnishes the contractor with the Government's Written Notice of Acceptance of Completed Work for each contract awarded by the Government for the *Project*, the District Engineer shall furnish a copy thereof to the Non-Federal Sponsor.

3. As of the effective date of this Agreement, $4,700,000 of Federal funds is currently projected to be available for *periodic nourishment* of the *Project*. The Government makes no commitment to request Congress to provide additional Federal funds for the *Project*. Further, the Government's financial participation in *periodic nourishment* of the *Project* is limited to the Federal funds that the Government makes available to the *Project*.

B. The Government shall assign all costs in *total project costs*, including all contributions provided by the Non-Federal Sponsor, to hurricane and storm damage reduction, to recreation, or to privately owned shores where use of such shores is limited to private interests.

C. For each iteration of *periodic nourishment*, the Non-Federal Sponsor shall contribute 35 percent of *total project costs* assigned by the Government to hurricane and storm damage reduction, plus 50 percent of *total project costs* assigned by the Government to recreation plus 100 percent of *total project costs* assigned by the Government to privately owned shores (where use of such shores is limited to private interests) in accordance with the provisions of this paragraph.

1. In accordance with Article III of this Agreement, the Non-Federal Sponsor shall provide all lands, easements, and rights-of-way, including those required for *relocations*, the borrowing of material, and the disposal of dredged or excavated material, shall perform or ensure performance of all *relocations*, and shall construct improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that the Government determines to be required or to be necessary for such iteration of *periodic nourishment*.

2. The Non-Federal Sponsor shall provide funds in accordance with Article VI.B. of this Agreement in the amount necessary to meet the Non-Federal Sponsor's required share of *total project costs* for such iteration of *periodic nourishment* if the Government projects at any time that the collective value of the following contributions that are determined by the Government to be attributable to such iteration of *periodic nourishment* will be less than such required share: (a) the value of the Non-Federal Sponsor's contributions under paragraph C.1. of this Article, as determined in accordance with Article IV of this Agreement; and (b) the value of the Non-Federal Sponsor's contributions under Article V, Article X, and Article XIV.A. of this Agreement.

3. The Government, subject to the availability of funds, shall refund or reimburse to the Non-Federal Sponsor any contributions in excess of the Non-Federal Sponsor's required share of *total project costs* for such iteration of *periodic nourishment* if the Government determines at any time that the collective value of the following contributions that are determined by the Government to be attributable to such iteration of *periodic nourishment* has exceeded such required share: (a) the value of the Non-Federal Sponsor's contributions under paragraph C.2. of this Article; (b) the value of the Non-Federal Sponsor's contributions under paragraph C.1. of this Article, as

determined in accordance with Article IV of this Agreement; and (c) the value of the Non-Federal Sponsor's contributions under Article V, Article X, and Article XIV.A. of this Agreement. After such a determination, the Government, in its sole discretion, may acquire any remaining lands, easements, and rights-of-way required for such iteration of *periodic nourishment*, perform any remaining *relocations* necessary for such iteration of *periodic nourishment,* or construct any remaining improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material required for such iteration of *periodic nourishment* on behalf of the Non-Federal Sponsor. Notwithstanding the acquisition of lands, easements, and rights-of-way, performance of *relocations*, or construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material by the Government under this paragraph, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for any costs of cleanup and response in accordance with Article XIV.C. of this Agreement.

D. When the District Engineer determines that the first iteration of *periodic nourishment* or a *functional portion of an iteration of periodic nourishment* performed under this Agreement is complete, the District Engineer shall furnish the Non-Federal Sponsor a final Operation, Maintenance, Repair, Rehabilitation, and Replacement Manual (hereinafter the "OMRR&R Manual"). In addition, when the District Engineer determines that any iteration of *periodic nourishment*, or a *functional portion of an iteration of periodic nourishment*, is complete, the District Engineer shall so notify the Non-Federal Sponsor in writing and furnish the Non-Federal Sponsor with copies of all of the Government's Written Notices of Acceptance of Completed Work for all contracts for such iteration of *periodic nourishment* that have not been provided previously. Upon such notification, the Government also shall furnish to the Non-Federal Sponsor a copy of all final as-built drawings for such iteration of *periodic nourishment* or such completed portion if such drawings are available. Not later than 6 months after such notification by the Government that such iteration of *periodic nourishment* is complete, the Government shall furnish the Non-Federal Sponsor with all final as-built drawings for such iteration of *periodic nourishment*. In the event all final as-built drawings for such iteration of *periodic nourishment* cannot be completed within the 6 month period, the Government shall provide written notice to the Non-Federal Sponsor, and the Government and the Non-Federal Sponsor shall negotiate an acceptable completion date for furnishing such documents.

E. Upon notification from the District Engineer in accordance with paragraph D. of this Article, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace such iteration of *periodic nourishment*, or the *functional portion of an iteration of periodic nourishment* as the case may be, in accordance with Article VIII of this Agreement.

F. Upon conclusion of each iteration of *periodic nourishment*, the Government shall conduct an accounting, in accordance with Article VI.C. of this Agreement, and furnish the results to the Non-Federal Sponsor.

G. The Non-Federal Sponsor shall not use *Federal program funds* to meet any of its obligations for the *Project* under this Agreement unless the Federal agency providing the funds verifies in writing that such funds are authorized to carry out the *Project.*

H. The Non-Federal Sponsor may request the Government to perform or provide, on behalf of the Non-Federal Sponsor, one or more of the services (hereinafter the "additional work") described in this paragraph. Such requests shall be in writing and shall describe the

additional work requested to be performed or provided. If in its sole discretion the Government elects to perform or provide the requested additional work or any portion thereof, it shall so notify the Non-Federal Sponsor in a writing that sets forth any applicable terms and conditions, which must be consistent with this Agreement. In the event of conflict between such a writing and this Agreement, this Agreement shall control. The Non-Federal Sponsor shall be solely responsible for all costs of the additional work performed or provided by the Government under this paragraph and shall pay all such costs in accordance with Article VI.D. of this Agreement.

1. Acquisition of lands, easements, and rights-of-way; performance of *relocations*; or construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material for the *Project*. Notwithstanding acquisition of lands, easements, and rights-of-way, performance of *relocations*, or construction of improvements by the Government, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for any costs of cleanup and response in accordance with Article XIV.C. of this Agreement.

2. Inclusion of *betterments* in the construction of the *Project*. In the event the Government elects to include any such *betterments*, the Government shall allocate the costs of the *Project* features that include *betterments* between *total project costs* and the costs of the *betterments*.

I. Not less than once each year the Non-Federal Sponsor shall inform affected interests of the extent of protection afforded by the *Project*.

J. The Non-Federal Sponsor agrees to participate in and comply with applicable Federal floodplain management and flood insurance programs.

K. The Non-Federal Sponsor shall comply with Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), which requires a non-Federal interest to prepare a floodplain management plan within one year after the date of signing this Agreement and shall implement such plan not later than one year after completion of the first iteration of *periodic nourishment* performed under this Agreement. The plan shall be designed to reduce the impacts of future flood events in the project area, including but not limited to, addressing those measures to be undertaken by non-Federal interests to preserve the level of flood protection provided by such work. The Non-Federal Sponsor shall provide an information copy of the plan to the Government upon its preparation.

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

M. The Non-Federal Sponsor shall prevent obstructions or encroachments on the *Project* (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on *Project* lands, easements, and rights-of-way or the addition of facilities which might reduce the level of protection the *Project* affords, hinder operation and maintenance of the *Project*, or interfere with the *Project's* proper function.

N. For so long as the *Project* remains authorized, the Non-Federal Sponsor shall ensure

conditions of public ownership and public use of the shores upon which the amount of Federal participation is based.

O. The Non-Federal Sponsor shall provide and maintain necessary access roads, parking areas, and other associated public use facilities, open and available to all on equal terms.

P. The Non-Federal Sponsor shall control water pollution to the extent necessary to safeguard the health of bathers.

Q. In the event an iteration of *periodic nourishment* of the *Project* is damaged or destroyed by a storm or other natural forces, the Government, subject to the availability of funds and Article II.A. of this Agreement, shall place suitable beach material within the *Project* area as *periodic nourishment* of the *Project*. The costs of such placement shall be included in *total project costs* and shared in accordance with Article II.C. of this Agreement. Nothing in this paragraph shall relieve the Non-Federal Sponsor of its obligations under Article VIII of this Agreement. Further, nothing in this paragraph shall preclude the Government from using Public Law 84-99 to accomplish any emergency repair and restoration work of the *Project*.

ARTICLE III - LANDS, EASEMENTS, RIGHTS-OF-WAY, RELOCATIONS, DISPOSAL AREA IMPROVEMENTS, AND COMPLIANCE WITH PUBLIC LAW 91-646, AS AMENDED

A. The Government, after consultation with the Non-Federal Sponsor, shall determine the lands, easements, and rights-of-way required for *periodic nourishment*, operation, and maintenance of the *Project*, including those required for *relocations*, the borrowing of material, and the disposal of dredged or excavated material. The Government in a timely manner shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of the lands, easements, and rights-of-way that the Government determines the Non-Federal Sponsor must provide, in detail sufficient to enable the Non-Federal Sponsor to fulfill its obligations under this paragraph, and shall provide the Non-Federal Sponsor with a written notice to proceed with acquisition of such lands, easements, and rights-of-way. Prior to issuance of the solicitation for each Government contract for each iteration of *periodic nourishment* or prior to the Government incurring any *financial obligations for periodic nourishment* of a portion of the *Project*, using the Government's own forces, the Non-Federal Sponsor shall acquire all lands, easements, and rights-of-way the Government determines the Non-Federal Sponsor must provide for that work and shall provide the Government with authorization for entry thereto. Further, prior to the end of the *authorized periodic nourishment period*, the Non-Federal Sponsor shall acquire all lands, easements, and rights-of-way required for *periodic nourishment*, operation, and maintenance of the *Project*, as set forth in such descriptions, and shall provide the Government with authorization for entry thereto. The Non-Federal Sponsor shall ensure that lands, easements, and rights-of-way that the Government determines to be required for the *Project* and that were provided by the Non-Federal Sponsor are retained in public ownership for uses compatible with the authorized purposes of the *Project*.

B. The Government, after consultation with the Non-Federal Sponsor, shall determine the *relocations* necessary for *periodic nourishment*, operation, and maintenance of the *Project*, including those necessary to enable the borrowing of material or the disposal of dredged or excavated material. The Government in a timely manner shall provide the Non-

Federal Sponsor with general written descriptions, including maps as appropriate, of such *relocations* that are necessary for *periodic nourishment* in detail sufficient to enable the Non-Federal Sponsor to fulfill its obligations under this paragraph, and shall provide the Non-Federal Sponsor with a written notice to proceed with such *relocations*. Prior to issuance of the solicitation for each Government contract for each iteration of *periodic nourishment* or prior to the Government incurring any *financial obligations for periodic nourishment* using the Government's own forces, the Non-Federal Sponsor shall prepare or ensure the preparation of plans and specifications for, and perform or ensure the performance of all *relocations* the Government determines to be necessary for that work. Further, prior to the end of the *authorized periodic nourishment period*, the Non-Federal Sponsor shall perform or ensure performance of all *relocations* necessary for the *periodic nourishment*, operation, and maintenance of the *Project* as set forth in such descriptions.

C. The Government, after consultation with the Non-Federal Sponsor, shall determine the improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material associated with *periodic nourishment*, operation, and maintenance of the *Project*. Such improvements may include, but are not necessarily limited to, retaining dikes, wasteweirs, bulkheads, embankments, monitoring features, stilling basins, and de-watering pumps and pipes. The Government in a timely manner shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such improvements in detail sufficient to enable the Non-Federal Sponsor to fulfill its obligations under this paragraph, and shall provide the Non-Federal Sponsor with a written notice to proceed with construction of such improvements. Prior to issuance of the solicitation for each Government contract for each iteration of *periodic nourishment* or prior to the Government incurring any *financial obligations for periodic nourishment* of a portion of the *Project*, using the Government's own forces, the Non-Federal Sponsor shall prepare plans and specifications for all improvements the Government determines to be required for the disposal of dredged or excavated material under that contract, submit such plans and specifications to the Government for approval, and provide such improvements in accordance with the approved plans and specifications. Further, prior to the end of the *authorized periodic nourishment period*, the Non-Federal Sponsor shall provide all improvements required for *periodic nourishment*, operation, and maintenance of the *Project* as set forth in such descriptions.

D. The Non-Federal Sponsor shall comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 C.F.R. Part 24, in acquiring lands, easements, and rights-of-way required for *periodic nourishment*, operation, and maintenance of the *Project*, including those required for *relocations*, the borrowing of material, or the disposal of dredged or excavated material, and shall inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

ARTICLE IV - CREDIT FOR VALUE OF LANDS, EASEMENTS, RIGHTS-OF-WAY, RELOCATIONS, AND DISPOSAL AREA IMPROVEMENTS

A. The Government shall include in *total project costs* and afford credit toward the Non-Federal Sponsor's share of *total project costs* for the value of the lands, easements, and rights-of-way that the Non-Federal Sponsor must provide pursuant to Article III.A. of this Agreement for *periodic nourishment*; for the value of the *relocations* that the Non-Federal Sponsor must perform

or for which it must ensure performance pursuant to Article III.B. of this Agreement for *periodic nourishment*; and for the value of the improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that the Non-Federal Sponsor must provide pursuant to Article III.C. of this Agreement for *periodic nourishment*. However, no amount shall be included in *total project costs*, no credit shall be afforded, and no reimbursement shall be provided for the value of any lands, easements, rights-of-way, *relocations*, or improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that have been provided previously as an item of cooperation for another Federal project or provided previously under the 1973 Agreement or the 1992 Agreement. In addition, no amount shall be included in *total project costs*, no credit shall be afforded, and no reimbursement shall be provided for the value of lands, easements, rights-of-way, *relocations*, or improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that were acquired or performed using *Federal program funds* unless the Federal agency providing the funds verifies in writing that such funds are authorized to carry out the *Project*.

B. The Non-Federal Sponsor in a timely manner shall provide the Government with such documents as are sufficient to enable the Government to determine the value of any contribution provided pursuant to Article III.A., Article III.B., or Article III.C. of this Agreement. Upon receipt of such documents, the Government in a timely manner shall determine the value of such contributions for the purpose of including such value in *total project costs* and for determining the amount of credit to be afforded or reimbursement to be provided in accordance with the provisions of this Agreement.

C. For the purposes of determining the value to be included in *total project costs* and the amount of credit to be afforded or reimbursement to be provided in accordance with this Agreement and except as otherwise provided in paragraph G. of this Article, the value of lands, easements, and rights-of-way, including those required for *relocations*, the borrowing of material, and the disposal of dredged or excavated material, shall be the fair market value of the real property interests, plus certain incidental costs of acquiring those interests, as determined in accordance with the provisions of this paragraph.

1. Date of Valuation. The fair market value of lands, easements, or rights-of-way owned by the Non-Federal Sponsor on the effective date of this Agreement shall be the fair market value of such real property interests as of the date the Non-Federal Sponsor provides the Government with authorization for entry thereto. The fair market value of lands, easements, or rights-of-way acquired by the Non-Federal Sponsor after the effective date of this Agreement shall be the fair market value of such real property interests at the time the interests are acquired.

2. General Valuation Procedure. Except as provided in paragraph C.3. or paragraph C.5. of this Article, the fair market value of lands, easements, or rights-of-way shall be determined in accordance with the provisions of this paragraph.

a. The Non-Federal Sponsor shall obtain, for each real property interest, an appraisal that is prepared by a qualified appraiser who is acceptable to the Non-Federal Sponsor and the Government. The Non-Federal Sponsor shall provide the Government with the appraisal no later than 6 months after the Non-Federal Sponsor provides the Government with an authorization for entry for such real property interest. The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government. The fair market value shall be the amount set forth in the Non-Federal Sponsor's appraisal, if such

appraisal is approved by the Government. In the event the Government does not approve the Non-Federal Sponsor's appraisal, the Non-Federal Sponsor may obtain a second appraisal, and the fair market value shall be the amount set forth in the Non-Federal Sponsor's second appraisal, if such appraisal is approved by the Government. In the event the Government does not approve the Non-Federal Sponsor's second appraisal, the Non-Federal Sponsor chooses not to obtain a second appraisal, or the Non-Federal Sponsor does not provide the first appraisal as required in this paragraph, the Government shall obtain an appraisal, and the fair market value shall be the amount set forth in the Government's appraisal, if such appraisal is approved by the Non-Federal Sponsor. In the event the Non-Federal Sponsor does not approve the Government's appraisal, the Government, after consultation with the Non-Federal Sponsor, shall consider the Government's and the Non-Federal Sponsor's appraisals and determine an amount based thereon, which shall be deemed to be the fair market value.

b. Where the amount paid or proposed to be paid by the Non-Federal Sponsor for the real property interest exceeds the amount determined pursuant to paragraph C.2.a. of this Article, the Government, at the request of the Non-Federal Sponsor, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the Non-Federal Sponsor, may approve in writing an amount greater than the amount determined pursuant to paragraph C.2.a. of this Article, but not to exceed the amount actually paid or proposed to be paid. If the Government approves such an amount, the fair market value shall be the lesser of the approved amount or the amount paid by the Non-Federal Sponsor, but no less than the amount determined pursuant to paragraph C.2.a. of this Article.

3. Eminent Domain Valuation Procedure. For lands, easements, or rights-of-way acquired by eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor, prior to instituting such proceedings, shall submit to the Government notification in writing of its intent to institute such proceedings and an appraisal of the specific real property interests to be acquired in such proceedings. The Government shall have 60 calendar days after receipt of such a notice and appraisal within which to review the appraisal, if not previously approved by the Government in writing.

a. If the Government previously has approved the appraisal in writing, or if the Government provides written approval of, or takes no action on, the appraisal within such 60 day period, the Non-Federal Sponsor shall use the amount set forth in such appraisal as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

b. If the Government provides written disapproval of the appraisal, including the reasons for disapproval, within such 60 day period, the Government and the Non-Federal Sponsor shall consult in good faith to promptly resolve the issues or areas of disagreement that are identified in the Government's written disapproval. If, after such good faith consultation, the Government and the Non-Federal Sponsor agree as to an appropriate amount, then the Non-Federal Sponsor shall use that amount as the estimate of just compensation for the purpose of instituting the eminent domain proceeding. If, after such good faith consultation, the Government and the Non-Federal Sponsor cannot agree as to an appropriate amount, then the Non-Federal Sponsor may use the amount set forth in its appraisal as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

c. For lands, easements, or rights-of-way acquired by eminent domain

proceedings instituted in accordance with paragraph C.3. of this Article, fair market value shall be either the amount of the court award for the real property interests taken, to the extent the Government determined such interests are required for *periodic nourishment*, operation, and maintenance of the *Project*, or the amount of any stipulated settlement or portion thereof that the Government approves in writing.

4. Incidental Costs. For lands, easements, or rights-of-way acquired by the Non-Federal Sponsor within a five year period preceding the effective date of this Agreement, or at any time after the effective date of this Agreement, the value of the interest shall include the documented incidental costs of acquiring the interest, as determined by the Government, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs. In the event the Government modifies its determination made pursuant to Article III.A. of this Agreement, the Government shall afford credit for the documented incidental costs associated with preparing to acquire lands, easements, or rights-of-way identified in the original determination, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs. Such incidental costs shall include, but not necessarily be limited to, closing and title costs, appraisal costs, survey costs, attorney's fees, plat maps, mapping costs, actual amounts expended for payment of any relocation assistance benefits provided in accordance with Article III.D. of this Agreement, and other payments by the Non-Federal Sponsor for items that are generally recognized as compensable, and required to be paid, by applicable state law due to the acquisition of a real property interest in accordance with Article III of this Agreement. The value of the interests provided by the Non-Federal Sponsor in accordance with Article III.A. of the Agreeement shall also include the documented costs of obtaining appraisals pursuant to paragraph C.2. of this Article, as determined by the Government, and subject to an audit in accordance with Article X.C. of the Agreement to determine reasonableness, allocability, and allowability of such costs.

5. Waiver of Appraisal. Except as required by paragraph C.3. of the Article, the Government may waive the requirement for an appraisal pursuant to this paragraph if it determines that an appraisal is unnecessary because the valuation is uncomplicated and that the estimated fair market value of the real property interest is $10,000 or less based upon a review of available data. In such event, the Government and the Non-Federal Sponsor must agree in writing to the value of such real property interest in an amount not in excess of $10,000.

D. After consultation with the Non-Federal Sponsor, the Government shall determine the value of *relocations* in accordance with the provisions of this paragraph.

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

2. For a *relocation* of a *highway*, the value shall be only that portion of *relocation* costs that would be necessary to accomplish the *relocation* in accordance with the design standard that the State of Florida would apply under similar conditions of geography and traffic load, reduced by the salvage value of any removed items.

3. *Relocation* costs shall include, but not necessarily be limited to, actual costs of

performing the *relocation*; planning, engineering and design costs; supervision and administration costs; and documented incidental costs associated with performance of the *relocation*, as determined by the Government. *Relocation* costs shall not include any costs due to *betterments*, as determined by the Government, nor any additional cost of using new material when suitable used material is available. *Relocation* costs shall be subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs.

E. The value of the improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material shall be the costs of the improvements, as determined by the Government, subject to an audit in accordance with Article X.C of the Agreement to determine reasonableness, allocability, and allowability of such costs. Such costs shall include, but not necessarily be limited to, actual costs of providing the improvements; planning, engineering and design costs; supervision and administration costs; and documented incidental costs associated with providing the improvements, but shall not include any costs due to *betterments*, as determined by the Government.

F. Any credit afforded or reimbursement provided under the terms of this Agreement for the value of *relocations*, or improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material, performed within the *Project* boundaries is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)). Notwithstanding any other provision of this Agreement, credit or reimbursement may be withheld, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

G. Where the Government, on behalf of the Non-Federal Sponsor pursuant to Article II.H. of this Agreement, acquires lands, easements, or rights-of-way, performs *relocations*, or constructs improvements required on lands, easements, or rights-of-way to enable the disposal of dredged or excavated material, the value to be included in *total project costs* and the amount of credit to be afforded or the amount of reimbursement provided in accordance with this Agreement shall be the costs of such work performed or provided by the Government that are paid by the Non-Federal Sponsor in accordance with Article VI.D. of this Agreement. In addition, the value to be included in *total project costs* and the amount of such credit to be afforded or the amount of reimbursement provided in accordance with this Agreement shall include the documented costs incurred by the Non-Federal Sponsor in accordance with the terms and conditions agreed upon in writing pursuant to Article II.H. of this Agreement subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, allowability of such costs.

ARTICLE V - PROJECT COORDINATION TEAM

A. To provide for consistent and effective communication, the Non-Federal Sponsor and the Government, not later than 30 days after the effective date of this Agreement, shall appoint named senior representatives to a Project Coordination Team. Thereafter, the

Project Coordination Team shall meet regularly during each iteration of *periodic nourishment*. The Government's Project Manager and a counterpart named by the Non-Federal Sponsor shall co-chair the Project Coordination Team.

B. The Government's Project Manager and the Non-Federal Sponsor's counterpart shall keep the Project Coordination Team informed of the progress of construction and of significant pending issues and actions, and shall seek the views of the Project Coordination Team on matters that the Project Coordination Team generally oversees.

C. During each iteration of *periodic nourishment*, the Project Coordination Team shall generally oversee the *Project*, including matters related to plans and specifications; scheduling; real property and *relocation* requirements; real property acquisition; contract awards and modifications; contract costs; the application of and compliance with 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)) for *relocations* and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material; the investigations to identify the existence and extent of hazardous substances in accordance with Article XIV.A. of this Agreement; historic preservation activities in accordance with Article XVII of this Agreement; the Government's cost projections; final inspection of each iteration of *periodic nourishment* or functional portion thereof; anticipated requirements and needed capabilities for performance of operation, maintenance, repair, rehabilitation, and replacement of the *Project*, including issuance of permits; and other matters related to the *Project*. This oversight of the *Project* shall be consistent with a project management plan developed by the Government after consultation with the Non-Federal Sponsor.

D. The Project Coordination Team may make recommendations to the District Engineer on matters related to the *Project* that the Project Coordination Team generally oversees, including suggestions to avoid potential sources of dispute. The Government in good faith shall consider the recommendations of the Project Coordination Team. The Government, having the legal authority and responsibility for construction of the *Project*, has the discretion to accept, reject, or modify, in whole or in part, the Project Coordination Team's recommendations.

E. The Non-Federal Sponsor's costs of participation in the Project Coordination Team shall be included in *total project costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs. The Government's costs of participation in the Project Coordination Team shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

ARTICLE VI - METHOD OF PAYMENT

A. In accordance with the provisions of this paragraph, the Government shall maintain current records and provide to the Non-Federal Sponsor current projections of costs, financial obligations, contributions provided by the parties, and the value included in *total project costs* for the value of lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or

excavated material determined in accordance with Article IV of this Agreement.

1. As of the effective date of this Agreement, *total project costs* are projected to be $16,445,877; the Non-Federal Sponsor's contribution under Article V, Article X, and Article XIV.A. of this Agreement is projected to be $150,000; the Non-Federal Sponsor's contribution of funds required by Article II.C.2. of this Agreement is projected to be $7,036,848; the *non-Federal proportionate share* is projected to be 43.7 percent; the Non-Federal Sponsor's contribution of funds required by Article XVII.B.3. of this Agreement is projected to be $0; the value included in *total project costs* for the value of lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material determined in accordance with Article IV of this Agreement is projected to be $0; and the Government's total financial obligations for the additional work to be incurred and the Non-Federal Sponsor's contribution of funds for such costs required by Article II.H. of this Agreement are projected to be $0. These amounts and percentage are estimates subject to adjustment by the Government, after consultation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

2. By October 1, 2013, and by each quarterly anniversary thereafter during each iteration of *periodic nourishment*, the Government shall provide the Non-Federal Sponsor with a report setting forth all contributions provided to date and the current projections of the following: *total project costs*; the Non-Federal Sponsor's contribution under Article V, Article X, and Article XIV.A. of this Agreement; the Non-Federal Sponsor's total contribution of funds required by Article II.C.2. of this Agreement; the *non-Federal proportionate share*; the Non-Federal Sponsor's total contribution of funds required by Article XVII.B.3. of this Agreement; the total contribution of funds required from the Non-Federal Sponsor for the upcoming *fiscal year*; the value included in *total project costs* for the value of lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material determined in accordance with Article IV of this Agreement; and the Government's total financial obligations for additional work incurred and the Non-Federal Sponsor's contribution of funds for such costs required by Article II.H. of this Agreement.

B. The Non-Federal Sponsor shall provide the contribution of funds required by Article II.C.2. and Article XVII.B.3. of this Agreement in accordance with the provisions of this paragraph.

1. Not less than 5 calendar days after the effective date of this Agreement , the Government shall notify the Non-Federal Sponsor in writing of the funds the Government determines to be required from the Non-Federal Sponsor to meet: (a) the *non-Federal proportionate share* of *financial obligations for periodic nourishment* incurred prior to the effective date of this Agreement; (b) the projected *non-Federal proportionate share* of *financial obligations for periodic nourishment* to be incurred in the first *fiscal year*; or, if use of a continuing contract has been approved pursuant to Federal laws, regulations, and policies, the projected *non-Federal proportionate share* of *financial obligations for periodic nourishment* through the first *fiscal year*; and (c) the Non-Federal Sponsor's share of the projected financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement to be incurred in the first *fiscal year*; or, if use of a continuing contract has been approved pursuant to Federal laws, regulations, and policies, the Non-Federal Sponsor's share of the projected financial

obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement through the first *fiscal year*. Within 30 calendar days of receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such required funds by delivering a check payable to "FAO, USAED, Jacksonville" to the District Engineer, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non- Federal Sponsor, or by presenting the Government with an irrevocable letter of credit acceptable to the Government for such required funds, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

2. Thereafter, until the end of the *authorized periodic nourishment period*, the Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the beginning of each *fiscal year* in which the Government projects that it will make *financial obligations for periodic nourishment* of the *Project* or financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement, of the funds the Government determines to be required from the Non-Federal Sponsor to meet: (a) the projected *non-Federal proportionate share* of *financial obligations for periodic nourishment* to be incurred in that *fiscal year*; or, if use of a continuing contract has been approved pursuant to Federal laws, regulations, and policies, the projected *non-Federal proportionate share* of *financial obligations for periodic nourishment* for that *fiscal year*; and (b) the Non-Federal Sponsor's share of the projected financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement to be incurred in that *fiscal year*; or, if use of a continuing contract has been approved pursuant to Federal laws, regulations, and policies, the Non-Federal Sponsor's share of the projected financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement for that *fiscal year*. No later than 30 calendar days prior to the beginning of that *fiscal year*, the Non-Federal Sponsor shall make the full amount of such required funds for that *fiscal year* available to the Government through any of the payment mechanisms specified in paragraph B.1. of this Article.

3. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary to cover: (a) the *non-Federal proportionate share* of *financial obligations for periodic nourishment* as *financial obligations for periodic nourishment* are incurred; and (b) the Non-Federal Sponsor's share of financial obligations for data recovery activities associated with historic preservation pursuant to Article XVII.B.3. of this Agreement as those financial obligations are incurred. If at any time during the authorized *periodic nourishment* period the Government determines that additional funds will be needed from the Non-Federal Sponsor to cover the *non-Federal proportionate share* of projected *financial obligations for periodic nourishment* for the current *fiscal year*, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. Within 60 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B.1. of this Article.

C. Upon conclusion of each iteration of *periodic nourishment* and resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall conduct a final accounting for such iteration of *periodic nourishment* and furnish the Non-Federal

Sponsor with written notice of the results of such final accounting. If outstanding relevant claims and appeals or eminent domain proceedings prevent a final accounting for such iteration of *periodic nourishment* from being conducted in a timely manner, the Government shall conduct an interim accounting and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals and eminent domain proceedings are resolved, the Government shall amend the interim accounting for such iteration of *periodic nourishment* to complete the final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. The interim or final accounting, as applicable, for such iteration of *periodic nourishment* shall determine *total project costs* for that iteration of *periodic nourishment* and the costs of any data recovery activities associated with historic preservation for that iteration of *periodic nourishment*. In addition, for each set of costs, the interim or final accounting, as applicable, shall determine each party's required share thereof, and each party's total contributions thereto as of the date of such accounting.

1. Should the interim or final accounting, as applicable, for such iteration of *periodic nourishment* show that the Non-Federal Sponsor's total required shares of *total project costs* for that iteration of *periodic nourishment* and the costs of any data recovery activities associated with historic preservation for that iteration of *periodic nourishment* exceed the Non-Federal Sponsor's total contributions provided thereto, the Non-Federal Sponsor, no later than 90 calendar days after receipt of written notice from the Government, shall make a payment to the Government in an amount equal to the difference by delivering a check payable to "FAO, USAED, Jacksonville" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government.

2. Should the final accounting for such iteration of *periodic nourishment* show that the total contributions provided by the Non-Federal Sponsor for *total project costs* for that iteration of *periodic nourishment* and the costs of any data recovery activities associated with historic preservation for that iteration of *periodic nourishment* exceed the Non-Federal Sponsor's total required shares thereof, the Government, subject to the availability of funds, shall refund or reimburse the excess amount to the Non-Federal Sponsor within 90 calendar days of the date of completion of such accounting. In the event the Non-Federal Sponsor is due a refund or reimbursement and funds are not available to refund or reimburse the excess amount to the Non-Federal Sponsor, the Government shall seek such appropriations as are necessary to make the refund or reimbursement.

D. The Non-Federal Sponsor shall provide the contribution of funds required by Article II.H. of this Agreement for additional work in accordance with the provisions of this paragraph.

1. Not less than 60 calendar days prior to the scheduled date for the first financial obligation for additional work, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and of the full amount of funds the Government determines to be required from the Non-Federal Sponsor to cover the costs of the additional work. No later than 30 calendar days prior to the Government incurring any financial obligation for additional work, the Non-Federal Sponsor shall provide the Government with the full amount of the funds required to cover the costs of such additional work through any of the payment mechanisms specified in paragraph B.1. of this Article.

2. The Government shall draw from the funds provided by the Non-Federal

Sponsor such sums as the Government deems necessary to cover the Government's financial obligations for such additional work as they are incurred. If at any time the Government determines that the Non-Federal Sponsor must provide additional funds to pay for such additional work, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. Within 30 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B.1. of this Article.

3. At the time the Government conducts the interim or final accounting, as applicable, for each iteration of *periodic nourishment*, the Government shall conduct an accounting of the Government's financial obligations for additional work incurred during the applicable period and furnish the Non-Federal Sponsor with written notice of the results of such accounting. If outstanding relevant claims and appeals or eminent domain proceedings prevent a final accounting of additional work performed or provided during the applicable period from being conducted in a timely manner, the Government shall conduct an interim accounting of additional work performed or provided during the applicable period and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals and eminent domain proceedings are resolved, the Government shall amend the interim accounting of additional work performed or provided during the applicable period to complete the final accounting of additional work performed or provided during the applicable period and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. Such interim or final accounting, as applicable, shall determine the Government's total financial obligations for additional work incurred during the applicable period and the Non-Federal Sponsor's contribution of funds provided thereto as of the date of such accounting.

a. Should the interim or final accounting, as applicable, show that the total obligations for additional work incurred during the applicable period exceed the total contribution of funds provided by the Non-Federal Sponsor for such additional work, the Non-Federal Sponsor, no later than 90 calendar days after receipt of written notice from the Government, shall make a payment to the Government in an amount equal to the difference by delivering a check payable to "FAO, USAED, Jacksonville" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government.

b. Should the final accounting show that the total contribution of funds provided by the Non-Federal Sponsor for additional work performed or provided during the applicable period exceeds the total obligations for such additional work, the Government, subject to the availability of funds, shall refund the excess amount to the Non-Federal Sponsor within 90 calendar days of the date of completion of such accounting. In the event the Non-Federal Sponsor is due a refund and funds are not available to refund the excess amount to the Non-Federal Sponsor, the Government shall seek such appropriations as are necessary to make the refund.

ARTICLE VII - DISPUTE RESOLUTION

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

ARTICLE VIII – OPERATION, MAINTENANCE, REPAIR, REHABILITATION, AND REPLACEMENT (OMRR&R)

A. Upon receipt of the notification from the District Engineer in accordance with Article II.D. of this Agreement and for so long as the *Project* remains authorized, the Non-Federal Sponsor, pursuant to Article II.E. of this Agreement, shall operate, maintain, repair, rehabilitate, and replace each iteration of *periodic nourishment*, or *functional portion of an iteration of periodic nourishment*, as applicable, at no cost to the Government. The Non-Federal Sponsor shall conduct its operation, maintenance, repair, rehabilitation, and replacement responsibilities in a manner compatible with the *Project's* authorized purposes and in accordance with applicable Federal and State laws as provided in Article XI of this Agreement and specific directions prescribed by the Government in the OMRR&R Manual and any subsequent amendments thereto.

1. At least annually and after storm events, the Non-Federal Sponsor shall perform surveillance of the beach, at no cost to the Government, to determine losses of nourishment material from the *Project* design section and advance nourishment section and provide the results of such surveillance to the Government.

2. The Non-Federal Sponsor shall grade and reshape the beach profile using material within the *Project* area and maintain other *Project* features associated with the beach.

B. The Non-Federal Sponsor hereby gives the Government a right to enter, at reasonable times and in a reasonable manner, upon property that the Non-Federal Sponsor now or hereafter owns or controls for access to the *Project* for the purpose of inspection and, if necessary, for the purpose of completing, operating, maintaining, repairing, rehabilitating, or replacing the *Project*. If an inspection shows that the Non-Federal Sponsor for any reason is failing to perform its obligations under this Agreement, the Government shall send a written notice describing the non-performance to the Non-Federal Sponsor. If, after 30 calendar days from receipt of such written notice by the Government, the Non-Federal Sponsor continues to fail to perform, then the Government shall have the right to enter, at reasonable times and in a reasonable manner, upon property that the Non-Federal Sponsor now or hereafter owns or controls for the purpose of completing, operating, maintaining, repairing, rehabilitating, or replacing the *Project*. No completion, operation, maintenance, repair, rehabilitation, or replacement by the Government shall relieve the Non-Federal

Sponsor of responsibility to meet the Non-Federal Sponsor's obligations as set forth in this Agreement, or to preclude the Government from pursuing any other remedy at law or equity to ensure faithful performance pursuant to this Agreement.

ARTICLE IX – HOLD AND SAVE

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

ARTICLE X - MAINTENANCE OF RECORDS AND AUDIT

A. Not later than 60 calendar days after the effective date of this Agreement, the Government and the Non-Federal Sponsor shall develop procedures for keeping books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to this Agreement. These procedures shall incorporate, and apply as appropriate, the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 C.F.R. Section 33.20. The Government and the Non-Federal Sponsor shall maintain such books, records, documents, or other evidence in accordance with these procedures and for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence were required. To the extent permitted under applicable Federal laws and regulations, the Government and the Non-Federal Sponsor shall each allow the other to inspect such books, records, documents, or other evidence.

B. In accordance with 32 C.F.R. Section 33.26, the Non-Federal Sponsor is responsible for complying with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as implemented by Office of Management and Budget (OMB) Circular No. A-133 and Department of Defense Directive 7600.10. Upon request of the Non-Federal Sponsor and to the extent permitted under applicable Federal laws and regulations, the Government shall provide to the Non-Federal Sponsor and independent auditors any information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of any non-Federal audits performed in accordance with this paragraph shall be allocated in accordance with the provisions of OMB Circulars A-87 and A-133, and such costs as are allocated to the *Project* shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

C. In accordance with 31 U.S.C. Section 7503, the Government may conduct audits in addition to any audit that the Non-Federal Sponsor is required to conduct under the Single Audit Act Amendments of 1996. Any such Government audits shall be conducted in accordance with Government Auditing Standards and the cost principles in OMB Circular No. A-87 and other applicable cost principles and regulations. The costs of Government audits performed in accordance with this paragraph shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

ARTICLE XI - FEDERAL AND STATE LAWS

In the exercise of their respective rights and obligations under this Agreement, the Non-Federal Sponsor and the Government shall comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)).

ARTICLE XII - RELATIONSHIP OF PARTIES

A. In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

B. In the exercise of its rights and obligations under this Agreement, neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights the other party may have to seek relief or redress against that contractor either pursuant to any cause of action that the other party may have or for violation of any law.

ARTICLE XIII - TERMINATION OR SUSPENSION

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

B. In the event the Government projects that the amount of Federal funds the Government will make available to the *Project* through the then-current *fiscal year*, or the amount of Federal funds the Government will make available for the *Project* through the upcoming *fiscal year*, is not sufficient to meet the Federal share of *total project costs* and the Federal share of costs for data recovery activities in accordance with Article XVII.B.2. and Article XVII.B.3. of this Agreement that the Government projects to be incurred through the then-current or upcoming *fiscal year*, as applicable, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the Government projects that the Federal funds that will have been made available to the *Project* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Project*, future performance under this Agreement shall be suspended. Such suspension shall remain in effect until such time that the Government notifies the Non-Federal Sponsor in writing that sufficient

Federal funds are available to meet the Federal share of *total project costs* and the Federal share of costs for data recovery activities in accordance with Article XVII.B.2. and Article XVII.B.3. of this Agreement the Government projects to be incurred through the then-current or upcoming *fiscal year*, or the Government or the Non-Federal Sponsor elects to terminate this Agreement.

C. In the event that the Government and the Non-Federal Sponsor determine to suspend future performance under this Agreement in accordance with Article XIV.C. of this Agreement, such suspension shall remain in effect until the Government and the Non-Federal Sponsor agree to proceed or to terminate this Agreement. In the event that the Government suspends future performance under this Agreement in accordance with Article XIV.C. of this Agreement due to failure to reach agreement with the Non-Federal Sponsor on whether to proceed or to terminate this Agreement, or the failure of the Non-Federal Sponsor to provide funds to pay for cleanup and response costs or to otherwise discharge the Non-Federal Sponsor's responsibilities under Article XIV.C. of this Agreement, such suspension shall remain in effect until: 1) the Government and Non-Federal Sponsor reach agreement on how to proceed or to terminate this Agreement; 2) the Non-Federal Sponsor provides funds necessary to pay for cleanup and response costs and otherwise discharges its responsibilities under Article XIV.C. of this Agreement; 3) the Government continues work on the *Project*; or 4) the Government terminates this Agreement in accordance with the provisions of Article XIV.C. of this Agreement.

D. In the event that this Agreement is terminated pursuant to this Article or Article XIV.C. of this Agreement, both parties shall conclude their activities relating to the *Project* and conduct an accounting in accordance with Article VI.C. of this Agreement. To provide for this eventuality, the Government may reserve a percentage of total Federal funds made available for the *Project* and an equal percentage of the total funds contributed by the Non-Federal Sponsor in accordance with Article II.C.2. and Article XVII.B.3. of this Agreement as a contingency to pay costs of termination, including any costs of resolution of contract claims and contract modifications.

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

ARTICLE XIV - HAZARDOUS SUBSTANCES

A. After execution of this Agreement and upon direction by the District Engineer, the Non-Federal Sponsor shall perform, or ensure performance of, any investigations for hazardous substances that the Government or the Non-Federal Sponsor determines to be necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA", 42 U.S.C. Sections 9601 – 9675), that may exist in, on, or under lands, easements, and rights-of-way that the Government determines, pursuant to Article III of this Agreement, to be required for *periodic nourishment*, operation, and maintenance of the *Project*. However, for lands, easements, and rights-of-way that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigations

unless the District Engineer provides the Non-Federal Sponsor with prior specific written direction, in which case the Non-Federal Sponsor shall perform such investigations in accordance with such written direction.

1. All actual costs incurred by the Non-Federal Sponsor for such investigations for hazardous substances shall be included in *total project costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs.

2. All actual costs incurred by the Government for such investigations for hazardous substances shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

B. In the event it is discovered through any investigation for hazardous substances or other means that hazardous substances regulated under CERCLA exist in, on, or under any lands, easements, or rights-of-way that the Government determines, pursuant to Article III of this Agreement, to be required for *periodic nourishment*, operation, and maintenance of the *Project*, the Non-Federal Sponsor and the Government, in addition to providing any other notice required by applicable law, shall provide prompt written notice to each other, and the Non-Federal Sponsor shall not proceed with the acquisition of the real property interests until the parties agree that the Non-Federal Sponsor should proceed.

C. The Government and the Non-Federal Sponsor shall determine whether to initiate *periodic nourishment* of the *Project*, or, if already in an iteration of *periodic nourishment*, whether to continue with work on the *Project*, suspend future performance under this Agreement, or terminate this Agreement for the convenience of the Government, in any case where hazardous substances regulated under CERCLA are found to exist in, on, or under any lands, easements, or rights-of-way that the Government determines, pursuant to Article III of this Agreement, to be required for *periodic nourishment*, operation, and maintenance of the *Project*. Should the Government and the Non-Federal Sponsor determine to initiate or continue with *periodic nourishment* after considering any liability that may arise under CERCLA, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for the costs of cleanup and response, including the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall not be considered a part of *total project costs*. In the event the Non-Federal Sponsor does not reach agreement with the Government on whether to proceed or to terminate this Agreement under this paragraph, or fails to provide any funds necessary to pay for cleanup and response costs or to otherwise discharge the Non-Federal Sponsor's responsibilities under this paragraph upon direction by the Government, the Government, in its sole discretion, may either terminate this Agreement for the convenience of the Government, suspend future performance under this Agreement, or continue work on the *Project*.

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

E. As between the Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the operator of the *Project* for purposes of CERCLA liability. To

the maximum extent practicable, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the *Project* in a manner that will not cause liability to arise under CERCLA.

ARTICLE XV - NOTICES

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

If to the Non-Federal Sponsor:

Chairman
Board of County Commissioners of Palm Beach County, Florida
301 North Olive Avenue
West Palm Beach, Florida 33401

Director
Palm Beach County Environmental Resources Management
2300 North Jog Road
West Palm Beach, Florida 33411

Palm Beach County Attorney's Office
Environmental Resources Management Attorney
301 N. Olive Avenue, 6th Floor
West Palm Beach, Florida 33401

If to the Government:

District Engineer
Jacksonville District
U.S. Army Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

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

C. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed or transmitted.

ARTICLE XVI - CONFIDENTIALITY

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

ARTICLE XVII - HISTORIC PRESERVATION

A. The Government, as it determines necessary for the *Project*, shall perform any identification, survey, or evaluation of historic properties. Any costs incurred by the Government for such work shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

B. The Government, as it determines necessary for the *Project*, shall perform or ensure the performance of any mitigation activities or actions for historic properties or that are otherwise associated with historic preservation including data recovery activities.

1. Any costs incurred by the Government for such mitigation activities, except for data recovery activities associated with historic preservation, shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

2. As specified in Section 7(a) of Public Law 86-523, as amended by Public Law 93-291 (16 U.S.C. 469c(a)), the costs of data recovery activities associated with historic preservation shall be borne entirely by the Government and shall not be included in *total project costs*, up to the statutory limit of one percent of the total amount authorized to be appropriated to the Government for the initial fill and *periodic nourishment* of the *Project*. Any costs incurred for data recovery activities under the 1973 Agreement or the 1992 Agreement shall be included in the determination of the amount of data recovery activities to be incurred by the Government under this paragraph.

3. The Government shall not incur costs for data recovery activities associated with historic preservation that exceed the statutory one percent limit specified in paragraph B.2. of this Article unless and until the Assistant Secretary of the Army (Civil Works) has waived that limit and the Secretary of the Interior has concurred in the waiver in accordance with Section 208(3) of Public Law 96-515, as amended (16 U.S.C. 469c-2(3)). Any costs of data recovery activities associated with historic preservation that exceed the one percent limit shall not be included in *total project costs* but shall be shared between the Non-Federal Sponsor and the Government consistent with the cost sharing in accordance with the provisions of this Agreement. Further, any costs of archeological data recovery activities on lands not subject to Federal cost sharing (undeveloped private lands and privately owned shores that do not provide public benefits) that exceed the one percent limit shall not be included in *total project costs* but shall be paid by the Non-Federal Sponsor.

C. If, during its performance of *relocations* or construction of improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material in accordance with Article III of this Agreement, the Non-Federal Sponsor discovers historic properties or other cultural resources that have not been evaluated by the Government pursuant to this Article, the Non-Federal Sponsor shall provide prompt written notice to the Government of such discovery. The Non-Federal Sponsor shall not proceed with performance of the *relocation* or construction of the improvement that is related to such discovery until the Government provides written notice to the Non-Federal Sponsor that it should proceed with such work.

ARTICLE XVIII - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

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

ARTICLE XIX - NON-LIABILITY OF OFFICERS AND EMPLOYEES

No officer, agent, consultant, or employee of the Non-Federal Sponsor, nor any officer, agent, consultant, or employee of the Government, may be charged personally, or held liable, under the terms or provisions of this Agreement because of any breach, attempted breach, or alleged breach thereof, except as provided in Section 912(b) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (42 U.S.C. 1962d-5b note), or other applicable law.

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

R2013 1733 DEC 03 2013

THE DEPARTMENT OF THE ARMY

BY: _____
Alan M. Dodd
Colonel, U.S. Army
District Engineer

DATE: 8/27/2013

PALM BEACH COUNTY, FLORIDA

BY: _____
Steven L. Abrams
Chair
Board of County Commissioners

DATE: 8-26-13

Sharon R. Bock, Clerk & Comptroller
Palm Beach County
By _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS PALM BEACH COUNTY FLORIDA

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY _____
County Attorney

CERTIFICATE OF AUTHORITY

I, Denise M. Neiman, do hereby certify that I am the principal legal officer of Palm Beach County, Florida, and that Palm Beach County, Florida, acting by and through its Board of County Commissioners, is a legally constituted public body with full authority and legal capability to perform the terms of the Project Partnership Agreement between the Department of the Army and Palm Beach County, Florida for the Remaining Periodic Nourishment of the Delray Beach Segment of the Palm Beach County, Florida Shore Protection Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement, as required by Section 221 of Public Law 91-611 (42 U.S.C. Section 1962d-5b), and that the person who has executed this Agreement on behalf of Palm Beach County, Florida has acted within his statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this 26th day of August of 2013.

Denise M. Neiman
County Attorney
Palm Beach County, Florida

DATE: 8.26.13

CERTIFICATION REGARDING LOBBYING

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

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

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

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

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

Steven L. Abrams
Chair
Palm Beach County Board of County Commissioners

DATE: 8-26-13

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk & Comptroller of said County
this to be a true and correct copy of the original
filed in my office on DEC 03 2013
dated at West Palm Beach, FL this 29th day of August
By: Deputy Clerk