

AMENDMENT NUMBER 1
TO THE
PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
LEE COUNTY, FLORIDA
FOR PERIODIC NOURISHMENT OF THE
GASPARILLA ISLAND SEGMENT
OF THE
LEE COUNTY, FLORIDA
SHORE PROTECTION PROJECT

This Amendment Number 1 is entered into this 1ST day of JUNE, 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 Lee County, Florida (hereinafter the "Non-Federal Sponsor"), represented by the Chairman of its Board of County Commissioners.

WITNESSETH, THAT:

WHEREAS, on July 8, 2013, the Government and the Non-Federal Sponsor entered into a Project Partnership Agreement (hereinafter the "Agreement") to provide for periodic nourishment of the Gasparilla Island Segment of the Authorized Project (hereinafter the "*Project*", as defined in Article I.A. of the Agreement);

WHEREAS, the Gasparilla Island Segment of the Lee County, Florida Shore Protection Project was initially constructed in 2006, and the authorized periodic nourishment period expired in 2016;

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(a)) authorized the Secretary of the Army to provide periodic beach nourishment for such additional period as he determines necessary but in no event shall such additional period extend beyond the fiftieth year, which begins after the date of initiation of construction of such project;

WHEREAS, on July 17, 2019, the Assistant Secretary of the Army for Civil Works approved the Lee County, Florida Shore Protection Project Gasparilla Island Segment Final

Integrated Section 934 Report and Environmental Assessment, dated May 2018, which extended Federal participation in *periodic nourishment* of the *Project* to 2056; and

WHEREAS, the Government and the Non-Federal Sponsor desire to amend the Agreement to extend Federal participation in *periodic nourishment* to 2056.

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 sixth WHEREAS clause the following:

“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(a)) authorized the Secretary of the Army to provide periodic beach nourishment for such additional period as he determines necessary but in no event shall such additional period extend beyond the fiftieth year, which begins after the date of initiation of construction of such project;

WHEREAS, on July 17, 2019, the Assistant Secretary of the Army for Civil Works approved the Lee County, Florida Shore Protection Project Gasparilla Island Segment Final Integrated Section 934 Report and Environmental Assessment, dated May 2018, which extended Federal participation in *periodic nourishment* of the *Project* to 2056;”

3. Replace Article I.A. with the following:

“A. The term “*Project*” shall mean the Gasparilla Island Segment of the Authorized Project consisting of 2.8 miles of shoreline and spanning Florida Department of Environmental Protection reference monuments R10 (R11 plus a 1,200 foot long north extending taper) and R24.5 (R24 plus a 600 foot long south extending taper) with a 20-foot berm extending from the project baseline at +5 feet MLW (or approximately +3.8 feet North American Vertical Datum of 1988) and an advance/sacrificial berm, as generally described in the Lee County, Florida Shore Protection Project (Gasparilla and Estero Islands) General Reevaluation Report with Environmental Impact Statement, dated January 2000, revised July 2001, and Addendum thereto dated April 2002, revised November 2002, and approved by the Assistant Secretary of the Army (Civil Works) on March 31, 2004, as updated by the “Addendum to the January 2000 Lee County, Florida Shore Protection Project General Reevaluation Report (Gasparilla Island segment),” approved by the Chief of the Planning Division for Jacksonville District on April 14, 2008, and optimized in the Lee County, Florida Shore Protection Project Gasparilla Island Segment Final Integrated Section 934 Report

and Environmental Assessment, dated May 2018 and approved by the Assistant Secretary of the Army (Civil Works) on July 17, 2019.”

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

“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 2006 Agreement, as generally described in the Lee County, Florida Shore Protection Project (Gasparilla and Estero Islands) General Reevaluation Report with Environmental Impact Statement and Addenda thereto, and optimized in the Lee County, Florida Shore Protection Project Gasparilla Island Segment Final Integrated Section 934 Report and Environmental Assessment, referenced in paragraph A. of this Article.”

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 50 years from 2006, the date of initiation of construction of the *Project*.”

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

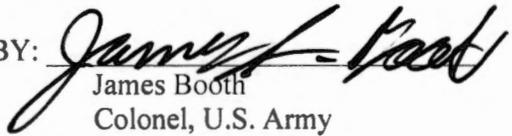
“1. As of the effective date of Amendment Number 1 to this Agreement, *total project costs* are projected to be \$41,011,000; the Non-Federal Sponsor’s contribution under Article V, Article X, and Article XIV.A. of this Agreement is projected to be \$40,000; the Non-Federal Sponsor’s contribution of funds required by Article II.C.2. of this Agreement is projected to be \$14,223,000; 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 \$875,000; 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 \$100,000. 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.”

7. 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.

DEPARTMENT OF THE ARMY

LEE COUNTY, FLORIDA

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

BY: 
Cecil Pendergrass
Chairman
Board of County Commissioners

DATE: 1 JUN 22

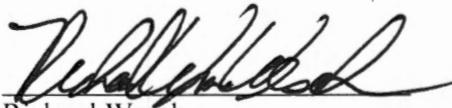
DATE: 5-20-22

CERTIFICATE OF AUTHORITY

I, Richard Wesch, do hereby certify that I am the principal legal officer for the Lee County, Florida, that the Lee 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 the Lee County, Florida in connection with the Gasparilla Island Segment of the Lee 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 Lee County, Florida acted within his statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this

23 day of May 2022.



Richard Wesch
County Attorney

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.



Cecil Pendergrass
Chairman
Lee County
Board of County Commissioners

DATE: 5 / 19 / 02



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY

JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P. O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

Instructions for Non-Federal Sponsor Agreement Execution:

The Non-Federal Sponsor should execute **four** originals.

- (1) Do not date the first page of the agreement. The date will be filled in upon execution by the U.S. Army Corps of Engineers.
- (2) The representative of the Non-Federal Sponsor identified in the agreement should execute and date the signature page of all four copies of the agreement and all four copies of the Certification Regarding Lobbying.
- (3) The principal legal officer of the Non-Federal Sponsor should execute and date all four copies of the Certificate of Authority **after** execution of the agreement by Non-Federal Sponsor.
- (4) All four copies of the agreement, Certification Regarding Lobbying and Certificate of Authority should be returned to the U.S. Army Corps of Engineers for execution. Upon execution, the date will be filled in on the first page, and two originals will be sent to the Non-Federal Sponsor.
- (5) FAILURE TO EXECUTE IN THIS MANNER COULD RESULT IN PROJECT DELAYS IF AGREEMENTS HAVE TO BE PROPERLY RE-EXECUTED.
- (6) If you have any questions, please contact Carolyn DeVita Tooley at 904-232-1172.

**ALL ORIGINALS TO BE EXPEDITED BACK TO THE ARMY FOR EXECUTION
STEVE BOUTELLE, NATURAL RESOURCES TO COORDINATE DELIVERY**

The attached document has been approved by the Board of County Commissioners. Please review the instructions below and forward to the appropriate office when complete.

| | |
|---------------------------|---------------------------------------------------------------------|
| Meeting Date: | 05/17/2022 |
| Agenda Item #: | C10 |
| Agenda Item Title: | Approve Amendment to Gasparilla Island Beach Nourishment Agreement |
| Attachment(s): | (4) Amendment No. 1 – Gasparilla Island Beach Nourishment Agreement |

| Department | Instructions |
|------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| County Attorney | <p>Please review the attached document(s) at the BLUE sticker. If you have any questions concerning the document(s), contact the originating department. <i>R. Wesch ✓</i></p> <p>After completion, forward to the CHAIR/VICE CHAIR for signature. <i>reviewed</i></p> |
| Chair/Vice Chair | <p>Sign the attached document(s) at the RED sticker.</p> <p>After completion, forward to the MINUTES OFFICE for execution.</p> |
| Minutes Office <i>At</i> <i>5/20/22</i> | <p>Execute the attached document(s).</p> <p>After document(s) are completely executed, return the remaining originals to Laurel Chick, County Administration for distribution.</p> |

Date out from Administration: 05/17/22

Return to Dept. Novus

Attached are instructions for Non-Federal Sponsor Agreement Execution

2022 MAY 17 AM 10:35
 RECEIVED BY
 LEE CO. ATTORNEY

2022 MAY 20 AM 11:37

RECEIVED
 MINUTES OFFICE

**AGENDA ITEM REPORT**

DATE: May 17, 2022
DEPARTMENT: Natural Resources
REQUESTER: Roland Ottolini
TITLE: Approve Amendment to Gasparilla Island Beach Nourishment Agreement

I. MOTION REQUESTED

A) Approve Amendment Number 1 to Project Partnership Agreement (PPA) between the Department of the Army and Lee County for the Gasparilla Island Segment of the Lee County, Florida Shore Protection Project.

B) Authorize Chairman to execute the PPA and Certification Regarding Lobbying, and County Attorney to execute Certificate of Authority.

II. ITEM SUMMARY

Approves Amendment 1 to the Project Partnership Agreement (PPA) with the Army Corp of Engineers (ACOE) to authorize continued federal participation in beach nourishment of the Gasparilla Island segment of the Lee County Shore Protection Project through 2056. The project is approximately 2.8 miles from 17th Street South. The agreements allow for cooperation between the ACOE and Lee County in construction of the project as needed based upon erosion, and authorizes federal funding of up to 64.7%. No funds are required at this time.

III. BACKGROUND AND IMPLICATIONS OF ACTIONA) Board Action and Other History

In 2006 Lee County approved execution of the Project Cooperation Agreement (PCA) with Army Corps of Engineers for initial construction of the Gasparilla Island Federal Shore Protection Project. The Project was constructed by Lee County from December 2006 to April 2007 and included the entire Gulf shoreline south of 17th Street. Funding was from a combination of local and state funds with federal reimbursement of eligible cost shared expenses.

On 6/25/2013 (WO1) the BoCC approved a Cooperation Agreement enabling ACOE to repair erosion caused by Tropical Storm Debby. Concurrently, a Project Partnership Agreement (PPA) was approved allowing for cost sharing to restore the beach to the full design specification. The PPA only authorized ACOE cost sharing through 2016.

ACOE conducted a study to determine if federal participation beyond 2016 was technically feasible and economically justified. On July 17, 2019, the Assistant Secretary of the Army for Civil Works approved the Lee County, Florida Shore Protection Project Gasparilla Island Segment Final Integrated Section 934 Report and Environmental Assessment, dated May 2018, which authorized Federal participation in periodic nourishment of the Project to 2056.

Amendment 1 to the PPA formalizes the federal and County commitments and responsibilities to complete periodic beach nourishment as needed through 2056.

B) Policy Issues

Beach nourishment is the preferred method to combat critical erosion. Gasparilla Island is an important piece of tourism and recreational infrastructure including numerous public access points and three state park segments.

C) BoCC Goals

Tourism/Sports; Partnership; Funding Sources.

D) Analysis

The authorized federal fill template begins on the north end at approximately 17th Street and stops on the south end just north of the Belcher Road seawall portion of Gasparilla Island State Park. It is qualified for overall federal funding of periodic nourishment of up to 64.7% (federal parcels are 100%, developed parcels are 65%, park parcels are 50%, undeveloped private parcels are 0%). Repair of beach erosion from qualifying storm damage may be funded up to 100% federal. The area has been designated by the Florida Department of Environmental Protection as critically eroded. Consequently, it is anticipated that future projects will also be cost shared by the state. County funds for future projects will come from a

portion of Tourism Development taxes dedicated for beach nourishment. No funds are required at this time. Beach conditions are monitored on an annual basis and inform the future schedule. Absent any significant storm impact, the next nourishment is not expected to be necessary before 2026. A long term partnership with ACOE provides significant technical and financial benefits to manage the Gasparilla beach erosion and maintain the storm protection, recreational, and environmental benefits provided by a healthy beach.

E) Options

IV. FINANCIAL INFORMATION

| | | |
|----|------------------------------------------------------------------------------------------|----------------------|
| A) | Current year dollar amount of item: | No funding required. |
| B) | Is this item approved in the current budget? | N/A |
| C) | Is this a revenue or expense item? | N/A |
| D) | Is this Discretionary or Mandatory? | N/A |
| E) | Will this item impact future budgets? If yes, please include reasons in III(D) above. | Yes |
| F) | Fund: Program: Project: Account Strings: | |
| G) | Fund Type? | N/A |
| H) | Comments: | |

V. RECOMMENDATION

Approve

VI. TIMING/IMPLEMENTATION

VII. FOLLOW UP

Future BoCC action will be required prior to construction implementation and request of state grants to further offset the non-federal cost share.

ATTACHMENTS:

| Description | Upload Date | Type |
|-----------------------------------------------------------|-------------|-----------------|
| Talking Points | 4/25/2022 | Backup Material |
| Project Partnership Agreement Amendment 1 | 4/25/2022 | Agreement |
| 2013 Project Partnership Agreement | 4/25/2022 | Backup Material |

REVIEWERS:

| Department | Reviewer | Action | Date |
|-------------------|------------------|----------|--------------------|
| Natural Resources | Ottolini, Roland | Approved | 5/4/2022 - 9:41 AM |
| Budget Services | Guttery, Angela | Approved | 5/5/2022 - 9:31 AM |
| Budget Services | Winton, Peter | Approved | 5/5/2022 - 1:09 PM |
| County Attorney | Adams, Joseph | Approved | 5/6/2022 - 9:58 AM |
| County Manager | Mora, Marc | Approved | 5/9/2022 - 4:29 PM |