Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2023/2024
Inlet Projects Application

PART I: GENERAL INFORMATION

Local Sponsor: City of Sarasota, Florida

Federal ID Number (FEID): 59-6000426

Primary Contact Name: Nikesh Patel, PE, PTOE, CPM Title: City Engineer

Mailing Address Line 1: City of Sarasota, Public Works Department

Mailing Address Line 2: 1761 12th St

City: Sarasota Zip Code: 34236 Telephone Number: (941) 263-6132

Email Address: Nikesh.Patel@SarasotaFl.gov

Additional Contact Information

Lisa Harper
lisa.harper@sarasotafl.gov
Accountant II
City of Sarasota
Public Works Department
1761 12th Street
Sarasota, FL 34236
(941) 263-6129

PART II: CERTIFICATION

I hereby certify that all information provided with this application is true and complete to the best of my knowledge.

Signature of Local Sponsor:

Electronic or scanned signatures accepted.

Printed Name: Nikesh Patel, PE, PTOE, CPM. City Engineer Date: 7/20/2022

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PART III: EVALUATION CRITERIA

1. Project Name: As listed in the Inlet Management Plan (IMP) or Strategic Beach Management Plan (SBMP)

New Pass Inlet Management Plan

2. Project Description: Include county, location with reference to DEP range monuments, brief project history, and description of proposed activities.

New Pass is located between Longboat Key and Lido Key in Sarasota County. The Pass has been dredged several times with material bypassed to adjacent shorelines to mitigate beach erosion. The most recent project utilizing the New Pass inlet was completed in 2019, bypassing material to Lido Key.

An inlet management study was completed in 1993. An Inlet Management Plan for sediment bypassing has not been adopted for New Pass by DEP. The City recently had a scoping discussion with DEP in order to prepare an update to the existing inlet management study with the goal of a DEP adopted Plan.

The primary focus of the proposed Inlet Management Study Update will be to develop an updated sediment budget for New Pass, Longboat Key Beach to the south (R-20) in the Town of Longboat Key and Lido Beach in the City of Sarasota (R-44). The study will evaluate strategies of inlet sediment management with the objective of balancing the sediment budget between the inlet and adjacent beaches pursuant to the requirements of Section 161.142, Florida Statutes. The study will provide a recommendation for the ongoing management of New Pass and the adjacent beaches within its area of influence and will consider the collective input of the appropriate federal, state, and local governmental agencies.

3. Use of Requested Program Funds: Provide a brief description of tasks to be completed in each requested phase (Feasibility, Design, Construction, or Monitoring). Indicate which tasks are cost reimbursement from previous fiscal years.

The FY 2023/2024 LGFR funding request is to add some additional funding for the Inlet Management Study Update, which falls under the Feasibility phase. The study shall provide an updated sediment budget to determine bypassing targets for the inlet and adjacent beaches. The work shall include wave-driven alongshore sediment transport estimates to evaluate the net and gross patterns of alongshore sediment transport potential adjacent to the inlet. Tasks under the study include technical advisory committee meetings, analysis of existing data (literature review, volumetric analysis), sediment budget analysis including net and gross transport, future sand sharing recommendations and an inlet management study report.
Many of the responses included in this application are based on the analysis included in the existing New Pass Inlet Management Plan (CP&E, 1993). These values will be updated in future requests based on the results of the proposed study update and acceptance of a Plan by DEP.

4. Map: Provide as an attachment.
- **Format:** The project area must be formatted at a minimum of 1" = 200' scale and include a compass rose and legend.
- **Required elements:** Project boundary, DEP reference monuments, shoreline designated as critically eroded, area of inlet influence, and permitted sand bypassing placement area

5. Project length: Total restored project boundary (in feet) as listed in the IMP or SBMP.

The Lido Beach Restoration Project is 9,902 feet in length

6. Schedule and Budget: Provide as a separate attachment, if needed. Clearly indicate project phase: Feasibility (F), Design (D), Construction (C), or Monitoring (M). Include the year of post-construction monitoring in the description.
- **Cost Reimbursement:** Specify eligible costs incurred during the three years prior to the current application's fiscal year that are not in a current DEP agreement and have not been reimbursed (this includes fiscal years 20/21, 21/22, and 22/23). Eligible costs will be added to the current funding request.
- **Current and Future Costs:** Specify eligible costs for the current application's fiscal year that are not in a current DEP agreement and have not been reimbursed as well as the estimated costs for the next 4 years. Note: If Construction costs are requested in the current fiscal year, then the Year 1 Post-Construction Monitoring costs will be added to the current funding request.

Fiscal Year	Project Phase	Description	Federal Cost	State Cost	Local Cost	Total Cost
20/21	Feasibility	New Pass Inlet Management Study update		112,455	37,483	149,940
20/21						
20/21						
21/22						
21/22						
21/22						

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Fiscal Year	Project Phase	Description	Federal Cost	State Cost	Local Cost	Total Cost
22/23						
22/23						
22/23						
23/24	Design	Dredging for New Pass based on results of completed study		150,000	50,000	200,000
23/24						
23/24						
24/25	Construction	Dredging of New Pass based on results of completed study				7,000,000
24/25						
24/25						
25/26						
25/26						
25/26						
26/27						
26/27						
26/27						
27/28						
27/28						
27/28						

7. Sand reaching the inlet

Provide the estimated annual quantity (cubic yards) of beach quality sand reaching the updrift boundary of the improved jetty or inlet channel:

74,000 cy/yr from LBK into New Pass

8. Severity of erosion

Provide the annual bypassing objective (cubic yards/year) adopted by the IMP or SBMP or as determined by a Department-approved study:

To be determined

9. Balancing the sediment budget

Provide the current annual average of bypassed material (cubic yards) since the adoption of a bypass objective:

To be determined

Provide a brief description of when the last sediment budget engineering analysis was completed for the inlet and area of inlet influence. Discuss any proposals to update the sediment budget.

The last sediment budget for New Pass completed as part of an inlet management study was done in June 1993 report titled, New Pass Inlet Management Plan (CP&E). Other sediment budget analyses have been completed since then to support various projects. The City of Sarasota is requesting funding in this LGFR application in order to update the sediment budget.

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Historical bypassing volumes: In the table below, provide the annual bypassing volumes (cubic yards/year), for the previous ten years (from the last calendar year or the most recent calculation). Attach additional documentation as needed.

Year	Quantity Bypassed (cy) - Sand Transfer Plant	Quantity Bypassed (cy) - Dredging	Dredge Location	Placement or Disposal Area
2010				
2011				
2012				
2013				
2014				
2015		222,800	New Pass ebb shoal	R-37-R-43.3 Lido
2016		234,000	New Pass channel	R-24-R-28 Longboat
2017				
2018				
2019		223,600	New Pass channel	R-37- R-43.8 Lido
2020				
2021		198,400	New Pass channel	R-25.5- R29.4 Longboat
Total per method		878,800		

Total bypass volume:	878,800 CY
Years since IMP adoption:	NA
Annual average bypass:	79,891CY since 2010
Bypass objective:	NA
Percentage of bypass objective:	NA

10. Increased bypassing and cost-effectiveness

Provide the estimated increase in annual bypassing of sand (cubic yards/year) proposed for the project:	This will be determined by the study underway
Provide the estimated shortfall of annual bypassing of sand (cubic yards/year) within the inlet system:	This will be determined by the study underway

Is the proposed project requesting construction phase funds for a major inlet management project component? No

If yes, and for the award of points for the cost-effectiveness of using inlet sand criteria, provide an opinion of probable cost per unit volume of the inlet and all other sand sources, certified by a licensed professional engineer.

11. Inlet Management Plans

Select all that apply:

- (●) **Existing IMP:** The proposed project has an existing IMP or completed Inlet Management Study that has been approved by the Department.
- (●) **Updated IMP:** The Department has received and approved an update to an existing IMP in the form of a current Inlet Management Study/sediment budget analysis within the previous five years, or there is an update proposed to an existing IMP in the current application.
- (●) **New IMP:** A new inlet management study is proposed for submission to the Department for an adoption in an IMP.

12. Enhanced longevity of proximate beach nourishment projects

Annualized beach nourishment volume of proximate beach nourishment project: Approx 63,000 cy Lido (since 196

13. Active permits

Does the project have an active state permit?	Yes	Does the project have an active federal permit?	Yes
Permit number:	0039755-003-JC	Permit number:	SAJ-2014-02347-SP-MEP
Authorization date:	July 2, 2015	Authorization date:	
Expiration date:	July 2, 2030	Expiration date:	Febuary 4, 2031

14. Federal funds available

Does the proposed project have federal funds available? If so, provide supporting documentation. No

15. Secured local funds

Has the necessary local funding been secured for the proposed project? If so, provide a copy of the draft Resolution. The signed Resolution is due by October 5, 2022. Yes

Additional comments

If New Pass is dredged as part of the next Lido Beach Shoreline Project and Erosion Control project, Federal funds would be available. Additionally, the City of Sarasota will be applying for the Federal Sec. 204 Beneficial Use Program that is funded by the Corps, and would allow placement of the sand on Lido with the feds paying 65% of the dredge and placement costs up to $10 million. Information sheet on that program is attached.

Attachments

Attachment 1 – Certified Resolution

Attachment 2 – Lido Beach Budget and Economic Data

Attachment 3 – Maps

Attachment 4 – PowerPoint from first TAC meeting

Attachment 5 – Self Insurance Certification

Attachment 6 – US Army Corps of Engineers Agreements

Attachment 7 – Tourist Development Tax Documents

Attachment 8 – Section 204 – Beneficial Use of Dredged Material information sheet.

ATTACHMENT 1

RESOLUTION NO.22R-3100.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SARASOTA, FLORIDA, INDICATING SUPPORT FOR THE LIDO SHORELINE PROTECTION AND EROSION CONTROL PROJECT AND IN SUPPORT OF AN INLET MANAGEMENT PLAN WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ABILITY TO PROVIDE THE NECESSARY LOCAL FUND MATCH; SETTING FORTH FINDINGS; AND PROVIDING FOR THE READING OF THIS RESOLUTION BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the shoreline of Lido Key Beach between the DNR Monument "R-34.0" to the southern tip of Lido Key at Big Sarasota Pass "R-44.5", continues to severely erode and has resulted in minimal beach width; and

WHEREAS, a large beach profile provides the best protection for upland properties for a severe storm event; and

WHEREAS, the City Commission of the City of Sarasota has developed a Long Range Shoreline Protection and Erosion Control Plan to help mitigate the erosion impacts of the shoreline and provide for beach preservation and shoreline protection along the beach between the DNR Monument "R-34.0 to the southern tip of Lido Key at Big Sarasota Pass "R-44.5"; and

WHEREAS, in 1999, the Federal Government reauthorized the shore protection project for Lido Key with a commitment for 50 years and the U.S. Army Corps of Engineers has completed a Feasibility Study for a Federal Nourishment Project; and

WHEREAS, on December 22, 2004, the U.S. Army Chief of Engineers, Major General Carl A. Strock prepared a final report (based on the 2004 Feasibility Study) recommending *"that the authorized project for hurricane and storm damage reduction of Lido Key, Sarasota County, Florida, be modified generally in accordance with the reporting officers' recommended plan."*; and

WHEREAS, on July 14, 2005 the House of Representatives passed the Water Resources Development Act of 2005. The Water Resources Development Act was passed by the Senate on July 18, 2006. Section 3039 of the bill directs the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers; and

WHEREAS, the Sarasota County Board of County Commissioners have committed certain Tourist Development Tax funds for the use of protecting Lido Beach; and

WHEREAS, it is required by the Florida Department of Environmental Protection, Bureau of Beaches and Coastal Systems for the City to indicate support of the proposed project, ability to provide the necessary local match, and willingness to serve as local sponsor; AND

WHEREAS, Public Works projects and studies related to Inlet Management are eligible for state funding consideration under this provisions of Chapter 62B-36 of the Florida Administrative Code, and

WHEREAS, in order to qualify for State of Florida Beach project funding and in accordance with our Florida Department of Environmental Project permit an inlet management plan is required.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SARASOTA, FLORIDA:

Section 1: The City Commission hereby indicates support of the Lido Shoreline Protection and Erosion Control Project.

Section 2: The City Commission supports the Inlet Management plan for New Pass for which funding is requested from the State of Florida.

Section 3: The City Commission is able to serve as joint sponsor for these projects and is able to provide the appropriate local funding share to implement these projects.

Section 4: This Resolution shall take effect immediately upon its adoption.

ADOPTED by the City Commission of the City of Sarasota, Florida, upon reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to adoption, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida, this 5th day of July , 2022.

____
Erik Arroyo, Mayor

Attest:

____
Shayla Griggs, City Auditor and Clerk

Yes Mayor Erik Arroyo
Yes Vice Mayor Kylr Battie
Yes Commissioner Liz Alpert
Yes Commissioner Jen Ahearn-Koch
Absent Commissioner Hagen Brody

ATTACHMENT 2

Fiscal Year 2022 Oct 21 - Sep 22

Item - Phase	Federal	State	City (TDT funds)	Total	
	Estimated Costs				
Physcial Monitoring	$139,500.00	$69,750.00	$69,750.00	$279,000.00	
Mitigation survey		$30,000.00	$30,000.00	$60,000.00	
Environmental Monitoring - Long range	$60,000.00	$30,000.00	$30,000.00	$120,000.00	
Permitting /FDEP			$100,000.00	$100,000.00	
Dune Planting Design		$25,000.00	$25,000.00	$50,000.00	
Beach & Turtle Monitoring - Irma		$50,000.00	$50,000.00	$100,000.00	
Total	$199,500.00	$204,750.00	$304,750.00	$709,000.00	$304,750

2022-23 **Fiscal Year 2023**

Item - Phase	Federal	State	City (TDT funds)		
	Estimated Costs				
Dune Construction	TBD	$600,000.00	$900,000.00	$1,500,000.00	
Consulting services - Lido & Dune		$50,000.00	$50,000.00	$100,000.00	
Environmental Monitoring - long range	$12,500.00	$6,250.00	$6,250.00	$25,000.00	
Physcial Monitoring	$44,000.00	$22,000.00	$22,000.00	$88,000.00	
Beach & Turtle Monitoring -Lido & Dune	$0.00	$50,000.00	$50,000.00	$100,000.00	
Total	$56,500.00	$728,250.00	$1,028,250.00	$1,813,000.00	$1,333,000

2023-24 **Fiscal Year 2024**

Item - Phase	Federal	State	City (TDT funds)		
	Estimated Costs				
New Pass Study - Dredging Design	$0.00	$100,000.00	$100,000.00	$200,000.00	
Environmental Monitoring	$60,000.00	$30,000.00	$30,000.00	$120,000.00	
Beach & Turtle Monitoring	$0.00	$50,000.00	$50,000.00	$100,000.00	
Physcial Monitoring	$139,500.00	$69,750.00	$69,750.00	$279,000.00	
Dune Construction- Lido & Dune	$0.00	$350,000.00	$50,000.00	$100,000.00	
Total	$199,500.00	$599,750.00	$299,750.00	$799,000.00	$1,632,750

2024-25 **Fiscal Year 2025**

Item - Phase	Federal	State	City (TDT funds)		
	Estimated Costs				
Big Pass Study	TBD				
New Pass Study - Dredging	TBD	TBD	TBD	$7,000,000.00	
Physcial Monitoring Lido HSDR	$0.00	$0.00	$0.00	$0.00	
Environmental Monitoring Lido HSDR	$12,500.00	$6,250.00	$6,250.00	$25,000.00	
Beach & Turtle Monitoring -Lido HSDR	$0.00	$60,000.00	$60,000.00	$120,000.00	
Design - Lido HSDR	$500,000.00	$250,000.00	$250,000.00	$1,000,000.00	
Total	$512,500.00	$316,250.00	$316,250.00	$8,145,000.00	$1,949,000

2025-26 **Fiscal Year 2026**

Item - Phase	Federal	State	City (TDT funds)		
	Estimated Costs				
Environmental Monitoring -Lido HSDR	$60,000.00	$30,000.00	$30,000.00	$120,000.00	
Beach & Turtle Monitoring -Lido HSDR	$0.00	$60,000.00	$60,000.00	$120,000.00	
Physcial Monitoring -Lido HSDR	$139,500.00	$69,750.00	$69,750.00	$279,000.00	
Construction Services Consultant --Lido HSDR		$250,000.00	$250,000.00	$500,000.00	
Construction -Lido HSDR	$5,752,250.00	$2,876,125.00	$2,876,125.00	$11,504,500.00	
Total	$5,951,750	$3,285,875	3,285,875.00	$12,523,500	$5,234,875

2026-27 **Fiscal Year 2027**

Item - Phase	Federal	State	City (TDT funds)		
	Estimated Costs				
Physcial Monitoring -Lido HSDR	$100,000.00	$50,000.00	$50,000.00	$200,000.00	
Environmental Monitoring -Lido HSDR	$15,000.00	$7,500.00	$7,500.00	$180,000.00	
Beach & Turtle Monitoring -Lido HSDR	$0.00	$60,000.00	$60,000.00	$120,000.00	
Total	$115,000.00	$117,500.00	$117,500.00	$500,000.00	$5,352,375

Fiscal Year 2028

Item - Phase	Federal	State	City (TDT funds)		
	Estimated Costs				
Physcial Monitoring -Lido HSDR	$100,000.00	$50,000.00	$50,000.00	$200,000.00	
Environmental Monitoring -Lido HSDR	$90,000.00	$45,000.00	$45,000.00	$180,000.00	
Beach & Turtle Monitoring -Lido HSDR	$0.00	$60,000.00	$60,000.00	$120,000.00	
Total	$190,000.00	$155,000.00	$155,000.00	$500,000.00	$5,507,375

Legend - Color Key:

Lido Beach Hurricane and Storm Damage Reduction Project

Dune Project

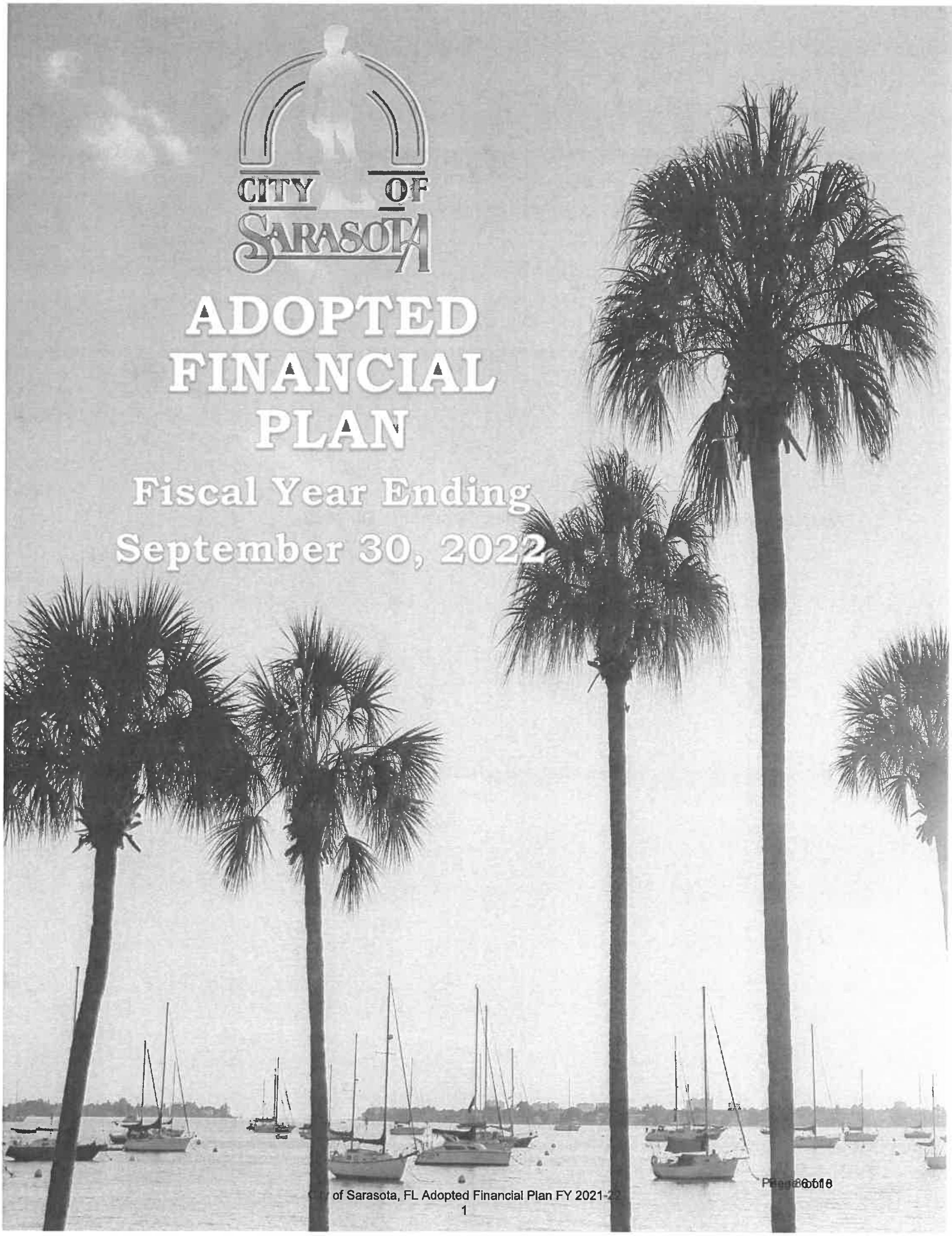
New Pass Inlet Management Study

Big Pass Inlet Management Study

CITY OF SARASOTA

ADOPTED FINANCIAL PLAN

Fiscal Year Ending September 30, 2022



Tourist Development Tax

Fund 125

Fund Summary

The electors of Sarasota County approved a referendum to impose a two percent Tourist Development Tax effective November 1, 1988. Subsequently, the Sarasota County Tourist Development Council was formed to recommend uses for the revenues generated from the tax. The Council has recommended that 50% be distributed for shoreline protection, 25% for cultural and fine arts entertainment, and 25% for tourist advertising and promotion. In addition, the Board of County Commissioners of Sarasota County, through the adoption of ordinance no. 96-071, increased the tourist development tax an additional one percent to a total of three percent effective April 1, 1997. It is the City's policy to use its allocation of funds as follows: Beaches - To implement a comprehensive shoreline protection and preservation program for Lido Beach, and; Arts - For the support, stimulation, and growth of existing and new cultural initiatives in the areas of the performing and visual arts at the Van Wezel Performing Arts Hall.

	Actual 2019-20	Budget 2020-21	Amended Budget 2020-21	Estimated 2020-21	Budget 2021-22
Available Fund Balance	$ (2,290,438)	$ 481,044	$ 2,372,888	$ 2,372,888	$ 24,631
Revenues					
Tourist Tax - Original 2 % Levy	79,755	669,750	669,750	47,287	304,750
Federal and State Grant Funds	4,727,983	-	-	20,768	-
Total Revenues	4,807,737	669,750	669,750	68,055	304,750
Estimated Funds Available	2,517,299	1,150,794	3,042,638	2,440,943	329,381
Expenditures					
Restoration of Lido Beach	144,411	669,750	2,416,312	2,416,312	307,924
Total Expenditures	144,411	669,750	2,416,312	2,416,312	307,924
Projected Ending Balance	$ 2,372,888	$ 481,044	$ 626,326	$ 24,631	$ 21,457

Tourist Development Tax

Funding Allocations from Inception

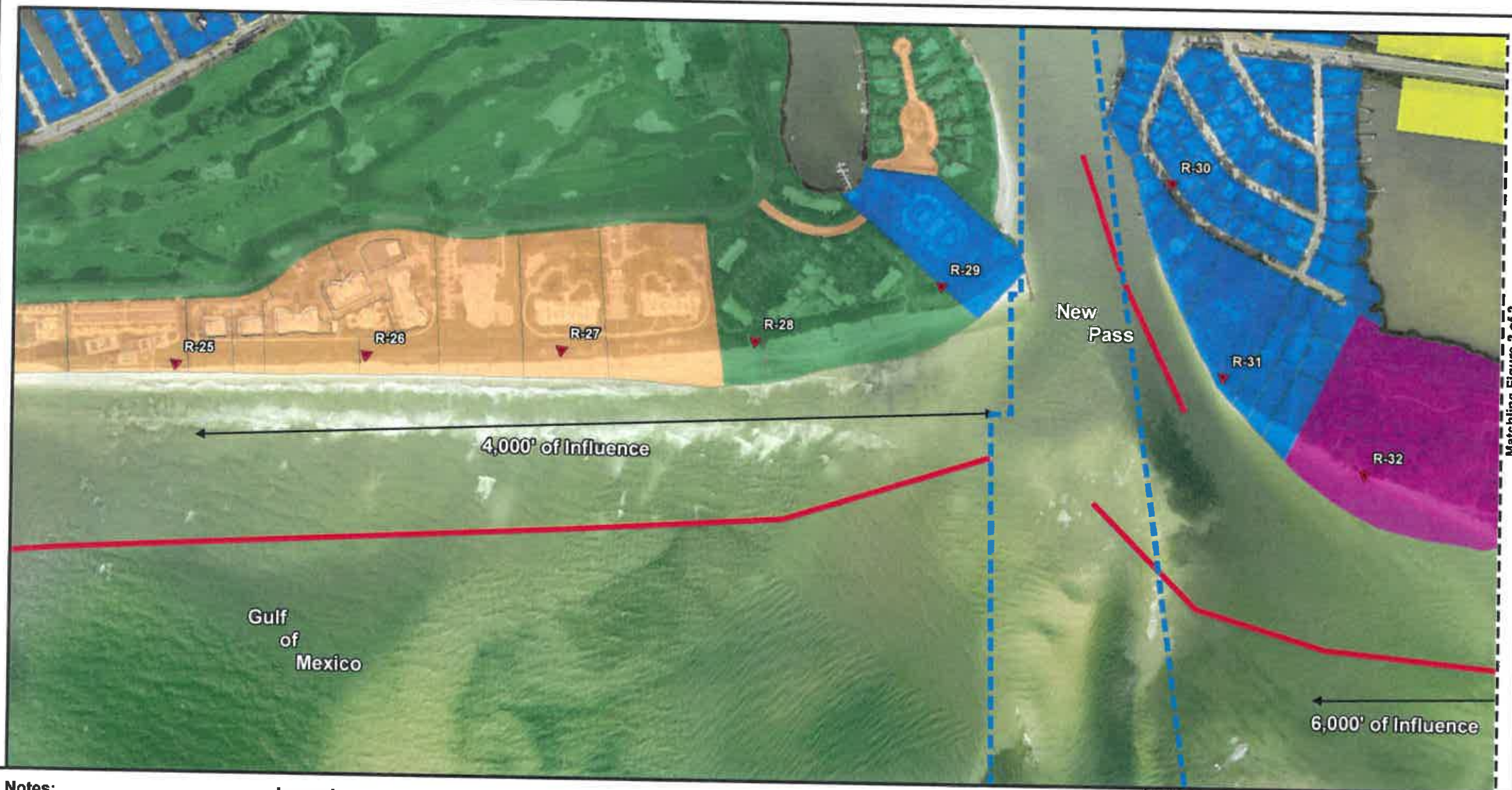
Carryover Funds Available	Allocations	Received	Adjustments	Carryover	Balance
1988-90 Fiscal Years	$ 422,975	$ 107,641	$ -	$ 315,334	$ 315,334
1990-98 Fiscal Years	2,283,685	2,297,162	-	(13,477)	301,857
1997-98 Additional Allocation - 1%	1,100,000	1,100,000	-	-	301,857
1997-98 Additional Allocation - 1%	304,000	-	-	304,000	605,857
1998-99 Fiscal Year, as adjusted	333,226	349,779	-	(16,553)	589,304
1998-99 Additional Allocation - 1%	146,000	-	-	146,000	735,304
1999-00 Fiscal Year, as adjusted	371,302	339,330	-	31,972	767,276
1999-00 Additional Allocation - 1%	1,246,000	-	-	1,246,000	2,013,276
2000-01 Fiscal Year	392,492	634,168	-	(241,676)	1,771,600
2000-01 Fiscal Year	304,000	-	-	304,000	2,075,600
2000-01 Additional Allocation - 1%	146,000	1,696,000	-	(1,550,000)	525,600
2001-02 Fiscal Year	354,713	521,139	-	(166,426)	359,174
2001-02 Additional Allocation - 1%	146,000	-	-	146,000	505,174
2002-03 Fiscal Year	357,805	148,896	-	208,909	714,083
2002-03 Additional Allocation - 1%	146,000	-	-	146,000	860,083
2003-04 Fiscal Year	406,364	-	-	406,364	1,266,447
2003-04 Additional Allocation - 1%	146,000	-	-	146,000	1,412,447
2004-05 Fiscal Year	444,672	-	304,000	140,672	1,553,119
2005-06 Fiscal Year	457,506	416,534	-	40,972	1,594,091
2006-07 Fiscal Year	467,481	149,513	-	317,968	1,912,059
2007-08 Fiscal Year	462,275	81,618	-	380,657	2,292,716
2008-09 Fiscal Year	431,578	1,786,474	-	(1,354,896)	937,820
2009-10 Fiscal Year	401,008	76,274	-	324,733	1,262,553
2010-11 Fiscal Year	406,801	202,524	-	204,277	1,466,830
2011-12 Fiscal Year	468,388	44,382	-	424,006	1,890,836
2012-13 Fiscal Year	482,632	110,113	-	372,519	2,263,355
2013-14 Fiscal Year	563,421	168,482	-	394,939	2,658,294
2014-15 Fiscal Year	624,539	649,110	-	(24,571)	2,633,723
2015-16 Fiscal Year	650,148	142,415	-	507,733	3,141,456
2016-17 Fiscal Year	696,917	127,965	-	568,952	3,710,408
2017-18 Fiscal Year	740,697	132,122	-	608,575	4,318,983
2018-19 Fiscal Year	798,093	3,788,041	-	(2,989,948)	1,329,035
2019-20 Fiscal Year	702,828	79,755	-	623,073	1,952,108
2020-21 Fiscal Year, estimated	624,374	669,750	-	(45,376)	1,283,659
2021-22 Fiscal Year, proposed	630,618	304,750	-	325,868	1,654,903
	$18,660,536	$16,123,936	$ 304,000	$2,232,600	

FIVE YEAR CAPITAL IMPROVEMENT PLAN
(Fiscal Years 2022-2026)

Identification Number	Project Number	ENVIRONMENTAL PRESERVATION & SUSTAINABILITY
1	001758	**Seawall Rehab/Reconstruction Program** Evaluation, prioritization and subsequent repair/rehabilitation of seawalls City-wide. Current seawall repairs identified: Brewer. *The completion of this project is not anticipated to increase the City's annual operating costs.*
2	001653 000610	**Bayfront Protection/Seawall Reconstruction @ Marina Jacks** To repair/replace failing seawall components along the Bayfront. Phase I is currently under construction and Phase II is anticipated to begin in Fiscal Year 2020/21. Costs for both phases include repair/rehabilitation of the effected areas of the seawall and the sidewalk. *The completion of this project is not anticipated to increase the City's annual operating costs.*
3	NEW 001448	**Ken Thompson Shoreline Stabilization** Significant erosion on the southeast side of the park has been occurring for three years, with a dramatic loss of shoreline in 2020. An initial BODR was provided by Cardno. The first choice is to approach the engineering with a focus on plantings to increase resiliency instead of seawalls or other hard forms. (Note: *Potential funding from Coastal Resilience Grant which will require a 50/50 match.)* *The completion of this project is not anticipated to increase the City's annual operating costs.*
4	L-O-S 001308	**Stormwater Utility Projects** Funding for projects identified as "Level of Service" issues not addressed by the Interlocal Agreement with Sarasota County and to aid in Low Impact Development (LID) efforts for Stormwater Mitigation City-wide and National Pollutant Discharge Elimination System (NPDES). *The completion of this project will not increase the City's annual operating costs.*
5	002501	**Lido Beach Erosion Control Project** An on-going beach nourishment program to provide sand on the entire Gulf-front of Lido Key for the protection of upland property. This project includes the addition of dunes to increase the level of storm and erosion protection, project monitoring and a New Pass Inlet Study. Note: Federal and State Grants in out-years are pending Federal and State approvals. *The completion of this project is not anticipated to increase the City's annual operating costs.*
6	001825	**Lighting Improvement Projects** Ben Franklin Lighting Improvement - Replace existing lights from S. Washington Dr. to Sarasota County's S. Lido Park with lighting to meet existing Multi Use Recreational Trails and Sea Turtle lighting requirements. *There will be an increase in operating costs and a reduction in energy costs due to the LED lighting and solar lighting. Annual costs cannot be determined until the projects have been constructed and a comparison can be made.*
		Subtotal - ENVIRONMENTAL PRESERVATION & SUSTAINABILITY:

Funding Source	Reappro-priations	FISCAL YEAR (Funding in Thousands) 2021-22	2022-23	2023-24	2024-25	2025-26	Total Fiscal Years 2022-26
Penny 3	$ 56	$ -	$ -	$ -	$ -	$ -	$ -
Penny 2	809	-	-	-	-	-	-
Penny 3	327	-	-	-	-	-	
Undetermined	-	-	375	-	-	-	375
Penny 3	567	-	-	-	-	-	-
Tourist Dev. Tax	1,956	305	730	200	426	2,876	
State Grant	-	205	730	200	426	2,876	15,834
Federal Grant	-	200	56	200	652	5,752	
Penny 3	106		-	-	-	-	-
	$ 3,821	*$ 710*	*$ 1,891*	*$ 600*	*$ 1,504*	*$ 11,504*	*$ 16,209*

ATTACHMENT 3



Notes:

1. Background imagery is the 2020 aerial REST service from Sarasota County.
2. Zoning based on the parcel zone data downloaded from Sarasota County GIS Department.

Legend:

- FDEP Monument
- Area of Influence
- FDEP Critical Erosion Area
- Navigation Channel

Zoning

- Not Zoned
- GOVERNMENTAL USE
- GULF PLANNED DEVELOPMENT DISTRICT
- Marine Park
- Residential

0 250 500 Feet
1 inch = 500 feet

TITLE:

New Inlet Pass
Local Government Funding Request
Sarasota County, Florida

APTIM
2481 N. W. BOCA RATON BOULEVARD
BOCA RATON, FL 33431
PH. (561) 391-8102
FAX (561) 391-9116

Date: 09/24/20	By: HMV	Comm No. :	Figure No. 1

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Notes:

1. Background imagery is the 2020 aerial REST service from Sarasota County.
2. Zoning based on the parcel zone data downloaded from Sarasota County GIS Department.

Legend:

- FDEP Monument
- Area of Influence
- FDEP Critical Erosion Area
- Navigation Channel

Zoning

- Commercial
- Commercial Tourist
- GOVERNMENTAL USE
- Marine Park
- Residential
- Waterfront Resort

TITLE:

New Inlet Pass
Local Government Funding Request
Sarasota County, Florida

APTIM
2481 N. W. BOCA RATON BOULEVARD
BOCA RATON, FL 33431
PH. (561) 391-8102
FAX (561) 391-9116

Date: 09/24/20	By: HMV	Comm No. :	Figure No. 2

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ATTACHMENT 4

New Pass Inlet Management Study Update
Technical Advisory Committee Meeting #1

February 15, 2022

CITY OF SARASOTA

Florida Department of Environmental Protection

APTIM

Coastal Protection Engineering

AGENDA

- Introductions of TAC Invitees
- Project Location
- Study Purpose
- Study Objectives
- Scope of Work
- Background Information & Project History
- Sediment Budget Update Approaches
- Initial Findings
- Next Steps
- Discussion

TAC INVITEES

- City of Sarasota
- Aptim Environmental & Infrastructure, LLC
- Coastal Protection Engineering LLC (CPE)
- Florida Department of Environmental Protection (FDEP)
- U.S. Army Corps of Engineers (USACE)
- Sarasota County
- Town of Longboat Key

PROJECT LOCATION

STUDY PURPOSE

- Initial New Pass Inlet Management Plan was completed in 1993
- Sediment budget update as part of permit-required monitoring and to support the FDEP's Strategic Beach Management Plan (SBMP)
- The study is being prepared by the City of Sarasota in collaboration with the Town of Longboat Key, Sarasota County, FDEP, and USACE
- Implement the intent of Section 161.142, Florida Statutes - Declaration of public policy relating to improved navigation inlets

SECTION 161.142, FLORIDA STATUTES

- The Legislature finds it is in the public interest to replicate the natural drift of sand which is interrupted or altered by inlets to be replaced and for each level of government to undertake all reasonable efforts to maximize inlet sand bypassing to ensure that beach-quality sand is placed on adjacent eroding beaches.
- Such activities cannot make up for the historical sand deficits caused by inlets but shall be designed to balance the sediment budget of the inlet and adjacent beaches and extend the life of proximate beach-restoration projects so that periodic nourishment is needed less frequently.

STUDY OBJECTIVES

Primary objectives of this Inlet Management Study include:

- Satisfy FDEP regulatory request
- Comply with statutory intent
- Coordinate with local governments
- Review contemporary history of inlet
- Develop an updated sediment budget using a data driven approach
- Evaluate sediment bypassing and strategies for inlet management
- Consider supplemental needs of Federal Lido Key HSDR Project
- Provide recommendations for the ongoing management of New Pass
- Support FDEP with adoption of Inlet Management Plan (IMP)

SCOPE OF WORK

- Task 1 - Project Coordination and Technical Advisory Committee (TAC)
  - Project coordination is ongoing
  - This is the initial TAC meeting

- Task 2 - Analysis of Existing Data
  - Literature has been compiled and historic analysis complete
  - Data review and volumetric analysis underway

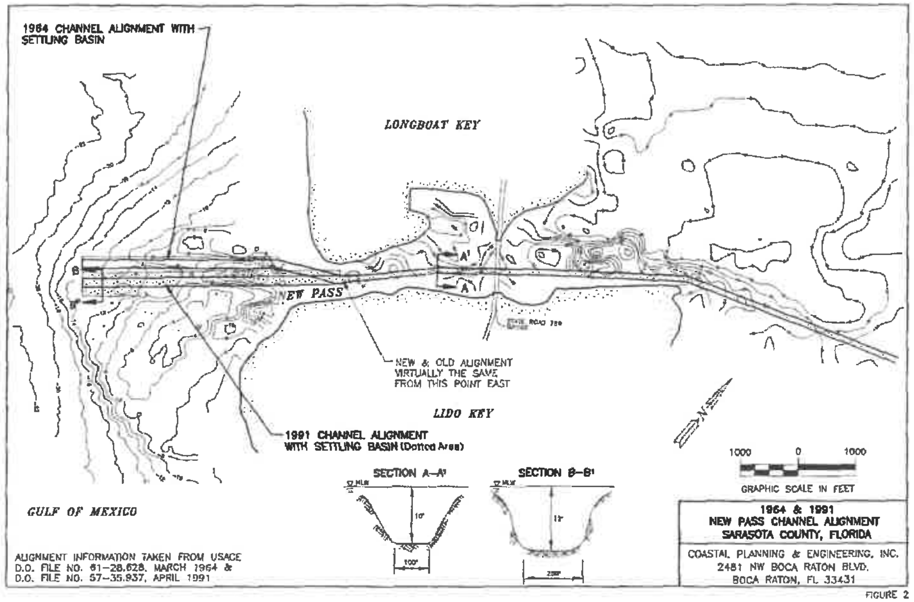
- Task 3 - Sediment Budget Analysis (evaluate and update sand bypassing quantities)
  - Preliminary work underway, pending completion of data review and volumetric analysis

- Task 4 - Inlet Management Update Study Report (FDEP submittal and SBMP updates)
  - Overall development of the study and report to support the inlet management update is estimated to be complete by early 2024

BACKGROUND INFORMATION AND PROJECT HISTORY

NEW PASS FEDERAL NAVIGATION CHANNEL

- Designated a Federal navigation channel in 1964
- Authorized entrance channel depth of 10 ft and bottom width of 100 ft
- Constructed with width of 150 ft and depth of -12 ft to provide extra depth for wave conditions and width for setting basin
- Dredged by USACE periodically since 1964
- Federal funding capacity limit reached
- 1989 Sarasota County approved resolution encouraging USACE to dispose of dredged material with 35% to the north (Longboat Key) and 65% to the south (Lido Key)
- Currently permitted as a supplemental sand source for both Lido Key and Longboat Key



SAND SHARING AGREEMENTS

- January 1990 interlocal agreement
  - Sarasota County, City of Sarasota, and Town of Longboat Key
  - Material from the 1991 New Pass maintenance dredging by USACE shall be shared 65% on Lido Key and 35% on Longboat Key
  - New Pass maintenance dredging projects by USACE following 1991 project shall be shared 50/50 until the total sand sharing ratio since 1973 equals the 65/35 ratio
  - After 65/35 ratio reached, all subsequent dredging New Pass dredging projects shall be shared at 65/35

- 2014 draft interlocal agreement
  - City of Sarasota, and Town of Longboat Key
  - Implied intent for 50/50 sand sharing
  - Not executed

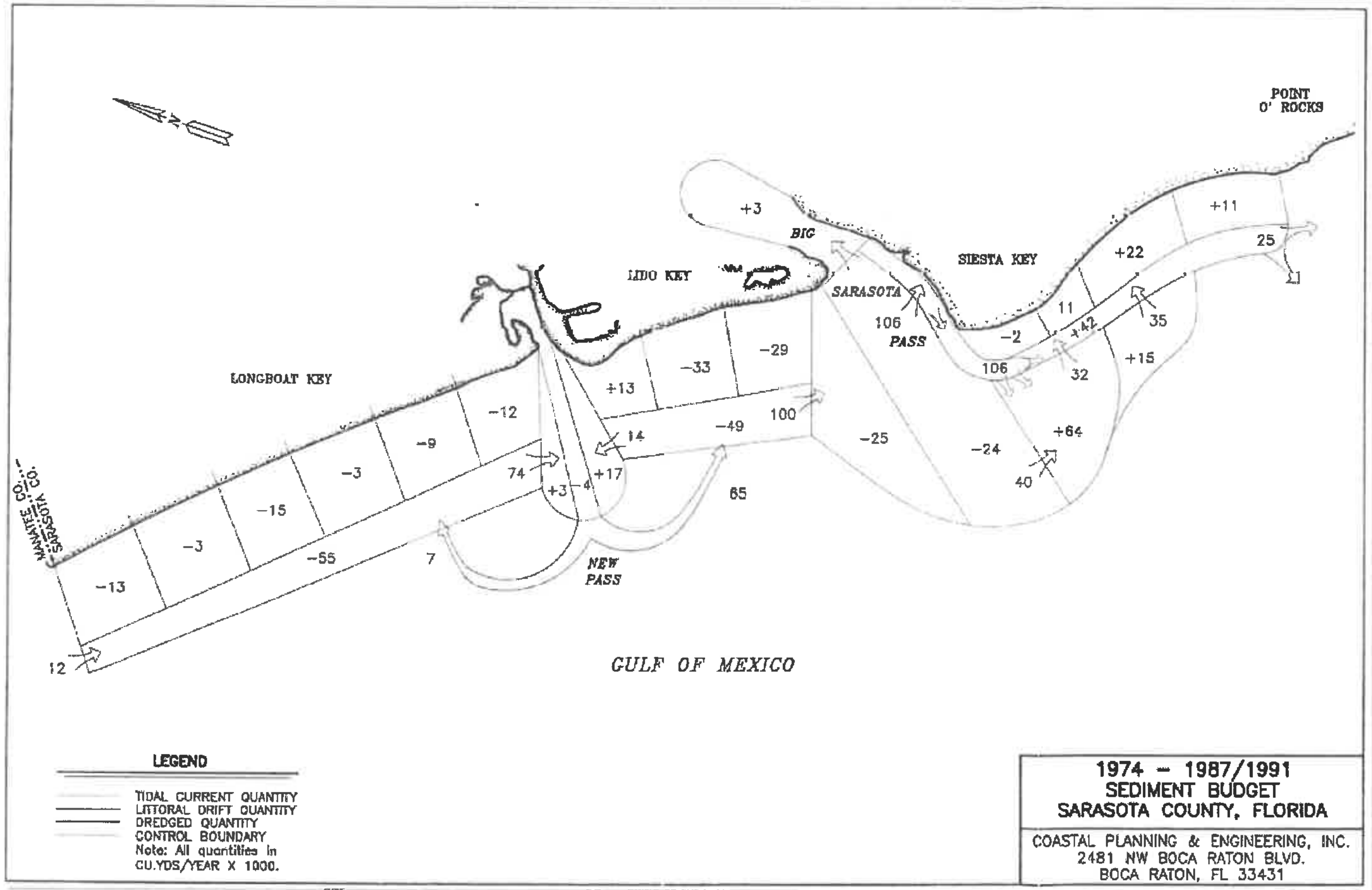
LITERATURE REVIEW

- **APTIM (f.k.a. Coastal Planning & Engineering, Inc), 1993. "New Pass Inlet Management Plan."**
- APTIM (f.k.a. Coastal Planning & Engineering, Inc), 1993. "Wave Refraction ad Sediment Transport Study at New Pass and Big Sarasota Pass."
- Irish, J.L. and Lillycrop, W.J. (1997) "Monitoring New Pass, Florida with High Density Lidar Bathymetry"
- APTIM (f.k.a. Coastal Planning & Engineering, Inc), 2003. "Post-Construction Monitoring Report for Lido Key (City of Sarasota)."
- APTIM (f.k.a. Coastal Planning & Engineering, Inc), 2004. "Post-Construction Monitoring Report for Lido Key (City of Sarasota)."
- **Coastal Technology Corporation, Coastal Engineering Consultants, Dept. of Geology at Univ. S. Florida. (Coastal Tech, et al.), 2008. "Comprehensive Inlet Management Plan for Big Sarasota Pass and New Pass System." Report submitted to Sarasota County, FL. May 2010.**
- APTIM (f.k.a. Coastal Planning & Engineering, Inc), 2008. "Lido Key Beach Renourishment Project, New Pass Borrow Area Modeling Study."
- APTIM (f.k.a. Coastal Planning & Engineering, Inc), 2009. "Lido Key Beach Renourishment Project, Post-Construction Engineering Report."
- APTIM, 2015. "2015 Lido Key Beach Nourishment Project: Post-Construction Monitoring Report."
- APTIM, 2016. "2015 Lido Key Beach Nourishment Project: 1 Year Post-Construction Monitoring Report."
- APTIM, 2016. "2015 Lido Key Beach Nourishment Project: 2 Year Post-Construction Monitoring Report."
- APTIM, 2019. "2018 Lido Key Beach Nourishment Project: Post-Construction Monitoring Report."
- **Legualt and Frey, 2017. "Pinellas, Manatee, and Sarasota Counties, Florida; Regional Sediment Budget." ERDC/TC RSM-17-2. September 2017. http://dx.doi.org/10.21079/11681/22907**.
- Olsen Associates, Inc (OAI), 2019. "Town of Longboat Key, FL. Comprehensive Beach Management Plan: 2019 Update."
- Olsen Associates, Inc (OAI), 2019. "Longboat Pass, Manatee County, FL. Sediment Budget Update: 2009-2016."
- **Florida Department of Environmental Protection (FDEP), 2020. "Strategic Beach Management Plan: Southwest Gulf Coast Region."**
- Olsen Associates, Inc (OAI), 2021. "Town of Longboat Key, FL. 2021 Beach Nourishment & Structural Stabilization Projects. Post-Construction Report.." Report submitted to Town of Longboat Key, USACE, and FDEP. January 2022.

PREVIOUS IMP STUDY (1993)

- IMP prepared but not formally adopted by State
- Sediment budget from 1974 to 1987 (Longboat Key) and to 1992 (Lido Key) time period
- Recommended actions:
  - Continue USACE maintenance of New Pass, remove eastern 1500 ft of deposition basin, maintain 1993 channel alignment
  - Modify the sand sharing agreement such that Lido Key receives 84.6% of sand dredged from New Pass channel, and Longboat Key receives 15.4%
  - Continue beach renourishment programs on Lido Key and Longboat Key
  - Continue beach, inlet shoals, and environmental monitoring
  - Consider addition of erosion control structures adjacent inlet

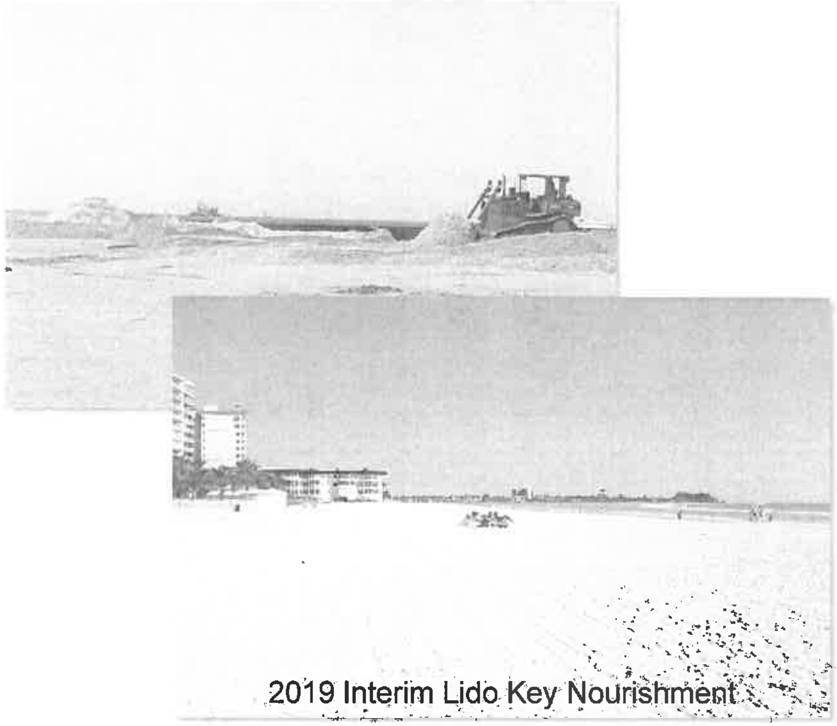
PREVIOUS IMP STUDY (1993)



LIDO KEY RECENT PLACEMENT HISTORY

The initial Lido Key Beach Nourishment Project was constructed in 1998 (285,000 cy) by the City of Sarasota and has been renourished 5 times as interim projects awaiting the federal HSDR project:

- 1998 – 285,000 cy (offshore)
- 2001 – 360,000 cy (offshore)
- 2003 – 125,000 cy (channel)
- 2009 – 464,000 cy (channel & shoal)
- 2015 – 222,800 cy (shoal)
- 2019 – 223,600 cy (channel)



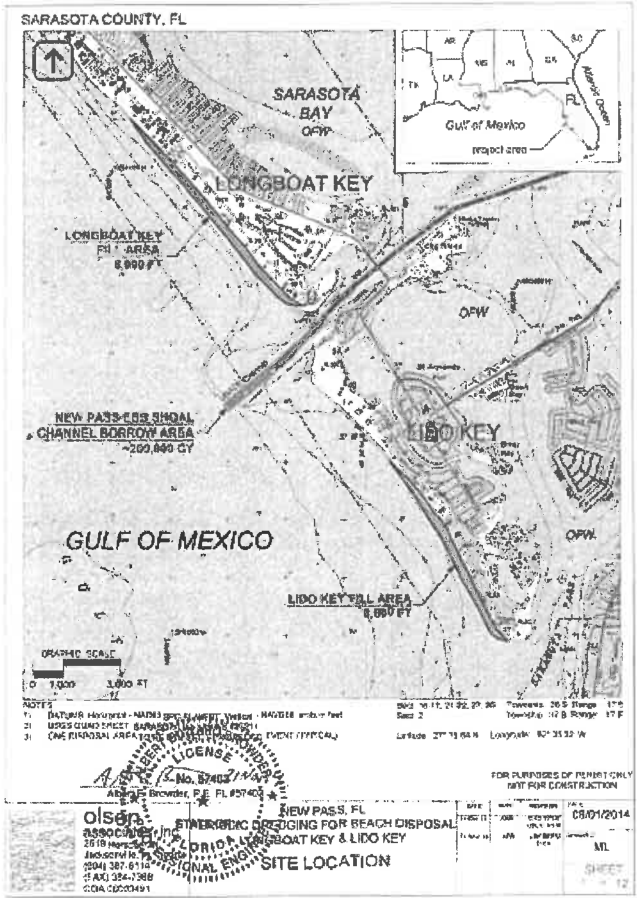
2019 Interim Lido Key Nourishment

Total = 1,680,000 cy (since 1998)

Average = 76,400 cy/yr (1998-2020)

NEW PASS DREDGING FOR LONGBOAT KEY AND LIDO KEY BEACH NOURISHMENT

- City of Sarasota and Town of Longboat Key co-permittees
- FDEP and USACE 15-yr permits issued 2015 / 2016
- Periodic dredging of New Pass ebb shoal for use on Lido Key and Longboat Key
- Dredge / nourishment events:
  - 2016 Longboat Key – 234,000 cy
  - 2019 Lido Key – 223,600 cy
  - 2021 Longboat Key – 198,400 cy



FEDERAL LIDO KEY HURRICANE AND STORM DAMAGE RESTORATION (HSDR) PROJECT

- USACE project, City of Sarasota is local sponsor
- Primary sand source Big Sarasota Pass
- Initial Project constructed 2020-2021
- Volume placed = 680,000 cy

- New Pass may be used (under jointly held City/Town permits) as a supplemental source for interim nourishment of Lido Key if deemed necessary by physical monitoring of the Federal project

NEW PASS CHANNEL VOLUME DREDGED SINCE 1990 AGREEMENT

- Total = 1,747,800 cy
- 30 years (1991 - 2021)
- Average = 58,300 cy/yr

- Longboat Key: 823,600 cy (47%)
- Lido Key: 924,200 cy (53%)

Date Completed	Volume (cy)	Sand Source	Project Location	City	Length (mi)
1991	120,000	New Pass channel	R-22 - R-25	Longboat Key	0.6
1991	240,000	New Pass channel	R-35 - R-37.5	Lido	0.6
1996	178,000	New Pass channel	R-34.5 - R-38	Lido	0.6
1997	171,200	New Pass channel	R-22.6 - R-27.4	Longboat Key	0.9
February 2003	125,000	New Pass channel	R-35.5 - R-43.2	Lido	1.4
Mar. 2003	100,000	New Pass channel	R-22 - R-28	Longboat Key	1.1
April 2009	157,600	New Pass channel	R-34 - R-44	Lido	1.6
October 2016	234,000	New Pass channel	R24-R28	Longboat Key	0.8
April 2019	223,600	New Pass channel	R-37 - R-43.8	Lido	1.2
July 2021	198,400	New Pass channel	R-25.5 - R-29.4	Longboat Key	0.7
Total:	1,747,800				

* Does not account for sand dredged from ebb shoal

SEDIMENT BUDGET UPDATE APPROACHES

- Sediment Budget Analyses
  - Standard volume calculations (cell method)
  - Sediment transport pathways
  - Analytical methods

- Additional Data Analyses
  - Wave-Driven Sediment Transport Potential (Net + Gross)
  - Alongshore extent of inlet impact
  - Evaluation of bypassing rates
  - Net transport (inlet infilling rates and corresponding potential impacts)

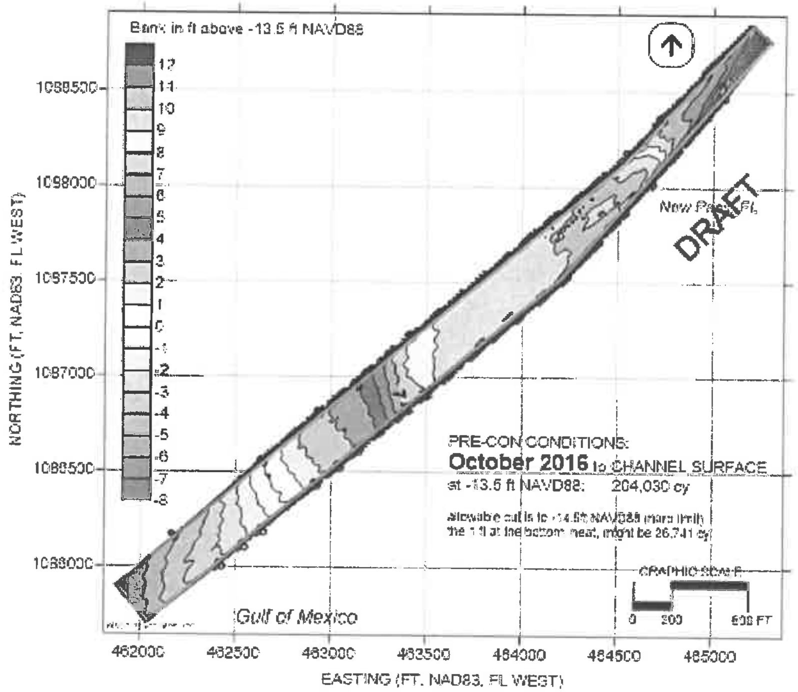
INITIAL FINDINGS

CHANNEL SHOALING RATES

(source: Olsen Associates, April 2021)

- In June 2016, the pre-dredge survey of the channel **after 7 years: 204,000 cy** available above -13.5 ft NAVD88
- In October 2018, the pre-dredge survey of the channel after 2 years (24 months): 195,750 cy available above -13.5 ft NAVD88
- In April 2021, the pre-dredge survey of the channel after 2 years (23 months): 191,550 cy available above -13.5 ft NAVD88

June 2016 – 204,000 cy

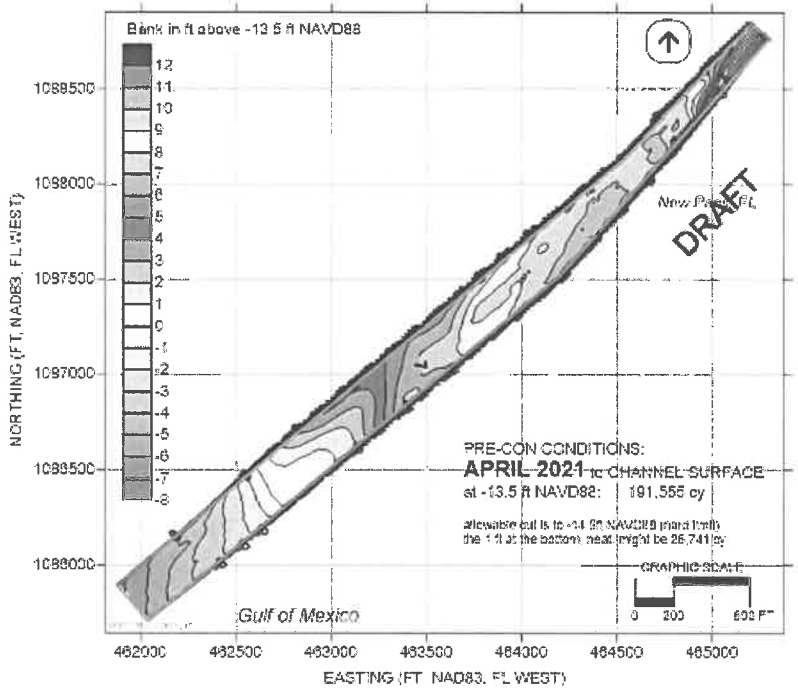


CHANNEL SHOALING RATES

(source: Olsen Associates, April 2021)

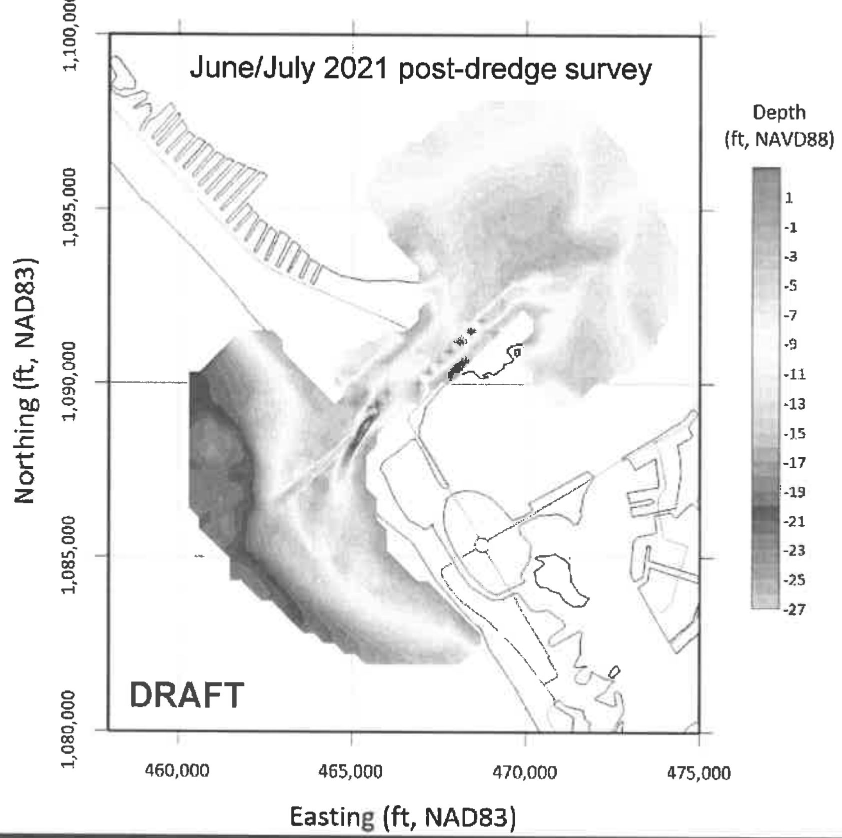
- In June 2016, the pre-dredge survey of the channel BA after 7 years: 204,000 cy available above -13.5 ft NAVD88
- In October 2018, the pre-dredge survey of the channel after 2 years (24 months): 195,750 cy available above -13.5 ft NAVD88
- In April 2021, the pre-dredge survey of the channel **after 2 years (23 months): 191,550 cy** available above -13.5 ft NAVD88

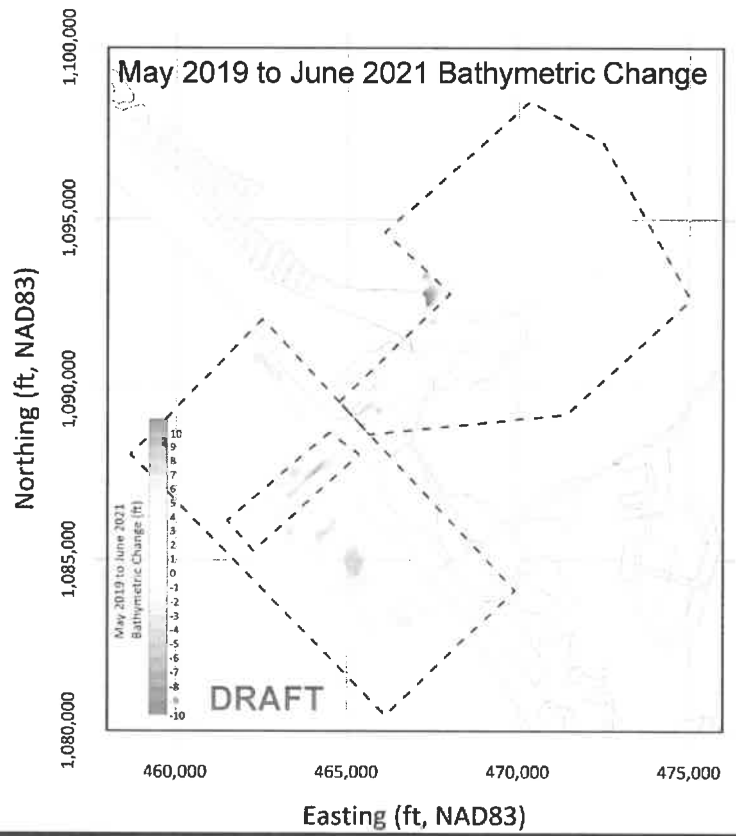
April 2021 – 191,550 cy



POTENTIAL SEDIMENT TRANSPORT PATHWAYS

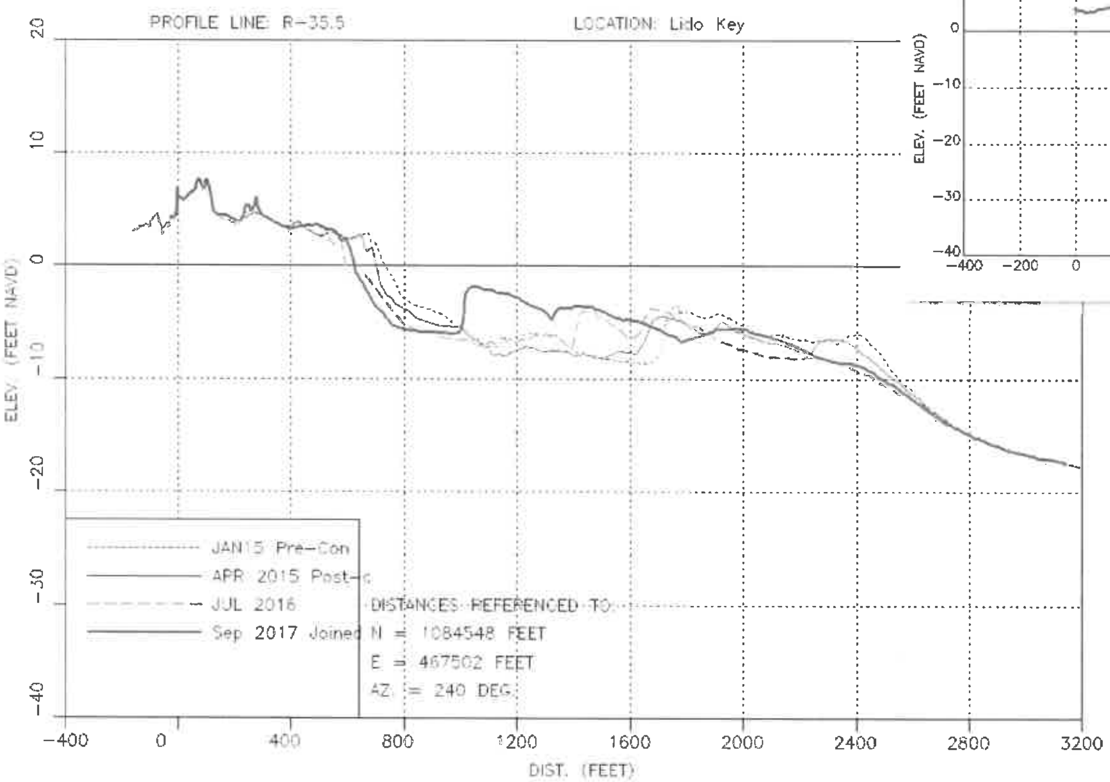
- Pre- and post-2021 dredging surfaces indicate infilling of channel borrow area and potential shoreward translation of southern ebb shoals

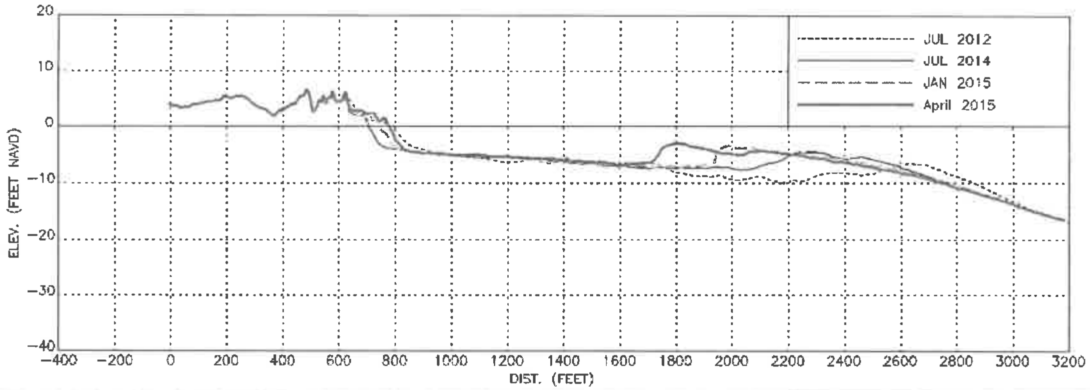




POTENTIAL SEDIMENT TRANSPORT PATHWAYS

2017 Lido Key Monitoring





2015 Lido Key Monitoring

NEXT STEPS

- Compile feedback from TAC Meeting #1
- Scheduling of next TAC Meeting
- Complete Data Analysis
- Draft Sediment Budget Update
- Inlet Management Update Study Report
- Coordinate with FDEP for adoption of Inlet Management Plan

DISCUSSION

THANK YOU

CITY OF SARASOTA

APTIM

COASTAL PROTECTION ENGINEERING

Florida Department of Environmental Protection

Sarasota County

LONGBOAT KEY INCORPORATED FLORIDA

ATTACHMENT 5

CITY OF SARASOTA

SELF-INSURANCE CERTIFICATION

To Whom It May Concern:

Please be advised that the City of Sarasota, Florida, a municipal corporation, is self-insured for all claims pursuant to Florida Statutes 768.28.

Stacie L. Mason
Human Resources Director

State of Florida
County of Sarasota

The foregoing instrument was acknowledged before me this 7 day of April, 2022 by Stacie L. Mason as Human Resources Director for the City of Sarasota, Florida. She is personally known to me and did not take an oath.

Jacalyn Ochoa
Notary Public

My Commission expires:

NOTARY PUBLIC STATE OF FLORIDA
JACALYN OCHOA
Commission # HH 247147
Expires March 30, 2026

ATTACHMENT 6

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

CECW-SAD (1105-2-10a)

22 DEC 2004

SUBJECT: Lido Key, Sarasota County, Florida

THE SECRETARY OF THE ARMY

1. I submit, for transmission to Congress, my report on the study of hurricane and storm damage reduction for Lido Key, Sarasota County, Florida. It is accompanied by the report of the district and division engineers. These reports are in full response to the Resolution, Docket 2458, adopted on 14 September 1995, by the Committee on Transportation and Infrastructure of the House of Representatives. The resolution requested the Secretary of the Army to determine the advisability of providing a hurricane and storm damage reduction project for Lido Key.

2. A shore protection project for Lido Key, Sarasota, Florida, was authorized by Section 101 of the Rivers and Harbors Act of 1970. The project was never completed and was subsequently deauthorized on 1 January 1990 in accordance with the provisions of Section 1001(b)(1) of the Water Resources Development Act (WRDA) of 1986. Section 364(2) of WRDA 1999 reauthorized the project subject to a determination by the Assistant Secretary of the Army (Civil Works) that the project is technically sound, environmentally acceptable, and economically justified. The currently authorized project provides for a 25-foot berm over a 6,200-foot-long (1.2 miles) reach along the shoreline of Lido Key and for periodic nourishment for a 50-year period. The total authorized first cost of the project was $5,200,000, and the authorized average annual cost of periodic nourishment was $602,000.

3. The reporting officers recommend modification of the Lido Key, Sarasota, Florida, shore protection project. The modified project provides for initial construction and periodic nourishment of an 80-foot-wide beach berm at elevation +5 feet National Geodetic Vertical Datum over 1.56 miles of shoreline, with a groin field at the southern limits of the project. Periodic nourishment, accomplished at 5-year intervals, would optimize net benefits over the 50-year period of analysis. The estimated volume of fill for initial project construction is 1,074,700 cubic yards, which includes placement of 614,500 cubic yards for the first nourishment. The source of fill material is three borrow areas located between 7.2 and 9.5 nautical miles offshore.

The project was designed to avoid and minimize adverse environmental effects such that no mitigation is required.

4. Based on October 2004 price levels, the total first cost for construction of the recommended plan is $14,809,000. Based upon the requirements of WRDA 1986, as amended, cost sharing for initial construction will be 62.4 percent Federal and 37.6 percent non-Federal based on shoreline ownership and use. The estimated total Federal first cost of construction is $9,088,000 and the estimated total non-Federal first cost of construction is $5,721,000. Total periodic nourishment costs, stated at October 2004 prices, are estimated to be $63,606,000 over the 50-year period following construction. The ultimate project cost, including initial construction and periodic nourishment, is estimated to be $78,415,000 at October 2004 prices. The average annual cost of future periodic nourishment is estimated to be $1,172,700, based on a Federal discount rate of 5.375 percent and a 50-year period of Federal participation in cost sharing. Cost sharing of periodic nourishment would be in accordance with WRDA 1986, as amended, subject to the availability of appropriations. All costs for operation, maintenance, repair, rehabilitation, and replacement of the recommended project are the responsibility of the non-Federal sponsor.

5. The recommended plan is the national economic development plan. Based on October 2003 prices and a Federal discount rate of 5.625 percent, the estimated average annual cost of the recommended plan is $2,039,800, average annual benefits are $5,060,000, and average annual net benefits are $3,020,200. The project's benefit-to-cost ratio is 2.5 to 1.0.

6. Washington level review indicates that the project is technically sound, environmentally acceptable, and economically justified. The plan conforms with essential elements of the U.S. Water Resources Counsel's Economic and Environmental Principles for Water and Related Land Resources Implementation studies and complies with other administration and legislative policies and guidelines. Also, the views of interested parties, including Federal, State, and local agencies have been considered.

7. The current project is significantly different than the project authorized by Section 364(2) of the WRDA of 1999 and exceeds the maximum project cost allowed by Section 902 of the WRDA of 1986. I concur with the findings, conclusions, and recommendation of the reporting officers. Accordingly, I recommend that the authorized project for hurricane and storm damage reduction for Lido Key, Sarasota County, Florida, be modified generally in accordance with the reporting officers' recommended plan, with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including the WRDA of 1986, as amended, and in accordance with the following local cooperation requirements which the non-Federal sponsor must agree to prior to project implementation:

a. Provide 35 percent of initial project costs assigned to hurricane and storm damage reduction, plus 50 percent of initial project costs assigned to protecting undeveloped public lands, plus 50 percent of initial project costs assigned to recreation, plus 100 percent of initial project costs assigned to protecting undeveloped private lands and other private shores which do not provide public benefits; and 50 percent of periodic nourishment costs assigned to hurricane and storm damage reduction, plus 100 percent of periodic nourishment costs assigned to protecting undeveloped private lands and other private shores which do not provide public benefits; and as further specified below:

(1) Enter into an agreement which provides, prior to execution of the project cooperation agreement, 25 percent of design costs;

(2) Provide, during the first year of construction, any additional funds needed to cover the non-federal share of design costs;

(3) Provide all lands, easements, and rights-of-way, and perform or ensure the performance of all relocations determined by the Federal Government to be necessary for the initial construction, periodic nourishment, operation, and maintenance of the project;

(4) Provide, during construction, any additional amounts as are necessary to make its total contribution equal to 35 percent of initial project costs assigned to hurricane and storm damage reduction plus 100 percent of initial project costs assigned to protecting undeveloped private lands and other private shores which do not provide public benefits and 50 percent of periodic nourishment costs assigned to hurricane and storm damage reduction plus 100 percent of periodic nourishment costs assigned to protecting undeveloped private lands and other private shores which do not provide public benefits;

b. Provide the non-Federal share of that portion of the costs of mitigation and data recovery activities associated with historic preservation, that are in excess of 1 percent of the total amount authorized to be appropriated for the project, in accordance with the cost sharing provisions of the agreement;

c. Do not use Federal funds to meet the non-Federal Sponsor's share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds is authorized;

d. Operate, maintain, repair, replace and rehabilitate the project, or functional portion of the project, including mitigation, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government;

e. Give the Federal 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 inspecting, operating, maintaining, repairing, replacing, rehabilitating, or completing the project. No completion, operation, maintenance, repair, replacement, or rehabilitation by the Federal Government shall relieve the Non-Federal Sponsor of responsibility to meet the Non-Federal Sponsor's obligations, or to preclude the Federal Government from pursuing any other remedy at law or equity to ensure faithful performance;

f. Hold and save the United States free from all damages arising from the initial construction, periodic nourishment, operation, maintenance, repair, replacement, and rehabilitation of the project and any project-related betterments, except for damages due to the fault or negligence of the United States or its contractors;

g. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for the initial construction, periodic nourishment, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal Government 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;

h. Assume, as between the Federal Government and the non-Federal Sponsor, complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated materials located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be necessary for the initial construction, periodic nourishment, operation, or maintenance of the project;

i. Agree that, as between the Federal Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, and repair the project in a manner that will not cause liability to arise under CERCLA;

j. For so long as the project remains authorized, the Non-Federal Sponsor shall ensure continued conditions of public ownership and use of the shore upon which the amount of Federal participation is based;

k. Provide and maintain access roads, parking areas, and other public use facilities, open and available to all on equal terms;

l. Prevent obstructions of or encroachments on the project (including prescribing and enforcing regulations to prevent such obstruction or encroachments) which might reduce the level of protection it affords, hinder operation and maintenance or future periodic nourishment, or interfere with its proper function, such as any new developments on project lands or the addition of facilities which would degrade the benefits of the project;

m. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in preventing unwise future development in the floodplain, and in adopting such regulations as may be necessary to prevent unwise future development and to ensure compatibility with protection levels provided by the project;

n. At least twice annually and after storm events, perform surveillance of the beach to determine losses of nourishment material from the project design section and provide the results of such surveillance to the Federal Government;

o. Not less than once each year, inform affected interests of the extent of protection afforded by the project;

p. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of 3 years after completion of the accounting for which such books, records, documents, and other evidence is required, to the extent and in such detail as will properly reflect total costs of construction of the Project, and in accordance with 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 Code of Federal Regulations (CFR) Section 33.20;

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

r. 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, as well as 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 and requirements, including but not limited to, 40 U.S.C. 3141- 3148 and 40 U.S.C. 3701 – 3708 (revising, codifying and enacting without substantial 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 *et seq.*) ;

s. 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 participate in and comply with applicable Federal floodplain management and flood insurance programs, prepare a flood plain management plan within one year after the date of signing a Project Cooperation Agreement, and implement the plan not later than one year after completion of construction of the project; and,

t. Comply with all 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 CFR Part 24, in acquiring lands, easements, and rights-of-way, necessary for the initial construction, periodic nourishment, operation, and maintenance of the project, including those necessary for relocations, borrow materials, and dredged or excavated material disposal, and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

8. The recommendation contained herein reflects the information at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities in the formulation of a national civil works construction program nor the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to the Congress, the sponsor, the State, interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

Carl A. Strock

CARL A. STROCK
Lieutenant General, US Army
Chief of Engineers

DESIGN AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE CITY OF SARASOTA, FLORIDA
FOR DESIGN OF THE
LIDO KEY, SARASOTA COUNTY,
FLORIDA HURRICANE
AND STORM DAMAGE REDUCTION PROJECT,

THIS AGREEMENT is entered into this 12th day of September, 2007, by and between the Department of the Army (hereinafter the "Government"), represented by the District Engineer, US Army Engineer District, Jacksonville and City of Sarasota, Florida (hereinafter the Non-Federal Sponsor) represented by its Mayor.

WITNESSETH, THAT:

WHEREAS, Federal General Investigations funds for Fiscal Year 2005, included funds for the Government to initiate design of the Lido Key, Sarasota County, Florida Hurricane and Storm Damage Reduction Project at Sarasota County Project (hereinafter the "*Project*" as defined in Article I.A. of this Agreement) at Lido Key, Sarasota County, Florida;

WHEREAS, the Government and the Non-Federal Sponsor desire to enter into an agreement (hereinafter the "Agreement") for the provision of design for the *Project*;

WHEREAS, construction or implementation of the *Project* is authorized by Section 364 of the Water Resources Development Act of 1999, Public Law 106-53;

WHEREAS, Section 105(c) of the Water Resources Development Act of 1986, Public Law 99-662 (33 U.S.C. 2215), provides that the costs of design of a water resources project shall be shared in the same percentage as the purposes of such project;

WHEREAS, the Government and the Non-Federal Sponsor agree that, during the *period of design*, the Non-Federal Sponsor shall contribute 25 percent of *total design costs* and that, if a Project Cooperation Agreement for construction of the *Project* is executed between the Government and a non-Federal interest, such non-Federal interest shall contribute any remaining portion of the non-Federal share of the costs of design in accordance with the provisions of such Project Cooperation Agreement;

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 design and 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 initial restoration and periodic nourishment of an 80 foot beach berm at elevation +5 ft National Geodetic Vertical Datum over 1.56-miles of shoreline with a groin field at the southern limits of the project and periodic nourishment accomplished at 5 year increments as generally described in the Report of the Chief of Engineers, dated December 22, 2004.

B. The term "*total design 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 design of the *Project*. Subject to the provisions of this Agreement, the term shall include, but is not necessarily limited to: the Government's costs of engineering and design, economic and environmental analyses, and evaluation performed after a feasibility report whether performed prior to or after the effective date of this Agreement that were not previously shared with a non-Federal interest pursuant to any other agreement; the Government's supervision and administration costs; the Non-Federal Sponsor's and the Government's costs of participation in the Design Coordination Team in accordance with Article III of this Agreement; the Government's costs of contract dispute settlements or awards; and the Non-Federal Sponsor's and the Government's costs of audit in accordance with Article VII.B. and Article VII.C. of this Agreement. The term does not include any costs of additional work under Article II.E. of this Agreement; any costs of dispute resolution under Article V of this Agreement; any costs incurred as part of reconnaissance studies for the *Project*; any costs incurred as part of feasibility studies under any other agreement for the *Project*; the Non-Federal Sponsor's costs of negotiating this Agreement; or any costs of negotiating a project cooperation agreement for the *Project* or separable element thereof.

C. The term "*period of design*" shall mean the time from the effective date of this Agreement to the date that a Project Cooperation Agreement for construction of the *Project*, or a separable element thereof, is executed between the Government and a non-Federal interest or the date that this Agreement is terminated in accordance with Article X of this Agreement, whichever is earlier.

D. The term "*financial obligations for design*" shall mean the financial obligations of the Government that result or would result in costs that are or would be included in *total design costs*.

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.B.1. of this Agreement to *financial obligations for design*, as projected by the Government.

F. The term "*betterment*" shall mean a difference in the design 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 design of that element. The term does not include any design for features not included in the *Project* as defined in paragraph A. of this Article.

G. 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.

H. 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 design the *Project*, applying those procedures usually applied to Federal projects, in accordance with Federal laws, regulations, and policies.

1. The Government shall not issue the solicitation for the first contract for design of the *Project* or commence design of the *Project* using the Government's own forces until the Non-Federal Sponsor has confirmed in writing its willingness to proceed with design of the *Project*.

2. To the extent possible, the Government shall design the *Project* in accordance with the Project Management Plan for the *Project* developed and updated as required by the Government after consultation with the Non-Federal Sponsor.

3. The Government shall afford the Non-Federal Sponsor the opportunity to review and comment on the solicitations for all contracts, including relevant scopes of work, 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 design 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.

4. At the time the U.S. Army Engineer, Jacksonville District (hereinafter 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.

5. The Government shall afford the Non-Federal Sponsor the opportunity to review and comment on all design products that are developed by contract or by Government personnel during the *period of design*. The Government shall consider in good faith the comments of the Non-Federal Sponsor, but the final approval of all design products shall be exclusively within the control of the Government.

6. Notwithstanding paragraph A.4. of this Article, if the award of any contract for design of the *Project*, or continuation of design of the *Project* using the Government's own forces, would result in *total design costs* exceeding $2,000,000, the Government and the Non-Federal Sponsor agree to defer award of that contract, award of all remaining contracts for design of the *Project*, and continuation of design of the *Project* using the Government's own forces until such time as the Government and the Non-Federal Sponsor agree in writing to proceed with further contract awards for the *Project* or the continuation of design of the *Project* using the Government's own forces, but in no event shall the award of contracts or the continuation of design of the *Project* using the Government's own forces be deferred for more than three years. Notwithstanding this general provision for deferral, in the event the Assistant Secretary of the Army (Civil Works) makes a written determination that the award of such contract or contracts or continuation of design of the *Project* using the Government's own forces must proceed in order to comply with law or to protect human life or property from imminent and substantial harm, the Government, after consultation with the Non-Federal Sponsor, may award a contract or contracts, or continue with design of the *Project* using the Government's own forces.

7. As of the effective date of this Agreement, $200,000 of Federal funds for design is currently projected to be available for 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 the *Project* is limited to the Federal funds that the Government makes available to the *Project*.

B. The Non-Federal Sponsor shall contribute 25 percent of *total design costs* in accordance with the provisions of this paragraph.

1. The Non-Federal Sponsor shall provide funds in accordance with Article IV.B. of this Agreement in the amount necessary to meet the Non-Federal Sponsor's share of 25 percent of *total design costs* if the Government projects at any time that the collective value of the Non-Federal Sponsor's contributions under Article III and Article VII of this Agreement will be less than such share.

2. The Government, subject to the availability of funds, shall refund or reimburse to the Non-Federal Sponsor any contributions in excess of 25 percent of *total design costs* if the Government determines at any time that the collective value of the following contributions has exceeded 25 percent of *total design costs*: (a) the value of the Non-Federal Sponsor's contributions under paragraph B.1. of this Article; and (b) the value of the Non-Federal Sponsor's contributions under Article III and Article VII of this Agreement.

C. Upon conclusion of the *period of design*, the Government shall conduct an accounting, in accordance with Article IV.C. of this Agreement, and furnish the results to the Non-Federal Sponsor.

D. 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 Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is expressly authorized by Federal law.

E. 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 IV.D. of this Agreement.

1. Inclusion of *betterments* in the design of the *Project*. In the event the Government elects to include any such *betterments*, the Government shall allocate the costs of designing the features of the *Project* that include *betterments* between *total design costs* and the costs of the additional work.

2. Preparation of a floodplain management plan, required by Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), in connection with design of the flood or hurricane damage reduction features of the *Project*.

F. If the Government and a non-Federal interest enter into a Project Cooperation Agreement for construction of the *Project*, or a separable element thereof, the Government, in accordance with the provisions of this paragraph, shall include the amount of *total design costs* in total project costs for the *Project*, or separable element thereof. Further, the Government, in accordance with the provisions of this paragraph, shall afford credit toward the non-Federal interest's share of total project costs for the *Project*, or separable element thereof, for the Non-Federal Sponsor's contributions toward *total design costs* under this Agreement.

1. If the Government and a non-Federal interest enter into a Project Cooperation Agreement for construction of the entire *Project*, the Government shall include the amount of *total design costs* in total project costs for the *Project*. Further, the Government shall afford credit toward the non-Federal interest's share of total project costs for the Non-Federal Sponsor's contributions toward *total design costs*, including any excess amount determined in accordance with Article IV.C.2. or Article IV.D.3.b. of this Agreement that was not refunded or reimbursed by the Government.

2. If the Government and a non-Federal interest enter into a Project Cooperation Agreement for construction of a separable element of the *Project*, the Government shall determine the portion of *total design costs* that are allocable to such separable element and include such amount in total project costs] for such separable element. Further, the Government shall determine the amount of the Non-Federal Sponsor's contributions toward *total design costs*, including any excess amount determined in accordance with Article IV.C.2. or Article IV.D.3.b. of this Agreement that was not refunded or reimbursed by the Government, that are allocable or attributable to such separable element and shall afford credit for such amount toward the non-Federal interest's share of total project costs] of such separable element.

3. If the Government and a non-Federal interest do not enter into a Project Cooperation Agreement for construction of the *Project* or a separable element thereof, the Government shall not be obligated to refund or reimburse the Non-Federal Sponsor, in whole or in part, for the Non-Federal Sponsor's 25 percent contribution of *total design costs*. Further, refund or reimbursement by the Government for any excess amount determined in accordance with Article IV.C.2. or Article IV.D.3.b. of this Agreement is subject to the availability of funds.

4. Notwithstanding any other provision of Article II.F. of this Agreement, any amount credited for the value of the Non-Federal Sponsor's contributions toward *total design costs* provided in accordance with Articles III and VII of this Agreement shall not be applied toward the 5 percent cash share required by Section 103(a)(1) (A) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(a)(1)(A)).

G. This Agreement shall not be construed as obligating either party to seek funds for, or to participate in, construction or implementation of the *Project* or a separable element thereof or as relieving the Non-Federal Sponsor of any future obligation under the terms of any Project Cooperation Agreement.

ARTICLE III - DESIGN COORDINATION TEAM

A. To provide for consistent and effective communication, the Non-Federal Sponsor and the Government, not later than 30 calendar days after the effective date of this Agreement, shall appoint named senior representatives to a Design Coordination Team. Thereafter, the Design Coordination Team shall meet regularly until the end of the *period of design*. The Government's Project Manager and a counterpart named by the Non-Federal Sponsor shall co-chair the Design Coordination Team.

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

C. Until the end of the *period of design*, the Design Coordination Team shall generally oversee the *Project*, including matters related to: design; completion of all necessary environmental coordination and documentation; scheduling of reports and work products; plans and specifications; real property and relocation requirements for construction of the *Project*; design contract awards and modifications; design contract costs; the Government's cost projections; 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 Design Coordination Team may make recommendations to the District Engineer on matters related to the *Project* that the Design Coordination Team generally oversees, including suggestions to avoid potential sources of dispute. The Government in good faith shall consider the recommendations of the Design Coordination Team. The Government, having the legal authority and responsibility for design of the *Project*, has the discretion to accept or reject, in whole or in part, the Design Coordination Team's recommendations.

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

ARTICLE IV - 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, and the contributions provided by the parties.

1. As of the effective date of this Agreement, *total design costs* are projected to be $950,000; the Non-Federal Sponsor's contribution of funds required by Article II.B.1. of this Agreement is projected to be $237,000; the *non-Federal proportionate share* is projected to be 25 percent; and the Government's total financial obligations to be incurred for additional work and the Non-Federal Sponsor's contribution of funds for such costs required by Article II.E. of this Agreement are projected to be $237,000. 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.

2. By October 1, 2007 and by each quarterly anniversary thereof until the conclusion of the *period of design* and resolution of all relevant claims and appeals, 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 design costs*; the Non-Federal Sponsor's total contribution of funds required by Article II.B.1. of this Agreement; the *non-Federal proportionate share*; the total contribution of funds required from the Non-Federal Sponsor for the upcoming contract and upcoming *fiscal year*; and the Government's total financial obligations to be incurred for additional work and the Non-Federal Sponsor's contribution of funds for such costs required by Article II.E. of this Agreement.

B. The Non-Federal Sponsor shall provide the contribution of funds required by Article II.B.1. of this Agreement in accordance with the provisions of this paragraph.

1. Not less than 30 calendar days prior to the scheduled date for issuance of the solicitation for the first contract for design of the *Project* or commencement of design of the *Project* using the Government's own forces, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and 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 design* incurred prior to the commencement of the *period of design*; (b) the projected *non-Federal proportionate share* of *financial obligations for design* to be incurred for such contract; and (c) the projected *non-Federal proportionate share* of *financial obligations for design* using the Government's own forces through the first quarter. Not later than such scheduled date, 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 design of the *Project* is complete, the Government shall notify the Non-Federal Sponsor in writing of the funds the Government determines to be required from the Non-Federal Sponsor, and the Non-Federal Sponsor shall provide such funds in accordance with the provisions of this paragraph.

a. The Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the scheduled date for issuance of the solicitation for each remaining contract for design of the *Project*, of the funds the Government determines to be required from the Non-Federal Sponsor to meet the projected *non-Federal proportionate share* of *financial obligations for design* to be incurred for such contract. No later than such scheduled date, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government through any of the payment mechanisms specified in paragraph B.1. of this Article.

b. The Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the beginning of each quarter in which the Government projects that it will make *financial obligations for design* of the *Project* using the Government's own forces, of the funds the Government determines to be required from the Non-Federal Sponsor to meet the projected *non-Federal proportionate share* of *financial obligations for design* using the Government's own forces for that quarter. No later than 30 calendar days prior to the beginning of that quarter, the Non-Federal Sponsor shall make the full amount of such required funds for that quarter 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 design* incurred prior to the commencement of the *period of design*; and (b) the *non-Federal proportionate share* of *financial obligations for design* as *financial obligations for design* are incurred. If at any time the Government determines that additional funds will be needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's share of such financial obligations for the current contract or to cover the Non-Federal Sponsor's share of such financial obligations for work performed using the Government's own forces in the current quarter, 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 the *period of design* and resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. If outstanding relevant claims and appeals prevent a final accounting 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 are resolved, the Government shall amend the interim accounting 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, shall determine *total design costs*. In addition, 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, show that the Non-Federal Sponsor's total required share of *total design costs* exceeds 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 interim or final accounting, as applicable, show that the total contributions provided by the Non-Federal Sponsor for *total design costs* exceed the Non-Federal Sponsor's total required share 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.E. of this Agreement for additional work in accordance with the provisions of this paragraph.

1. Not less than 30 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, the Government shall conduct an accounting of the Government's financial obligations for additional work incurred and furnish the Non-Federal Sponsor with written notice of the results of such accounting. If outstanding relevant claims and appeals prevent a final accounting of additional work from being conducted in a timely manner, the Government shall conduct an interim accounting of additional work and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals are resolved, the Government shall amend the interim accounting of additional work to complete the final accounting of additional work 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 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 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 interim or final accounting, as applicable, show that the total contribution of funds provided by the Non-Federal Sponsor for additional work 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 V - 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 VI – HOLD AND SAVE

The Non-Federal Sponsor shall hold and save the Government free from all damages arising from design of the *Project* and design of any additional work pursuant to Article II.E. of this Agreement, except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE VII - 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 design costs* and shared in accordance with the provisions of this Agreement.

C. In accordance with 31 U.S.C. 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 design costs* and shared in accordance with the provisions of this Agreement.

ARTICLE VIII - 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 and Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army".

ARTICLE IX - 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 X - 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 he determines that continuation of design of 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 design costs* 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 design costs* 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 the Government determines that modifications to the *Project* are required and that additional authorization by Congress will be required before the Government may construct such modifications, the Government shall notify the Non-Federal Sponsor in writing of such determinations and shall terminate this Agreement.

D. In the event that this Agreement is terminated pursuant to this Article, both parties shall conclude their activities relating to the *Project* and conduct an accounting in accordance with Article IV.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.B.1. 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 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 because delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

ARTICLE XI – 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:
Lou Ann Palmer
Mayor
City of Sarasota, Florida
City Hall
1565 First Street
Sarasota, Florida 34236

If to the Government:

District Engineer
Jacksonville District
P.O. Box 4970
Jacksonville, Florida 32232-0019

B. A party may change the 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.

ARTICLE XII – 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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the Department of the Army.

THE DEPARTMENT OF THE ARMY

THE CITY OF SARASOTA, FLORIDA

BY: ______________________
Paul L. Grosskruger
Colonel, US Army
District Engineer

DATE: Sep 12th, 2007

BY: ______________________
Fredd "Glossie" Atkins
Mayor
City of Sarasota, Florida

DATE: AUG-23 2007

CERTIFICATE OF AUTHORITY

I, Robert Fournier, do hereby certify that I am the principal legal officer of the City of Sarasota, Florida, that the City of Sarasota, Florida is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the City of Sarasota, Florida in connection with design of the LIDO KEY, SARASOTA COUNTY, FLORIDA HURRICANE AND STORM DAMAGE REDUCTION PROJECT, and that the persons who have executed this Agreement on behalf of the City of Sarasota, Florida have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this 23rd day of August 2007.

Robert M Fournier

Robert Fournier
City 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 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.

Fredd "Glossie" Atkins
Mayor
City of Sarasota, Florida

DATE: Aug 23 2007

CERTIFICATE OF LEGAL REVIEW

The design Agreement between the Department of the Army and the City of Sarasota, Florida for the Lido Key, Sarasota County, Florida Hurricane and Storm Damage Reduction Project has been fully reviewed by Office of Counsel, USAED, Jacksonville, and is legally sufficient.

Robert T. Boal, III
Assistant District Counsel

ATTACHMENT 7

SARASOTA COUNTY TOURIST DEVELOPMENT COUNCIL

REPORT AND RECOMMENDATIONS OF THE SARASOTA COUNTY TOURIST DEVELOPMENT COUNCIL

In August, 1986, the Sarasota County Commission agreed to establish the Sarasota County Tourist Development Council, hereinafter referred to as the "TDC", for the purpose of studying the tourist development tax issue and, if approved by the voters, recommend how revenues generated by the tax could be used for the good of all residents of the county.

In accordance with Florida Statute 125.0104, the county commission appointed nine representatives to serve on the council. Three members are elected municipal officials (Jim Greenwald, John Kalajian and Kerry Kirschner), three members are owners/managers of hotels, motels and other accommodations in the county subject to the tax (Bob Groter, Rick Redman and Rosie Turner) and three members are involved in the tourism industry but are not owners/managers of hotels, motels or other accommodations in the county subject to the tax (Jeff Rosenberg, Tony Swain and Cee Wollheim).

The "TDC" met for the first time on September 29, 1986, and have held a total of seven meetings during which time the following recommendations were agreed to:

A. The tourist development tax should be levied county wide and at a level of 2 percent. We estimate the tax will generate $1.8 million the first year and $2 million the second.

B. No tourist tax revenues should be pledged for future debt obligation without a county wide referendum.

C. 50 percent of the revenues generated by the tax be allocated for beach maintenance, preservation, restoration and erosion control.

D. 25 percent for cultural and fine art entertainment, festivals, programs and activities which directly promote Sarasota County tourism.

E. 25 percent to promote, advertise and bring tourism to Sarasota County for the needed period between May 1 and December 1 each year.

In addition, the "TDC" recommends the following guidelines be considered for each of the three authorized uses:

A. Beaches

1. Tourist develpment tax revenues will be available only to those governmental entities with posted public beaches and beach accesses.
2. The distribution of tax revenues for beaches will be determine[d] using the same formula presently in effect for distribution of gas revenues, population figures.
3. Specific beach uses may include:
    a. General maintenance of public beaches.
    b. Engineering studies
    c. Dredging of sand for beach restoration.
    d. Construction of sand dunes.

e. Repair of existing groins

f. Planting of vegetation to control erosion

g. Building and maintaining beach walk-overs

h. Maintenance of public beach accesses

i. Maintenance of picnic areas on public beaches

j. Emergency funds for storm or red tide cleanup

k. Purchase of equipment for beach maintenance

B. The Arts

1. The "TDC" recommends the county commission appoint an arts board, made up of qualified members of the community, familar with both the visual and performing arts.or identify an exisitng group within the community, either of whom would be responsible for recommending to the "TDC" a variety of grants for artist fees, production and/or exhibition costs and marketing expenses to area cultural organizations with recognized ability to produce, present and promote cultural opportunities.
2. Any expenditure of funds by the "TDC" must be approved by the county commission.
3. No revenues shall be allocated for salaries or administrat services relating to the group which will distribute grant monies on behalf of the arts.

C. Tourist Development

1. The "TDC" recommends the county commission appoint an exisitng organization within the community, or establish a tourism board, made up of qualified members of the

community, for purposes of coordinating all tourist development activities on behalf of the county.

2. Tax revenues should be used for media purchases, travel trad shows and the general promotion of Sarasota County for the period May 1 to December 1, each year.
3. No revenues should be allocated for salaries or administrati services relating to tourism promotion.
4. Any expenditure of funds by the "TDC" must be approved by the county commission.

If the guidelines outlined herein are adhered to, a majority of the council believe the tourist development tax is a practical method by which to generate new revenues for city and county use which inturn will improve the quality of life for everyone in Sarasota County.

It is imperative the voters of Sarasota County understand that approva of a tourist development tax does not effect, in any way, their ad valorem taxes or the sales tax paid on goods and services. If voters approve this issue it will only increase the amount of sales tax paid by visitors for short term vacation rentals in area hotels, motels and condominiums. (Short term is defined as 6 months or less)

Approval of the tourist development tax would increase the level of state sales tax presently collected by area hotels, motels and other rental accommodations from 5 percent to 7 percent. All tax revenues would be reported to the Florida Department of Revenue in the prescribed manner. Upon receipt in Tallahassee, the Department of Revenue would extract tourist tax revenue from the total taxes remitte and return same to the county for deposit in a special "tourism trust account. The Sarasota County Commission would have complete control over the disbursement of tourist tax revenues.

Conclusion

A majority of the members of the "TDC" believe that with close adherer to the recommendations presented, the plan can be effective and compatable with all environments of the community.

Therefore, the Sarasota County Tourist Development Council recommends the county commission approve the recommendations described herein and commence public hearings on an ordinance to levy and impose a tourist development tax in Sarasota County which would be voted upon at the first scheduled county wide election. No ordinance shall take effect until the ordinace levying and imposing the tax has been approved in a referendum election by a majority of the electors voting in such elect

Respectfully submitted

Kerry Kirschner
Chairman

Council members:

Jim Greenwald
Bob Groter
John Kalajian
Rick Redman
Jeff Rosenberg
Tony Swain
Rosie Turner
Cee Wollheim

Tourist Develop. Tax

RESOLUTION 88R-86

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SARASOTA EXPRESSING SUPPORT OF PROPOSED COUNTY ORDINANCE NO. 87-134, WHICH IMPOSES AND LEVIES, SUBJECT TO REFERENDUM APPROVAL, A TWO PERCENT (2%) TOURIST DEVELOPMENT TAX PURSUANT TO THE LOCAL OPTION TOURIST DEVELOPMENT ACT, SECTION 125.0104, FLORIDA STATUTES, PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR READING BY TITLE ONLY.

WHEREAS, it is right and proper that municipal governments express their opinion, on behalf of their constituents, to county governments relative to matters of taxation; and

WHEREAS, the Florida Local Option Tourist Development Act, Section 125.0104, Florida Statutes, permits the Board of County Commissioners to levy a Tourist Development Tax in the manner as prescribed in the Florida Statutes; and

WHEREAS, the City Commission of the City of Sarasota wishes to express its support of said proposed ordinance; now

THEREFORE, BE IT RESOLVED by the City Commission of the City of Sarasota, Florida:

Section 1. The City Commission of the City of Sarasota hereby expresses its support of a two percent (2%) Tourist Development Tax pursuant to Florida Statutes, subject to a referendum approval by the voters of the entire community.

Section 2. The City Auditor and Clerk of the City of Sarasota is hereby directed to duly authenticate this resolution and transmit it to the Board of County Commissioners of Sarasota County, Florida.

Section 3. This resolution shall take effect immediately upon adoption.

ADOPTED by the City Commission of the City of Sarasota, Florida, upon reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior thereto as authorized by Article IV, Section 2, of the Charter of the City of Sarasota, Florida, this 7th day of December, 1987.

MAYOR

ATTEST:

CITY AUDITOR AND CLERK

CITY OF SARASOTA

Interoffice Memorandum **Date:** December 16, 1997

To: David R. Sollenberger, City Manager

From: Gibson E. Mitchell, Finance Director

Subject: Tourist Tax - Longboat Key Request

You have asked for an explanation of the newspaper article abut Longboat Key and their request for more tourist tax dollars. A 2% local option Tourist Development Tax (TDT) was approved by the voters of Sarasota County in 1988. This tax is imposed on the rental of accommodations for overnight stays of less than six months in duration. As prescribed by Sarasota County Ordinance 87-134, the original 2% tourist tax revenues are allocated as follows: 50% for beach maintenance, preservation, restoration, and erosion control; 25% for cultural and fine arts entertainment, festivals, programs and activities which directly promote Sarasota County tourism; and 25% to promote, advertise, and bring tourism to Sarasota County.

Additionally, the 50% beach allocation is distributed to those governmental entities within the County that have posted public beaches and beach accesses. This provision was written before the County assumed responsibility for maintaining all of the County's posted public beaches and beach accesses. The allocation is determined by a population-based formula. Governmental entities that receive a distribution are: City of Sarasota, City of Venice, Town of Longboat Key, and Sarasota County. Since North Port is located inland, it does not receive a distribution.

The original 2% tourist tax levy was based on the concept that the continuous growth of tourism in Sarasota County will generate more jobs in the service industries; bring additional revenues through gasoline, sales, and airport taxes; and reduce the local ad valorem tax burden of maintaining and re-nourishing the County's public beaches.

On November 12, 1996, the Board of County Commissioners unanimously passed an amendment to the Tourist Tax Ordinance. The amended ordinance raised the tourist tax by 1% on April 1, 1997. Allocated the additional revenue 70/30 between beach re-nourishment and advertising; and implemented previous Board-directed changes to the Tourist Development Plan. No distribution formula was developed for the beach renourishment portion of the addition tax. The Board of County Commissioners will allocate these funds based on need rather than by a population-based or collection-based formula. By resolution, the BCC allocated $1.1M of the first year of the additional revenue to the City of Sarasota for the Lido Beach Re-nourishment project.

The amended ordinance that imposed the additional 1% levy did not change the distribution of the original 2% levy. However, it did provide for a minimum distribution of $150,000 for beaches to any governmental entity that collected over 15% of the Tourist Tax. This was due primarily to a 1994 request from the Town of Longboat Key to receive this lump sum distribution because it maintains its own beaches. Currently, the only municipality that uses this provision is the Town. The County must use a portion of its own TDT beach distribution to fund the difference between $150,000 and the Town's normal distribution. In FY97, the County's TDT "contribution" to Longboat Key was $125,914. As the Tourist Tax Ordinance is currently written, any increase in the Town's allocation would result in an equal decrease in the County's allocation. It should be noted that the Town has no designated public beach parks in Sarasota County and owns only approximately one-half of one percent of the public beach/public beach access footage.

The Town of Longboat Key collected $795,586 in tourist taxes in FY97 In return, in addition to receiving a beach allocation of $150,000 the Town derived benefits from both the $899,688 budget for cultural and fine arts programs to promote Sarasota County tourism, and the $989,182 budget to promote and advertise Sarasota County.

For Fiscal Year 1998, after the cost of collection and auditing, $4,332,473 in tax proceeds from the total 3% TDT are budgeted to be allocated as follows:

Sarasota County Beach Allocation	$ 945,827
City of Sarasota Beach Allocation	$ 255,616
City of Venice Beach Allocation	$ 92,715
Town of Longboat Key Beach Allocation	$ 150,000
Beach Re-nourishment Allocation	$1,010,910
Arts Allocation	$ 722,079
Promotion Allocation	$1,155,326

There is a Tourist Development Council meeting scheduled for January 15, 1998. Sarasota County is recommending that the Town of Longboat Key get one penny of the first cent of tax which will result in approximately $150,000 more than the $150,000 they are currently receiving. The Town of Longboat Key must waive their right to any of the additional third cent of the tourist tax.

The County has assured us that if the Town of Longboat Key's request is granted, it will not effect the future distribution to the City of Sarasota.

Gil E. Mitchell

Gibson E. Mitchell, CGFO
Finance Director

xc: Gary L. Laubacker

032.CO54.1096

RECEIVED
CITY OF SARASOTA
AUG 17 1990
FINANCE DEPARTMENT

ORDINANCE NO. 87-134

AN ORDINANCE OF SARASOTA COUNTY, FLORIDA, IMPOSING AND LEVYING, SUBJECT TO REFERENDUM APPROVAL, A TWO PERCENT TOURIST DEVELOPMENT TAX PURSUANT TO THE LOCAL OPTION TOURIST DEVELOPMENT ACT, SECTION 125.0104, FLORIDA STATUTES; PROVIDING FOR COLLECTION OF THE TAX; PROVIDING FOR A TOURIST DEVELOPMENT COUNCIL; PROVIDING FOR AND ADOPTING A TOURIST DEVELOPMENT PLAN; PROVIDING FOR PENALTIES AND LIENS; PROVIDING FOR A REFERENDUM ELECTION; PROVIDING FOR ADMINISTRATION OF SAID REFERENDUM ELECTION; PROVIDING A FORM OF BALLOT; PROVIDING FOR A NOTICE OF ELECTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR FILING OF THE ORDINANCE, COMMENCEMENT OF TAX COLLECTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Local Option Tourist Development Act, Section 125.0104, Florida Statutes, permits the Board of County Commissioners to levy a tourist development tax in the manner prescribed therein; and

WHEREAS, the Board of County Commissioners adopted Resolution 86-417 on September 2, 1986, establishing and appointing the Sarasota County Tourist Development Council in the manner prescribed in Section 125.0104(4)(b), Florida Statutes; and

WHEREAS, the Sarasota County Tourist Development Council adopted for submission to the Board of County Commissioners a plan for tourist development on December 8, 1986, in the manner prescribed in Section 125.0104(4)(c), Florida Statutes, and

WHEREAS, the statutory requirements precedent to the enactment of an ordinance have been met.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

SECTION 1. <u>LEVY AND IMPOSITION OF TOURIST DEVELOPMENT TAX.</u>

A. Pursuant to the authority of Section 125.0104, Florida Statutes, Sarasota County does levy and impose throughout the incorporated and unincorporated areas of Sarasota County, Florida, a tourist development tax at a rate of two percent (2%) of each dollar and major fraction of each dollar of the total consideration charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel,motel, resort motel, apartment, apartment motel, rooming house, mobile home park, recreational vehicle park, or condominium which renting, leasing or letting is for a term of six (6) months or less. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration.

B. The tourist development tax shall be in addition to any other tax imposed pursuant to Chapter 212, Florida Statutes and in addition to all other taxes and fees and the consideration for the rental or lease.

C. The tourist development tax shall be charged by the person receiving the consideration for the lease or rental, and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.

SECTION 2. COLLECTION.

A. Until such time as Sarasota County adopts an ordinance providing for the collection and administration of the tax on a local basis, pursuant to Section 125.0104(10), Florida Statutes, the person receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the State of Florida Department of Revenue at the time and in the manner provided for persons who collect and remit taxes under Section 212.03, Florida Statutes. The same duties and privileges imposed by Chapter 212, Florida Statutes, upon dealers in tangible property respecting the remission and collection of tax; the making of returns; the keeping of books, records and accounts; and compliance with the rules of the Florida Department of Revenue in the administration of said chapter shall apply to and be binding upon all persons who are subject to the provisions of this Ordinance; provided however, the Department of Revenue may authorize a quarterly return and payment when the tax remitted by the person receiving the consideration for such rental or lease for the preceding quarter does not exceed $25.00.

B. The Clerk of the Circuit Court of Sarasota County, acting as Clerk and Auditor to the Board of County Commissioners is hereby authorized and directed to establish in the accounts of the Board of County Commissioners the Sarasota County Tourist Development Trust Fund in which the proceeds of the Tourist Development Tax shall be placed upon receipt from the Department of Revenue in accordance with the provisions of Section 125.0104(3)(i), Florida Statutes.

SECTION 3. COUNTY TOURIST DEVELOPMENT COUNCIL.

A. Pursuant to Section 125.0104(4)(e), Florida Statutes, the Board of County Commissioners of Sarasota County hereby establishes the Sarasota County Tourist Development Council, hereinafter referred to as the Council.

B. The members of the Council and their respective initial terms of office shall be as prescribed in Sarasota County Resolution No. 86-417, as amended. The Board of County Commissioners shall fill vacancies on the Council for any unexpired term. Council members shall serve until their successors are appointed by the Board of County Commissioners. In the event this ordinance is not approved at the referendum election called by this ordinance, the Council shall cease to exist.

C. The Council shall meet at least once each quarter, and from time to time, shall make recommendations to the Board of County Commissioners for the effective operation of the special projects or uses of the tourist development tax revenue and perform such other duties or functions as may be prescribed by County ordinance or resolution.

D. The Council shall continuously review expenditures of revenues from the Tourist Development Trust Fund and shall receive at least quarterly, expenditure reports from the Board of County Commissioners, or its designee. Expenditures which the Council believes to be unauthorized shall be reported to the Board of County Commissioners and Department of Revenue. The Board of County Commissioners and Department of Revenue shall review the Council's findings and take appropriate administrative or judicial action to ensure compliance with this ordinance and the provisions of Section 125.0104, Florida Statutes.

SECTION 4. <u>TOURIST DEVELOPMENT PLAN.</u>

A. The Board of County Commissioners of Sarasota County, Florida, hereby adopts the Tourist Development Plan attached hereto as Exhibit "A" and made a part hereof by reference.

B. The Tourist Development Plan shall not be substantially amended except by an ordinance enacted by an affirmative vote of a majority plus one additional member of the Board of County Commissioners.

SECTION 5. <u>PENALTIES AND LIENS.</u>

A. Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying any rental or lease the taxes herein provided, either by himself or through his agents or employees, shall be, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082, Section 775.083 or Section 775.084, Florida Statutes.

B. No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the person paying the rental of the payment of all or any part of the tax, or that the tax will not be added to the rental or lease consideration, or when added, that it or any part thereof will be refunded or refused, either directly, or indirectly, by any method whatsoever. Any person who willfully violates any provision of this subsection shall be guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082, Section 775.083 or Section 755.084, Florida Statutes.

C. The tax hereby levied shall constitute a lien on the property of the lessee, customer, or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed in Sections 713.67, 713.68 and 713.69, Florida Statutes.

D. Any person violating or who is deemed to have violated any Section of this Ordinance or any provision of any Section of this Ordinance shall be punished as provided for by law.

SECTION 6. <u>REFERENDUM ELECTION CALLED</u>. A referendum election is hereby ordered and called to be held throughout Sarasota County on the eighth day of March, 1988 for the purpose of submitting to the qualified electors residing within Sarasota County the question of approval or rejection of the herein proposed Tourist Development Tax.

SECTION 7. <u>POLLING PLACES</u>. The referendum election shall be held at the polling places designated in each precinct in Sarasota County, Florida.

SECTION 8. <u>ELECTION OFFICIALS</u>. The election officials to conduct said election shall be the officials appointed by the Supervisor of Elections pursuant to the requirements of applicable general law.

SECTION 9. <u>HOURS OF ELECTION</u>. The polls shall be open at the voting places on the date of such referendum election from 7:00 a.m. to 7:00 p.m. on the same day. All qualified electors residing within Sarasota County may vote in said election.

SECTION 10. <u>FORM OF BALLOT</u>.

A. The ballots to be used in the referendum election called herein shall be that portion of cardboard or paper or other material within the ballot frame of the voting machine which shall contain the questions to be voted upon and which said ballot shall be in substantially the following form:

<u>OFFICIAL BALLOT</u>

REFERENDUM ELECTION ON THE SARASOTA COUNTY TOURIST DEVELOPMENT TAX

March 8, 1988

Shall the Tourist Development Tax as proposed by Sarasota County Ordinance No. 87-<u>134</u> be approved?

FOR the Tourist Development Tax	AGAINST the Tourist Development Tax

<u>INSTRUCTIONS TO VOTERS</u>

If you are for the question, punch out the black dot on the ballot card directly above the number assigned to the word "FOR" with the punching device provided.

If you are against the question, punch out the black dot on the ballot card directly above the number assigned to the word "AGAINST" with the punching device provided.

Paper ballots shall be used for said election for absentee voting. The form of ballot to be used in the election for absentee voters shall be in substantially the form provided above. The Supervisor of Elections shall assign an appropriate punch card number to be used by voters desiring to vote for or against the question, respectively. The appropriate punch card numbers shall appear on the ballot immediately to the right of the word "FOR" and to the right of the word "AGAINST" on the ballot.

SECTION 11. <u>NOTICE OF ELECTION</u>. The clerk of this board shall publish a notice of said referendum election in a newspaper of general circulation published in Sarasota County, Florida. Said notice shall be published once in the 5th week prior to the week of the referendum election and once in the 3rd week prior to the week of the referendum election with the first publication to be at least thirty days before the date of the election. Said notice shall be in substantially the following form:

<u>NOTICE OF REFERENDUM ELECTION</u>

Notice is hereby given that a referendum election will be held throughout Sarasota County, Florida, on March 8, 1988 at the polling places heretofore designated within the general precincts for the purpose of determining the following question:

Shall the Tourist Development Tax as proposed by Sarasota County Ordinance No. 87-<u>134</u> be approved?

FOR the Tourist Development Tax	AGAINST the Tourist Development Tax

on the te of such referendum e] ion from 7:00 a.m. to 7:00 p.m. on the san. uay. All qualified voters residing within Sarasota County may vote in said election. Absentee voting will be permitted upon compliance with applicable provisions of the general law.

KAREN RUSHING, Clerk of the
Circuit Court and Ex-Officio Clerk
of the Board of County Commissioners
of Sarasota County, Florida

SECTION 12. SEVERABILITY.

A. It is declared to be the intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 13. EFFECTIVE DATE, FILING AND COMMENCEMENT OF TAX COLLECTION.

A. This ordinance shall take effect immediately upon receipt of official acknowledgment from the office of the Secretary of State of the State of Florida that this ordinance has been filed with said office.

B. The Clerk is hereby directed to file a certified copy of this Ordinance with the Office of the Secretary of State and the Department of Revenue.

C. The effective date of the levy and imposition of the Tourist Development Tax provided for by this Ordinance shall be the first day of the second month following approval of this Ordinance at the referendum election provided for in this Ordinance.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, this 8th day of December, 1987.

BOARD OF COUNTY COMMISSIONERS OF
SARASOTA COUNTY, FLORIDA

By: Jeanne McElmurray
Vice Chairman

ATTEST:
KAREN RUSHING, Clerk of the Circuit
Court and Ex-Officio Clerk of the
Board of County Commissioners of
Sarasota County, Florida

By: [signature]
Deputy Clerk

10/26/87
O-TOURIST
dt

... COUNTY OF SARASOTA
... THAT THE EFFECTIVE DATE OF
THE FOREGOING ORDINANCE IS ... Dec 21, 1987
WITNESS MY HAND AND OFFICIAL SEAL THIS
DATE Dec 21, 1987
... CLERK OF CIRCUIT COURT AND
...
... FLORIDA.
BY: [signature]
DEPUTY CLERK

0 87-134

RESOLUTION

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SARASOTA, FLORIDA CONCERNING A TOURIST DEVELOPMENT TAX; REQUESTING THAT THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY ESTABLISH AND APPOINT A TOURIST DEVELOPMENT COUNCIL; DEFINING PORTIONS OF A TOURIST DEVELOPMENT PLAN WHICH WOULD BE ACCEPTABLE TO THE CITY OF SARASOTA; REQUESTING A REFERENDUM OF CITY OF SARASOTA ELECTORS TO CONSIDER AN ORDINANCE OF SARASOTA COUNTY ADOPTING A TOURIST DEVELOPMENT PLAN CONSISTENT WITH THE PROVISIONS OF THIS RESOLUTION; DIRECTING THAT A COPY OF THIS RESOLUTION BE DELIVERED TO THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, §125.0104, Florida Statutes (1985) provides that the governing board of a county may levy a tourist development tax to be collected solely within a subcounty special district; and,

WHEREAS, a tourist development tax may not be levied and imposed within a subcounty special district unless approved by the electors of such special district; and,

WHEREAS, a referendum may not be held until the governing board of a county has adopted an ordinance which levies and imposes a tourist development tax in accordance with a tourist development plan; and,

WHEREAS, the tourist development plan must be prepared by a tourist development council to be appointed by the governing board of the county; and,

WHEREAS, the City Commission of the City of Sarasota wishes to have the question of the levy of a tourist development tax, solely within its corporate limits, submitted to its electors at a duly called referendum.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SARASOTA, FLORIDA:

Section 1. The Sarasota City Commission hereby requests that the Board of County Commissioners of Sarasota County establish and appoint a Sarasota Tourist Development Council which shall establish a tourist development plan and priority list of proposed uses of the revenue generated by a tourist development tax, all as is provided for by applicable statute. The City Commission further requests that membership on the Tourist Development Council consist of the Chairman of the Board of County Commissioners for Sarasota County, Florida, City of Sarasota Mayor Kerry Kirschner and City of Sarasota Commissioner Lou Ann Palmer, all as is required by statute, and that six (6) other persons be appointed to the Council who are electors of the County and who are residents of the City of Sarasota, or who own or operate businesses located within the corporate limits of the City of Sarasota, or persons who are members of organizations operating within the City of Sarasota which promote the arts.

Section 2. The City Commission endorses the levy of a tourist development tax, solely within the corporate limits of the City of Sarasota, so long as the revenue therefrom is spent exclusively within the City of Sarasota corporate limits and so long as the revenue generated is used exclusively to finance beach improvement, maintenance, renourishment, restoration and erosion control and to promote and advertise off-season tourism within the City of Sarasota. The City Commission supports a tourist development plan which incorporates these provisions with the limitation that the uses of the revenue collected and the percentage allocation of funds between selected uses shall not be amended or altered except by submittal of changes to referendum of the electors of the City of Sarasota.

Section 3. At such time as the Tourist Development Council has prepared and submitted to the Board of County Commissioners an acceptable tourist development plan, it is requested that the Board of County Commissioners, by ordinance, levy and impose the tourist development tax, said ordinance to incorporate the tourist development plan. Further, that the provisions of such ordinance be submitted to a referendum of the electors of the City of Sarasota for approval. Provided, however, that should the tourist development plan fail to conform to the provisions of this Resolution, then the City Commission would withdraw its request for an ordinance to levy and impose a tourist development tax.

Section 4. The City Auditor and Clerk is directed to forward a copy of this Resolution to the Chairman of the Board of County Commissioners for Sarasota County, Florida.

Section 5. This Resolution shall take effect immediately upon adoption.

ADOPTED by the City Commission of the City of Sarasota, Florida, after reading in full, this 4th day of August, 1986.

MAYOR

ATTEST:

Robert A. McLelland BER

CITY AUDITOR AND CLERK

Sarasota County, Florida, Code of Ordinances >> ARTICLE III. TOURIST DEVELOPMENT TAX >>

ARTICLE III. TOURIST DEVELOPMENT TAX

Sec. 114-60. Findings of fact.
Sec. 114-61. Levy and imposition of tourist development tax.
Sec. 114-62. Collection and administration.
Sec. 114-63. County Tourist Development Council.
Sec. 114-64. Tourist development plan.
Sec. 114-65. Penalties, liens, and interest.
Sec. 114-66. Severability.
Secs. 114-67—114-90. Reserved.

Sec. 114-60. Findings of fact.

The Board of County Commissioners of Sarasota County, Florida (the "Board") hereby makes the following findings of fact:

(1) The Florida Local Option Tourist Development Act, F.S. § 125.0104, permits the Board to levy a tourist development tax ("TDT") in the manner prescribed therein.

(2) On December 8, 1987, the Board adopted Ordinance No. 87-134 establishing a TDT levy of two percent subject to referendum (hereinafter referred to as the "Initial Two Percent Levy") within the boundaries of Sarasota County and approving a Tourist Development Plan in accordance with F.S. § 125.0104(3)(c).

(3) The levy of the TDT as proposed in Ordinance No. 87-134 was approved by the registered voters of Sarasota County by referendum on September 6, 1988. The levy and collection of the Initial Two Percent Levy commenced on November 1, 1988, to be used 50 percent for beaches, 25 percent for arts and cultural activities, and 25 percent for advertising/promotion designed to bring tourism to Sarasota County.

(4) Pursuant to F.S. § 125.0104(3)(d), the Board adopted (by extraordinary vote) Ordinance No. 96-071, which authorized the imposition of an additional one percent levy of the TDT (hereinafter referred to as the "First Additional One Percent Levy"), commencing April 1, 1997, to be used 30 percent for advertising/promotion designed to increase tourist-related business activities in Sarasota County and 70 percent for beach renourishment, beach restoration and beach erosion control within Sarasota County.

(5) Thereafter, pursuant to F.S. § 125.0104(3)(l), the Board adopted (by unanimous vote) Ordinance No. 2006-061 authorizing another one percent increase in TDT levy (hereinafter referred to as the "Second Additional One Percent Levy"), commencing May 1, 2007, and amending the Tourist Development Plan to adjust the allocation of TDT revenues in compliance with the provisions of Section 125.0104, Florida Statutes, regarding the authorized uses of revenues from each TDT levy, to allow for an additional one-half percent to be used for advertising/promotion and one-half percent to be distributed to the City of Sarasota (the "City") for costs incurred by the City for either the renovation of the Ed Smith Stadium or the land acquisition and construction of a new sports stadium to be used as a spring training facility by a major league baseball team.

(6) Subsequently, the Board adopted Ordinance No. 2008-026, amending the Tourist

Development Plan to provide that the County's contribution of TDT to the City for a sports stadium was: (a) limited to the renovation of the existing Ed Smith Stadium, (b) capped at $17.6 million in net present value, and (c) conditioned solely upon the execution of an interlocal agreement between the City and County detailing the responsibilities and obligations of the parties with respect to the renovation and operation of the Ed Smith Stadium. Ordinance No. 2008-026 further provided that in the event an interlocal agreement was not executed, that portion of the TDT levy allocated to the City for a sports stadium was to be allocated to the County for any other lawful use.

(7) As a result of changed circumstances, the Board determined that any future contract with a major league baseball team for a spring training facility shall be between the team and the County, rather than the City, and the County will utilize TDT proceeds to finance the renovation of the Ed Smith Stadium or the construction of a new sports stadium and ancillary facilities as well as for capital repairs and improvements to the stadium, with the City transferring to the County the Ed Smith Stadium site for a nominal fee and the proceeds generated from a State grant for major league stadiums.

(8) The renovation and/or construction of a sports stadium to be used as the spring training facility for a major league baseball team as well as for other events throughout the year will promote tourism throughout Sarasota County and contribute to the economic vitality of the local business community, including restaurants, hotels and other tourist attractions.

(9) The construction, operation and maintenance of aquatic nature centers will provide a venue for world-class rowing competitions, boating and other aquatic activities which will promote tourism throughout Sarasota County and contribute to the economic vitality of such tourism-related businesses as restaurants, hotels and other tourist attractions.

(10) Pursuant to F.S. § 125.0104(3)(n), the Board adopted Ordinance 2009-038 authorizing an additional one-half percent increase of TDT Levy ("Additional One-Half Percent Levy"), commencing May 1, 2010, to allow for the reallocation of TDT revenues among those uses authorized by F.S. § 125.0104, and amending the Tourist Development Plan to provide an allocation for an aquatic nature center and an increased allocation for advertising/promotion.

(11) The levy and collection of a second additional one-half percent of TDT ("Second Additional One-Half Percent Levy") is an appropriate mechanism to generate increased revenues so as to allow for the reallocation of TDT revenues among those uses authorized by F.S. § 125.0104, which necessitates an amendment to the Tourist Development Plan to provide an increased allocation for an aquatic nature center to provide an enhanced tourist destination.

(12) The expenditure of TDT revenues, as described in the Tourist Development Plan, as amended, will benefit and promote tourism in Sarasota County in accordance with F.S. § 125.0104 by funding the following: the improvement, cleanup, renourishment, maintenance, restoration, preservation and enhancement of beach park facilities and beaches; promotion and advertising tourism for Sarasota County, including cultural and fine arts events, programs and activities with the main purpose of attracting tourists; the construction and/or renovation of a sports stadium and ancillary facilities, and the construction, operation and maintenance of an aquatic nature center, and new tourism activities, attractions and promotions.

(13) The Board has held a duly-advertised public hearing on the proposed amendments to the TDT ordinance, at which hearing the Board considered all testimony and evidence received from interested parties and found that the Second Additional One-Half Percent Levy and the amendments to the Tourist Development Plan are in the best interests of

the economic vitality of Sarasota County by expanding the scope of tourist-related activities in the County and promoting Sarasota County as a tourist destination.

(14) The Board finds that the statutory requirements precedent to the levy of the Second Additional One-Half Percent Levy will be fulfilled upon approval by a majority vote plus one of the Board.

(15) In light of the increasing costs for beach maintenance and the importance of Sarasota County's beaches to the economic vitality of such tourism-related businesses as restaurants, hotels and other tourist attractions, it is in the best interests of the County that the allocation of revenue from the First Additional One Percent Levy be amended to reflect an additional allocation to beach maintenance activities.

(16) In recognition of the integral role the County's tourism board plays in promoting the tourist attractions of the County world-wide and the increasing administrative costs to effectively operate such an organization, it is in the best interests of the County's tourism industry that the limitation of TDT revenues to the County's tourism board for this purpose be increased accordingly.

(17) On June 23, 2010, the Board adopted Ordinance 2010-049 to increase the membership of the Tourist Development Council pursuant to House Bill 1519, special act legislation for Sarasota County, providing for a representative from municipalities not previously represented on the Council and additional tourist industry representatives, increasing the composition from nine to 13 members.

(Ord. No. 96-071, § 1, 11-12-1996; Ord. No. 2004-032, § 2, 2-25-2004; Ord. No. 2006-061, § 2, 9-13-2006; Ord. No. 2008-026, § 2, 2-12-2008; Ord. No. 2009-038, § 2, 7-22-2009; Ord. No. 2010-012, § 2, 2-19-2010; Ord. No. 2010-076, § 2, 10-13-2010; Ord. No. 2011-048, § 2, 7-26-2011)

Sec. 114-61. Levy and imposition of tourist development tax.

(a) *Initial Two Percent Levy.*

(1) Pursuant to the authority of F.S. § 125.0104(3)(c), Sarasota County does levy and impose throughout the incorporated and unincorporated areas of Sarasota County, Florida, a TDT at a rate of two percent of each dollar and major fraction of each dollar of the total consideration charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment hotel, roominghouse, mobile home park, recreational vehicle park, or condominium which renting, leasing, or letting is for a term of six months or less and is not exempt according to the provisions of F.S. ch. 212. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration.

(2) The levy of this Initial Two Percent Levy of TDT commenced November 1, 1988.

(b) *First Additional One Percent Levy (Third Percent).*

(1) Pursuant to the authority in F.S. § 125.0104(3)(d), the Board hereby authorizes the levy and imposition throughout the incorporated and unincorporated areas of Sarasota County, Florida, of an additional TDT levy of one percent of each dollar and major fraction of each dollar of the total consideration charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment hotel, roominghouse, mobile home park, recreational vehicle park, or condominium which renting, leasing, or letting is for a term of six months or less and is not exempt according to the provisions of F.S. ch. 212. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration.

(2) The levy of this First Additional One Percent Levy of TDT commenced April 1, 1997.

(c) *Second Additional One Percent Levy (Fourth Percent).*

(1) Pursuant to the authority of F.S. § 125.0104(3)(l), the Board hereby authorizes the levy and imposition throughout the incorporated and unincorporated areas of Sarasota County, Florida, of a second additional TDT levy of one percent of each dollar and major fraction of each dollar of the total consideration charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment hotel, roominghouse, mobile home park, recreational vehicle park, or condominium which renting, leasing, or letting is for a term of six months or less and is not exempt according to the provisions of F.S. ch. 212. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration.

(2) The levy of this Second Additional One Percent Levy of TDT commenced on May 1, 2007.

(d) *Additional One-Half Percent Levy (Four and One-Half Percent Total TDT Levy).*

(1) Pursuant to the authority of F.S. § 125.0104(3)(n), the Board hereby authorizes the levy and imposition throughout the incorporated and unincorporated areas of Sarasota County, Florida, of an additional TDT levy of one-half percent of each dollar of the total consideration charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment hotel, roominghouse, mobile home park, recreational vehicle park or condominium which renting, leasing or letting is for a term of six months or less and is not exempt according to the provisions of F.S. ch. 212 ("Tourist Accommodations"). When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration.

(2) The levy of the Additional One-Half Percent of TDT shall commence on May 1, 2010, with a total TDT levy of four and one-half percent of each dollar of the total consideration charged for Tourist Accommodations.

(e) *Second Additional One-Half Percent Levy (five percent total TDT levy).*

(1) Pursuant to the authority of F.S. § 125.0104(3)(n), the Board hereby authorizes the levy and imposition throughout the incorporated and unincorporated areas of Sarasota County, Florida, of an additional TDT levy of one-half percent of each dollar of the total consideration charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment hotel, roominghouse, mobile home park, recreational vehicle park or condominium which renting, leasing or letting is for a term of six months or less and is not exempt according to the provisions of F.S. ch. 212 ("Tourist Accommodations"). When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such non-monetary consideration.

(2) The levy of the Second Additional One-Half Percent of TDT shall commence on May 1, 2011, with a total TDT levy of five percent of each dollar of the total consideration charged for Tourist Accommodations.

(f) *Tourist Development Plan.* The expenditures of revenue from the levy of the TDT pursuant to this section shall be in accordance with the terms of the Tourist Development Plan set forth in section 114-64 herein.

(g) *Additional Tax.* The TDT, levied pursuant to subsections (a) through (e) of this section, is in addition to any other tax imposed pursuant to F.S. ch. 212, and in addition to all other taxes and fees and the consideration for the rental or lease.

(h) *Collection of Tourist Development Tax.* The TDT levied pursuant to subsections (a) through (e) of this section, shall be charged by the person receiving the consideration for the lease or rental, and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.

(Ord. No. 87-134, § 1, 12-8-1987; Ord. No. 96-071, § 2, 11-12-1996; Ord. No. 98-095, § 2, 12-10-1998; Ord. No. 2003-046, § 2, 5-13-2003; Ord. No. 2006-061, § 2, 9-13-2006; Ord. No. 2008-101, § 2, 9-10-2008; Ord. No. 2009-038, § 2, 7-22-2009; Ord. No. 2010-012, § 2, 2-19-2010; Ord. No. 2010-076, § 3, 10-13-2010)

Sec. 114-62. Collection and administration.

(a) The person receiving the consideration from such rental or lease shall receive, account for, and remit the tax to the Sarasota County Tax Collector at the time and in the manner provided for persons who collect and remit taxes under F.S. § 212.03. All persons who are subject to the provisions of this article shall provide their federal employer identification or social security numbers to the Sarasota County Tax Collector. The same duties and privileges imposed by F.S. ch. 212, pt. I, upon dealers in tangible property respecting the remission and collection of tax, the making of returns, the payment of the required dealer's credit, the keeping of books, records and accounts, and compliance with the rules of the Florida Department of Revenue in the administration of said chapter shall apply to and be binding upon all persons who are subject to the provisions of this article; provided, however, the Sarasota County Tax Collector may authorize a quarterly return and payment when the tax remitted by the person receiving the consideration for such rental or lease for the preceding quarter does not exceed $25.00. All persons who are subject to the provisions of this article shall secure, maintain and keep for a period of five years a complete record of rooms or other lodging, leased or rented by said person, together with gross receipts from such sales and other pertinent records and papers as may be required by the Sarasota County Tax Collector for the administration of this article. Such books and records which are maintained at a point outside Sarasota County must be made available to the Clerk of the Circuit Court of Sarasota County for inspection in Sarasota County.

(b) The Clerk of the Circuit Court of Sarasota County, acting as clerk and auditor to the Board of County Commissioners, is hereby authorized and directed to establish in the accounts of the Board of County Commissioners the Sarasota County tourist development trust fund, in which the proceeds of the tourist development tax shall be placed upon receipt from the Sarasota County Tax Collector.

(c) The Sarasota County Tax Collector shall be responsible for the collection, distribution, and enforcement of the tax.

   (1) The Tax Collector shall keep appropriate records of said funds. The Tax Collector shall pay over to the Clerk of the Circuit Court of Sarasota County all funds received and collected under the provisions of this article, to be credited to the account of the Sarasota County tourist development trust fund.

   (2) The Tax Collector is hereby specifically authorized and empowered to examine, at all reasonable hours, the books, records, and other papers of all persons who are subject to the provisions of this article in order to determine whether they are collecting the tax or otherwise complying with this article. In the event said person refuses to permit such examination of books, records and other papers by the Tax Collector as aforesaid, he is guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 775.082, 775.083, or 775.084. The Tax Collector shall have the right to proceed in Circuit Court to seek a mandatory injunction or other appropriate remedy to enforce the right of inspection against the offender as granted by this article.

   (3) In addition to criminal sanctions, the Tax Collector is empowered and obligated, when any tax becomes delinquent or is otherwise in jeopardy under this article, to issue a warrant for the full amount of the tax due or estimated to be due, with the interest,

penalties, and cost of collection, directed to all and singular the sheriffs of the State, and shall cause the warrant to be recorded in the public records of Sarasota County and in any other county of the State where any property of the taxpayer is located. Upon such recording the amount of the warrant shall become a lien on any real or personal property of the taxpayer in the same manner as a recorded judgment. The Tax Collector may issue a tax execution to enforce the collection of taxes imposed by this article and deliver it to any Sheriff. The Sheriff shall thereupon proceed in the same manner as prescribed by law for executions and shall be entitled to the same fees for his services in executing the warrant to be collected. The Tax Collector may also have a writ of garnishment to subject any indebtedness due to the delinquent taxpayer by a third person in any goods, money, chattels, or effects of the delinquent taxpayer in the hands, possession, or control of the third person in the manner provided by law for the payment of the tax due. Upon payment of the execution, warrant, judgment, or garnishment, the Tax Collector shall satisfy the lien of record within 30 days and remit the fees for recording and execution services to the Clerk of the Circuit Court and the Sheriff. The Tax Collector shall prescribe and publish such forms as may be necessary to effectuate the purposes of this article.

(4) All penalties and interest imposed by this article shall be payable to and collectible by the Tax Collector in the same manner as if they were a part of the tax imposed.

(5) In the event any person required hereunder to make any return or to pay the tax imposed by this article fails or refuses to make his records available for inspection so that no audit or examination has been made of the books and records of such person, fails or refuses to register as a dealer, fails to make a report and pay the tax as provided by this article, makes a grossly incorrect report or makes a report that is false or fraudulent, then, in such event, it shall be the duty of the Tax Collector to make an assessment from an estimate based upon the best information then available for the taxable period, together with interest, plus penalty. Then the Tax Collector shall proceed to collect such tax, interest, and penalty on the basis of such assessment, which shall be considered prima facie correct, and the burden to show the contrary shall rest upon the person from whom the same is due.

(d) The Clerk of the Circuit Court of Sarasota County, acting as clerk and auditor to the Board of County Commissioners, shall perform the audit functions associated with the collection and remission of the tax, including, without limitation, the following:

(1) The Clerk shall send written notification, at least 60 days prior to the date an auditor is scheduled to begin an audit, informing the taxpayer of the audit. The Clerk is not required to give 60 days' prior notification of a forthcoming audit in any instance in which the taxpayer requests an emergency audit. Such written notification shall contain:

a. The approximate date on which the auditor is scheduled to begin the audit.

b. The reminder that all of the records, receipts, invoices, and related documentation of the taxpayer must be made available to the auditor.

c. Any other requests or suggestions the Clerk may deem necessary.

Only records, receipts, invoices, and related documentation which are available to the auditor when such audit begins shall be deemed acceptable for the purposes of conducting such audit.

(2) The requirement in subsection (d)(1) of this section of 60 days' written notification does not apply to the delinquent or jeopardy situations referred to in subsection (c)(3) of this section.

(e) The tax imposed by this article shall become County funds at the moment of collection and shall for each month be due to the Tax Collector on the first day of the succeeding month and be delinquent on the 21st day of such month. All returns postmarked after the 20th day of such month are delinquent.

(f) Pursuant to F.S. § 125.0104(10)(c), Sarasota County reserves unto itself any power granted in F.S. § 125.0104 to the Florida Department of Revenue to determine the amount of tax, penalties, and interest to be paid by all persons subject to the provisions of this article and to enforce payment of such tax, penalties, and interest.

(g) A maximum of three percent of the tax collected herein shall be retained for costs of administration. Said percent total shall be apportioned between the Tax Collector and the Clerk of the Circuit Court as determined and budgeted annually by the Board of County Commissioners.

(Ord. No. 87-134, § 2, 12-8-1987; Ord. No. 92-019, § 2, 3-10-1992; Ord. No. 94-098, § 1, 12-13-1994)

Sec. 114-63. County Tourist Development Council.

(a) Pursuant to F.S. § 125.0104(4)(e), the Board of County Commissioners of Sarasota County hereby establishes the Sarasota County Tourist Development Council, hereinafter referred to as the "TDC."

(b) The initial members of the TDC and their respective initial terms of office were prescribed in Sarasota County Resolution No. 86-417, as amended. The Board of County Commissioners shall fill vacancies on the TDC as vacancies occur. The members of the TDC shall serve for staggered terms of four years. Service is limited to three consecutive four-year terms (12 years). After an absence of one year, a former TDC member is eligible to apply for reappointment.

(c) TDC members shall meet at least once each quarter or at such other times as may be either set forth in the TDC bylaws or scheduled at the call of the Chair. The TDC shall from time to time make recommendations to the Board of County Commissioners for the effective operation of the special projects or uses of the tourist development tax revenue and perform such other duties or functions as may be prescribed by County ordinance or resolution.

(d) The TDC shall continuously review expenditures of revenues from the tourist development trust fund and shall receive, at least quarterly, expenditure reports from the Board of County Commissioners, or its designee. Expenditures which the TDC believes to be unauthorized shall be reported to the Board of County Commissioners and Department of Revenue. The Board of County Commissioners and Department of Revenue shall review the TDC's findings and take appropriate administrative or judicial action to ensure compliance with this article and the provisions of F.S. § 125.0104.

(e) The TDC shall be composed of 13 members, who shall be appointed by the Board of County Commissioners. The composition of the TDC shall be as follows:

   (1) The Chairman of the Board of County Commissioners, or any other member of the Board of County Commissioners as designated by the Chairman, shall be the Chairman of the TDC.

   (2) Four members of the TDC shall be elected municipal officials, one from each of the four incorporated municipalities within Sarasota County.

   (3) Eight members of the TDC shall be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members not fewer than four nor more than five shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist-related accommodations in Sarasota County and subject to the tax.

   (4) All members of the TDC shall be electors of Sarasota County.

(f) All meetings shall be public, and no business shall be transacted except in compliance with the

Florida Sunshine Law, F.S. § 286.011. The cost of advertising the meetings of the TDC shall be paid by Sarasota County. The TDC shall not, with the exception of advertising and clerical costs for meetings, incur any expenses or obligations to be paid or performed by the County.

(g) Any provisions of Resolution No. 86-417 in conflict with this section are hereby rescinded.

(Ord. No. 87-134, § 3, 12-8-1987; Ord. No. 96-071, § 3, 11-12-1996; Ord. No. 2004-032, § 3, 2-25-2004; Ord. No. 2010-049, § 2, 6-23-2010; Ord. No. 2011-048, § 3, 7-26-2011; Ord. No. 2011-063, § 2, 10-12-2011)

***Cross reference—** Administration, ch. 2.*

Sec. 114-64. Tourist development plan.

(a) The provisions of this Tourist Development Plan shall govern the allocation and expenditure of the Initial Two Percent Levy authorized pursuant to section 114-61(a) herein and F.S. § 125.0104(3)(c), the allocation and expenditure of the First Additional One Percent Levy authorized pursuant to section 114-61(b) herein and F.S. § 125.0104(3)(d), the allocation and expenditure of the Second Additional One Percent Levy authorized pursuant to section 114-61(c) herein and F.S. § 125.0104(3)(l), the allocation and expenditure of the Additional One-Half Percent Levy authorized pursuant to Section 114-61(d) herein and F.S. § 125.0104(3)(n), and the allocation and expenditure of the Second Additional One-Half Percent Levy authorized pursuant to section 114-61(e) herein and F.S. § 125.0104(3)(n). The provisions of the Tourist Development Plan as presented in this section 114-64 shall prevail in the case of any conflict with the language of Exhibit A to Ordinance No. 87-134, as amended.

(b) The Tourist Development Plan shall not be substantially amended except by an ordinance enacted by an affirmative vote of a majority plus one additional member of the Board. All determinations as to use of the TDT revenues designated for "any lawful use" shall be made by an affirmative vote of a majority plus one additional member of the Board. All determinations as to use of the TDT revenues allocated to "new tourist activities, attractions and promotion" pursuant to section 114-64(f) shall be made by a simple majority vote of the Board; provided, however, use of this allocation for a capital project shall require an affirmative vote of a majority plus one additional member of the Board.

(c) Any expenditure of funds by the Tourist Development Council (TDC) must be approved by the Board.

(d) Tourist tax revenues from the Initial Two Percent Levy authorized by section 114-61(a) herein and F.S. § 125.0104(3)(c) shall be allocated as provided in this subsection:

(1) Fifty percent of the annual revenues generated by the Initial Two Percent Levy shall be allocated to Beach Maintenance Beach Restoration, Beach Renourishment, and Beach Erosion Control for beaches and maintenance of beach park facilities. Such tourist tax revenues will be available only to those governmental entities with posted public beaches and beach accesses. The distribution of tax revenues for beaches will be determined using the same formula presently in effect for distribution of gas revenues, which is population based. Notwithstanding this formula, any municipality that has establishments within its boundaries that cumulatively collect 15 percent or greater of the total annual tourist tax revenue shall receive a minimum distribution of $150,000.00 in the subsequent fiscal year. Any shortfall between the gas tax formula distribution to such municipality and the $150,000.00 shall be contributed by Sarasota County from the beach allocation distributed to unincorporated Sarasota County.

(2) Twenty-five percent of the annual revenues generated by the Initial Two Percent Levy, $23.7 million of which shall be used to finance the renovation of the Ed Smith Stadium and/or the construction of a sports stadium and ancillary facilities ($18.7 million Net Present Value from proposed bond issue, $2 million in accumulated TDT revenues for any lawful use, $3 million to repay interfund transfers of non-tax revenues) and the

balance for any future capital repairs or improvements to the stadium (the "Stadium Allocation"); provided, however that the Stadium Allocation is conditioned upon (1) the execution of an Agreement between the County and a major league baseball team detailing the responsibilities and obligations of the parties with respect to the renovation and/or construction, financing, maintenance and operation of a sports stadium and ancillary facilities, including parking and (2) the execution of an agreement between the City of Sarasota and the County providing for the transfer of ownership of the Ed Smith Stadium site to the County at nominal cost, and transfer of accumulated Office of Tourism Trade & Economic Development ("OTTED") funds and OTTED bond proceeds to the County in an amount estimated to be not less than $7.5 million.

Further, following issuance of the bonds for renovation and/or construction of a sports stadium, TDT revenues shall be set aside annually in an amount sufficient to cover debt service for that year until such time as the bonds have been fully redeemed. Any TDT revenues collected in excess of the debt service for any given year shall be used toward repayment of the interfund transfer of non-tax revenues used for stadium renovation/construction costs and capital repairs and improvements to the stadium.

In the event the conditions precedent set forth in this subsection are not satisfied or the Stadium Allocation is declared to be void by a court of competent jurisdiction, that portion of the Initial Two Percent Levy set aside for the Stadium Allocation shall be used by the County for any lawful use authorized in F.S. § 125.0104, as determined by the Board pursuant to section 114-64(b) herein.

(3) Twenty-five percent of the annual revenues generated by the Initial Two Percent Levy shall be allocated to the construction, operation and maintenance of aquatic nature centers and ancillary facilities, with activities including, but not limited to, rowing and boating.

(e) For purposes of section 114-64 the term "Beach Maintenance" shall mean any activity necessary to maintain a clean and safe beach, public beach park, public beach access. Specific uses of the Beach Maintenance allocation set forth in this section 114-64 include:

(1) Removal of litter and trash, addition of trash receptacles, installation of beach mats to ensure public ADA access.

(2) Maintenance and purchase of beach maintenance equipment (e.g., tractors, surf rakes, vehicles, all terrain vehicles, loaders, dump trucks, hand tools and implements).

(3) Maintenance of and improvements to beach structures, including restroom facilities, picnic shelters, pavilions, lifeguard structures, decks, sidewalks, irrigation, dune and revetment walkovers, fencing, and maintenance facilities and construction or purchase of maintenance buildings and sheds (exclusive of concession areas leased to private operators, parking lots and utility costs).

(4) Clearing of vegetative obstructions to shoreline access, removal of nuisance/invasive vegetation and wildlife, removal of beach shoreline obstructions; beach cleaning and grooming to remove wrack line debris (e.g., red drift algae, dead fish).

(5) Informational signage and maintenance related to events programming to ensure that a clean and safe beach, public beach park, or public beach access is maintained.

This section shall supersede all other previously adopted Board policies with respect to use of TDT revenues for Beach Maintenance.

(f) The expenditure of revenue from the First Additional One Percent Levy imposed pursuant to section 114-61(b) and F.S. § 125.0104(3)(d) shall be allocated 17.5 percent to advertising/promotion, 50 percent to Beach Renourishment, Beach Restoration and Beach Erosion Control, and 20 percent to Beach Maintenance, and 12.5 percent to new tourism activities, attractions and promotions ("New Tourism and Promotion"); provided, however, the allocation to New Tourism and Promotion shall be utilized solely for promotion pursuant to section 114-64(j) through May 1, 2013. The Board shall determine by simple majority vote whether the allocation to New Tourism and Promotion shall continue to be utilized solely for promotion after May 1, 2013 or shall be utilized more broadly for costs related to new tourism activities, attractions and promotions pursuant to section 114-64(b). No ordinance change shall be necessary for determinations related to the New Tourism and Promotion allocation. The Beach Maintenance allocation under this subsection, effective October 1, 2009, shall be reviewed by the Board every two years.

The following definitions shall apply to this section 114-64:

(1) *Beach Restoration* includes the addition of sand to control beach erosion; the removal of shoreline obstructions and shoreline armoring that may interfere with natural coastal processes; restoration of coastal ecosystems through the removal of invasive/nuisance plants and/or wildlife and/or planting of appropriate native vegetation; restoration of native coastal dunes, wetland or coastal hammock habitat.

(2) *Beach Renourishment* is the process of replenishing a beach with sand. It may be brought about naturally by longshore transport along the shoreline, or artificially by the deposition of dredged or mined materials.

(3) *Beach Erosion Control* is any means to control the wearing away of a shoreline by natural or manmade processes. Examples of beach erosion control include nourishment; creation and/or planting of a dune or other native coastal habitat; coastal armoring such as a bulkhead, rock revetment, soil-cement revetment; installation of a groin, geo-textile tube, sand by-pass system, or other such technology; dune and revetment walkovers; the use of best management practices to control siltation.

(g) The expenditure of revenue from the Second Additional One Percent Levy imposed pursuant to section 114-61(c) and F.S. § 125.0104(3)(l) shall be allocated 100 percent to advertising/promotion designed to promote tourism in Sarasota County.

(h) The expenditure of revenue from the Additional One-Half Percent Levy imposed pursuant to section 114-61(d) herein and F.S. § 125.0104(3)(n) shall be allocated 100 percent to cultural and fine arts activities, services, venues or events which have, as one of their main purposes, the attraction of tourists as evidenced by the promotion of the activity, service, venue or event to tourists.

(i) The expenditure of revenue from the Second Additional One-Half Percent Levy imposed pursuant to section 114-61(e) herein and F.S. § 125.0104(3)(n), shall be allocated 100 percent to advertising/promotion.

(j) The following provisions apply to the allocation of TDT revenues to advertising/promotion:

(1) The Board shall appoint an existing organization within the community, or establish a tourism board, made up of qualified members of the community, for purposes of coordinating all tourist development activities on behalf of the County.

(2) Tax revenues should be used for media purchases, travel trade shows, and the general promotion of Sarasota County.

(3) No revenues shall be allocated specifically for salaries. However, it is recognized that contracted services to the County by the appointed tourist promotion organization for management services can include appropriate salary expenses.

(4) The County will pay for administrative expenses incurred by such organization, up to a maximum of the lesser of $50,000.00 or five percent of the portion of TDT which is allocated to tourist promotion activities during any fiscal year.

(k) The following provisions apply to the allocation of TDT revenues to the cultural and fine arts:

(1) The Board may appoint an arts board, made up of qualified members of the community familiar with both the visual and performing arts, or identify an existing group within the community, either of whom would be responsible for recommending to the TDC a variety of grants for artist fees, production and/or exhibition costs.

(2) No revenues shall be allocated specifically for salaries relating to the group which distributes the grant monies on behalf of the arts. However, it is recognized that contracted services to the County by an appointed arts organization for management services can include appropriate salary expenses.

(3) The County will pay for administrative expenses incurred by such appointed arts board or group, up to a maximum of the lesser of $25,000.00 or five percent of the portion of TDT which is allocated to arts and cultural activities during any fiscal year.

(l) Tourist tax allocation to the Town of Longboat Key. For the 20 fiscal years beginning October 1, 1998, and ending September 30, 2018, the annual allocation of tourist development tax proceeds to the Town of Longboat Key will equal one-third of the Town's annual actual total tourist tax collections of the Initial Two Percent Levy and the First Additional One Percent Levy, as determined by the Sarasota County Tax Collector for the fiscal year prior to the year in which the budget is prepared (the 20 fiscal years beginning October 1, 1996, and ending September 30, 2016, respectively). Such annual allocation will be funded as follows: the allocation to the Town of Longboat Key from the Initial Two Percent Levy, pursuant to section 114-64(d)(1) herein, and, as needed, a portion of the First Additional One Percent Levy (levied on April 1, 1997) limited to beach renourishment.

(Ord. No. 87-134, § 4, 12-8-1987; Ord. No. 96-071, § 4, 11-12-1996; Ord. No. 2003-046, § 3, 5-13-2003; Ord. No. 2006-061, § 2, 9-13-2006; Ord. No. 2008-026, § 3, 2-12-2008; Ord. No. 2008-101, § 3, 9-10-2008; Ord. No. 2009-038, § 3, 7-22-2009; Ord. No. 2010-012, § 3, 2-19-2010; Ord. No. 2010-076, § 4, 10-13-2010; Ord. No. 2011-040, § 2, 6-28-2011; Ord. No. 2013-014, § 2, 4-24-2013)

Sec. 114-65. Penalties, liens, and interest.

(a) Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying any rental or lease the taxes herein provided, either by himself or through his agents or employees, shall be, in addition to a misdemeanor of the first degree, punishable as provided in F.S. § 775.082, 775.083 or 775.084.

(b) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the person paying the rental of the payment of all or any part of the tax, or that the tax will not be added to the rental or lease consideration, or, when added, that it or any part thereof will be refunded or refused, either directly, or indirectly, by any method whatsoever. Any person who willfully violates any provision of this subsection shall be guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 775.082, 775.083 or 775.084.

(c) The tax hereby levied shall constitute a lien on the property of the lessee, customer, or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed in F.S. §§ 713.67, 713.68 and 713.69.

(d) Any person violating or who is deemed to have violated any section of this article or any provision of any section of this article shall be punished as provided for by law.

(e) When any person required hereunder to make any return or to pay the tax imposed by this article fails to timely file such return or fails to pay the tax due within the time required hereunder, in addition to all other penalties provided herein, a specific penalty shall be added to the tax in the amount of ten percent of any unpaid tax if the failure is for not more than 30 days, or fraction thereof, during the time which the failure continues, not to exceed a total penalty of 50 percent, in the aggregate, of any unpaid tax. In no event may the penalty be less than

$10.00 for failure to timely file a tax return required by this article. In the case of a false or fraudulent return or a willful intent to evade payment of the tax imposed hereunder, in addition to the other penalties provided by law, the person making such false or fraudulent return or willfully attempting to evade the payment of the tax shall be liable for a specific penalty of 100 percent of the tax due. The foregoing penalties in this subsection (e) shall at all times be equivalent to those due the Florida Department of Revenue for the same infractions pursuant to F.S. ch. 212, as amended from time to time, and each such amendment shall be incorporated into this article by reference.

(f) When any person required hereunder to pay the tax imposed by this article fails to remit the tax, or any portion thereof, on or before the day when such tax is required by this article to be paid, there shall be added to the amount due interest at the rate of one percent per month of the amount due from the date due until paid. Interest on the delinquent tax shall be calculated beginning on the 21st day of the month following the month for which the tax is due.

(g) A taxpayer's liability for any tax or interest provided hereunder may be compromised by the Tax Collector upon the grounds of doubt as to liability for or collectibility of such tax or interest. A taxpayer's liability for any penalties provided hereunder may be settled or compromised if it is determined by the Tax Collector that the noncompliance is due to reasonable cause and not to willful neglect or fraud. The Tax Collector shall maintain records of all compromises, and the records shall state the basis of the compromise. As provided by F.S. § 213.21, the records of compromise shall not be subject to disclosure pursuant to F.S. § 119.07(1), and shall be considered confidential information governed by the provisions of F.S. § 213.053.

(Ord. No. 87-134, § 5, 12-8-1987; Ord. No. 92-019, § 3, 3-10-1992; Ord. No. 94-098, § 2, 12-13-1994)

Sec. 114-66. Severability.

It is declared to be the intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

(Ord. No. 87-134, § 12, 12-8-1987)

Secs. 114-67—114-90. Reserved.

ATTACHMENT 8

The Color Nine Group

Section 204 - Beneficial Use of Dredged Material

Purpose	Authority	Feasibility Cost Share Fed/Non-Fed	Implementation Cost Share Fed/Non-Fed	Federal Project Limit
Beneficial Use of Dredged Material	Section 204, 1992 Water Resources Development Act, as amended	100%/0% for initial $100,000; 50%/50% remaining costs	65%/35%	$10,000,000

Authority and Scope: Section 204 of the Water Resources Development Act of 1992, as amended, authorizes the U.S. Army Corps of Engineers to implement projects for the protection, restoration and creation of aquatic and ecologically related habitats, including wetlands, or for a shoreline protection projects, in connection with dredging for the construction or operations and maintenance of an existing authorized Federal navigation project. There is a $10 million federal project limit.

Project Phases and Funding: Section 204 projects start with the Feasibility Phase which is funded at 100% federal cost for the first $100,000 and cost shared 50/50 for the remaining costs. After approval of the feasibility report, the project enters the Design and Implementation Phase. Costs of the Design and Implementation Phase are shared 65% Federal and 35% non-Federal with the non-Federal sponsor given credit for lands, easements, rights of way and relocation and some other costs. Operation, maintenance, repair, rehabilitation, and replacement of the project in the future is at 100% non-Federal cost.

Non-Federal Responsibilities: Formal assurance of local cooperation must be furnished by a local sponsoring agency. The local sponsor must be a public agency or a non-profit environmental organization. Private interests may also qualify if there is no requirement for future operation and maintenance of the project modification. The sponsoring agency must normally agree to:

a. Provide without cost to the United States, all necessary lands, easements, rights-of-way, access routes and relocation of utilities necessary for project construction and subsequent operation and maintenance of the project.

b. Provide 35% of the Design and Implementation Phase costs.

c. Maintain and operate the project after completion without cost to the United States.