

**INTERLOCAL AGREEMENT FOR
SHORELINE PROTECTION
BETWEEN PALM BEACH COUNTY
AND THE CITY OF DELRAY BEACH**

THIS AGREEMENT is made and entered into on the ____ day of _____, 2025, by and between the CITY OF DELRAY BEACH, a municipal corporation in the State of Florida, (hereinafter referred to as the “CITY”), and PALM BEACH COUNTY, a political subdivision of the State of Florida, by and through its Board of Commissioners (hereinafter “COUNTY”), hereinafter referred to collectively as the “parties”.

WITNESSETH

WHEREAS, Section 163.01, Florida Statutes, known as the “Florida Interlocal Cooperation Act of 1969” authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into interlocal agreements with each other to jointly exercise any power, privilege, or authority that such agencies share in common and that each might exercise separately; and

WHEREAS, pursuant to Section 125.01, Florida Statutes, the Board of County Commissioners of Palm Beach County is empowered to establish and administer programs of beach erosion control and to enter into agreements with other governmental agencies within or outside the boundaries of the COUNTY for joint performance, or performance of one unit on behalf of the other, of any of either governmental entity’s authorized functions; and

WHEREAS, pursuant to Chapter 166, Florida Statutes, the CITY is empowered to exercise any governmental, corporate, and proprietary power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the Delray Beach Segment of the Palm Beach County, Florida Shore Protection Project (Delray Beach Segment) was authorized for construction by Section 101 of the Rivers and Harbors Act of 1962, Public Law 87-874; and

WHEREAS, the Department of the Army and Palm Beach County acting as the Non-Federal Sponsor, intend to enter into a Cooperation Agreement, providing for Federal participation in the costs incurred for Rehabilitation of a Federal Hurricane/Shore Protection Project in the Delray Beach Segment; and

WHEREAS, the Department of the Army and Palm Beach County acting as the Non-Federal Sponsor, intend to enter into a Memorandum of Agreement for Additional Sand Placement in Connection with Flood Control and Coastal Emergency Rehabilitation of the Delray Beach Segment of the Palm Beach County, Florida Shore Protection Project (Memorandum of Agreement), attached hereto as Exhibit A and incorporated herein, providing for the Department of the Army to place approximately 750,000 additional cubic yards of sand on beaches beyond the limits of the Delray Beach Segment, in connection with Flood Control and Coastal Emergency Rehabilitation of the Delray Beach Segment (FCCE Rehabilitation); and

WHEREAS, under the Memorandum of Agreement, the COUNTY will agree to pay all costs of the additional sand placement in connection with the FCCE Rehabilitation (“PROJECT”), which is currently estimated at \$18,000,000; and any additional costs that may exceed the estimated amount due to claims or other unforeseen circumstances; and

WHEREAS, the CITY and COUNTY intend to make the most efficient use of their powers by cooperating with each other to share in the costs incurred in the PROJECT; and

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein contained, the parties agree as follows:

1. Recitals. The above recitals are true and correct and incorporated herein.

2. Purpose of the Agreement. The purpose of this Agreement is to provide a mechanism for funding the PROJECT, and to set forth the terms, conditions and obligations of each of the respective parties hereto.
3. PROJECT.
 - A. Description. PROJECT consists of placement of approximately 750,000 cubic yards of sand on beaches beyond the limits of the Delray Beach Segment. PROJECT is located in the area described in Exhibit B, attached hereto and incorporated herein.

Eligible Project Costs. PROJECT shall consist of all costs, including the costs of environmental compliance, supervision and administration, and engineering and design, associated with the PROJECT, and any additional costs exceeding the current estimate of \$18,000,000, as described in the Memorandum of Agreement (Eligible Project Costs).
4. Term. The term of this Agreement shall be from the date of execution through December 31, 2027 unless otherwise provided herein.
5. Funding. The parties agree that the CITY will cost share in the Eligible Project Costs for PROJECT. Each party agrees to diligently pursue the approval and procurement of its funding obligation.
6. COUNTY Obligations.
 - A. The COUNTY shall pay all Eligible Project Costs associated with PROJECT in anticipation of partial reimbursement from the CITY as described in the Agreement.
 - B. The COUNTY shall submit an invoice for payment to the CITY for \$5,400,000 within 60 days of execution of the Agreement.
 - C. The COUNTY shall submit an invoice(s) for payment to the CITY for the remainder of the Eligible Project Costs upon completion of the PROJECT and COUNTY's receipt of written notice from the Department of the Army verifying Eligible Project Costs.
7. CITY Obligations.
 - A. The CITY shall cost share with the COUNTY on a reimbursement basis.
 - B. The CITY shall reimburse the COUNTY for eighty percent (80%) of the Eligible Project Costs pursuant to this AGREEMENT.
 - C. The CITY shall appropriate adequate funds to cover the CITY's share of the Eligible Project Costs.
 - D. The CITY shall pay the COUNTY \$5,400,000 within ninety (90) days of receipt of the invoice as described in paragraph 6.B.
 - E. The CITY shall pay the COUNTY the remainder of Eligible Project Costs within one hundred twenty (120) days of receipt of an invoice as described in paragraph 6.C., but no later than October 1, 2027.
 - F. All payments made to the COUNTY shall be by check and shall be submitted to the COUNTY at the address provided in paragraph 9.
8. Party Representatives.
 - A. The COUNTY's representative/contract monitor during the term of this

Agreement shall be the Director of the Department of Environmental Resources Management, whose telephone number is (561) 233-2400.

- B. The CITY'S representative/contract monitor during the term of this Agreement shall be the CITY's City Manager, whose telephone number is (561) 243-7000.

9. Notices. All notices required in this Agreement shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance, to the respective addresses/recipients specified below:

As to the CITY:
City of Delray Beach
Attn. City Manager
100 NW 1st Avenue
Delray Beach, FL 33444

Copy to:
City of Delray Beach
Attn. City Attorney's Office
200 NW 1st Avenue
Delray Beach, FL 33444

Copy to:
City of Delray Beach Public Works
Attn. Public Works Director
200 NW 1st Avenue
Delray Beach, FL 33444

As to the COUNTY:
Palm Beach County
Attn. Deborah Drum, Director of Department of Environmental Resources Management
2300 N. Jog Road - 4th Floor
West Palm Beach, FL 33411-2743

Copy to:
Palm Beach County
Attn: County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401

10. Default and Termination.

- A. If a party fails to fulfill its obligations under this Agreement in a timely and proper manner, the party not in default shall have the right to terminate this Agreement by giving written notice of any deficiency and its intent to terminate. The party in default shall then have thirty (30) days from receipt of notice to correct the stated deficiency. If the defaulting party fails to correct the deficiency within this time and unless otherwise agreed by the parties, this Agreement shall terminate at the expiration of the thirty (30) day time period. In the event of termination due to a default by the CITY, the CITY shall promptly pay the COUNTY all costs incurred and due under the terms of this Agreement as of the date of termination.
- B. Either party may terminate this Agreement at any time for convenience upon ninety (90) calendar days prior written notice to the other party and upon payment of all costs incurred and due under the terms of this Agreement as of the date of termination.
- C. In the event of termination or expiration of this Agreement, the CITY remains responsible to pay the COUNTY 80% of any and all Eligible

Project Costs, and for any and all costs of closing out or transferring any ongoing contracts as described in the Memorandum of Agreement.

D. The parties' obligations under this Agreement are contingent upon approval of the Memorandum of Agreement between the COUNTY and Department of the Army for the PROJECT. In the event that the Memorandum of Agreement for the PROJECT is not executed prior to January 1, 2026, this Agreement shall automatically terminate.

11. Delegation. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or municipal officers.
12. Filed. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.
13. Amendments. This Agreement may only be amended by written Agreement executed by the parties hereto with the same formality used to execute this Agreement.
14. Indemnification. Each party shall be liable for its own actions and negligence, and to the extent permitted under Section 768.28, Florida Statutes, the CITY shall indemnify, defend and hold harmless the COUNTY against any actions, claims, or damages arising out of the CITY's negligence in connection with this Agreement, and the COUNTY shall indemnify, defend and hold harmless the CITY against any actions, claims or damages arising out the COUNTY's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions.

This section shall survive termination or expiration of this Contract.
15. Insurance. The parties shall maintain a fully funded insurance or self-insurance program pursuant to Section 768.28, Florida Statutes. The CITY agrees to require any contractor performing work on PROJECT to maintain adequate insurance coverage, and naming both the CITY and COUNTY as additional insured for PROJECT.
16. Nondiscrimination. The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. The CITY warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, it shall comply with Palm Beach County Resolution R2017-1770, as may be amended. Failure to meet this requirement shall be considered default of the Agreement.
17. Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
18. Waiver or Breach. It is hereby agreed to by the parties that no waiver or breach of any of the covenants or provisions of this Agreement shall be construed to be a waiver of any succeeding breach of the same or any other covenant or provision.
19. Disputes. Disputes under this Agreement may be resolved by the parties' Representatives named in paragraph 8. If the Representatives are unable to reach a resolution, the parties may select a mediator mutually acceptable to both parties to conduct a non-binding mediation of the issues involved and make a recommendation to both parties. The parties agree to be responsible for their respective costs and fees incurred during the mediation and that the mediator's fees

and costs shall be paid in equal amounts by each party.

20. Independent Contractor. The CITY recognizes that it is an independent contractor and not an agent or servant of the COUNTY. No person employed by any party to this Agreement shall, in connection with the performance of this Agreement or any services or functions contemplated hereunder, at any time, be considered the employee of the other party, nor shall an employee claim any right in or entitlement to any pension, worker's compensation benefit, unemployment compensation, civil service, or other employee rights or privileges granted by operation of law, except through and against the entity by whom they are employed.
21. Enforcement Costs. Except as otherwise provided herein, any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and/or conditions of this Agreement shall be borne by the respective parties. This provision pertains only to the parties to the Agreement.
22. Remedies. This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or the CITY.
23. Captions. The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.
24. Construction. No party shall be considered the author of this Agreement since the parties hereto have participated in drafting this document to arrive at a final Agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it.
25. Inspector General. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of any party contracting with the County, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 through 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.
26. E-Verify – Employment Eligibility. CITY warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of CITY's subconsultants performing the duties and obligations of this CITY are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers. COUNTY shall terminate this Agreement if it has a good faith belief that CITY has knowingly violated Section 448.09(1), Florida Statutes, as may be amended.
27. Counterparts. This Agreement, including the exhibits referenced herein, may be

executed in one or more counterparts, all of which shall constitute collectively but one and the same Agreement. The COUNTY may execute the Agreement through electronic or manual means. CITY shall execute by manual means only, unless the COUNTY provides otherwise.

- 28. Entirety of Agreement. The CITY and COUNTY agree that this Agreement, together with any attached exhibits, sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms or obligations in the Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.

- 29. Assignment. This Agreement is not assignable by either party.

- 30. Compliance with Codes and Laws. Each party agrees to abide by all applicable laws, orders, rules, and regulations in the performance of this Agreement.

IN WITNESS WHEREOF, the County of Palm Beach, Florida has caused this Agreement to be signed by the Mayor of the Board of County Commissioners and the seal of said Board to be affixed hereto and attested by the Clerk of said Board, pursuant to authority granted by said Board, and the City of Delray Beach has caused this Agreement to be signed in its corporate name by its mayor and its corporate seal to be affixed hereto, attested by its City Clerk, the date and year first above written.

CITY OF DELRAY BEACH,
FLORIDA

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Thomas F. Carney, Jr., Mayor

By: _____
Maria Marino, Mayor

ATTEST:

ATTEST:
Joseph Abruzzo, Clerk of the Circuit Court
& Comptroller

By: _____
City Clerk

By: _____
Deputy Clerk

DATE: _____

DATE: _____

(Seal)

(Seal)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
City Attorney

By: _____
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Deborah Drum, Director
Department of Environmental
Resources Management

Exhibit A – Memorandum of Agreement for
Additional Sand Placement in Connection with
Flood Control and Coastal Emergency
Rehabilitation of the Delray Beach Segment of the
Palm Beach County, Florida Shore Protection
Project

MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
PALM BEACH COUNTY, FLORIDA
FOR ADDITIONAL SAND PLACEMENT
IN CONNECTION WITH FLOOD CONTROL AND COASTAL EMERGENCIES
REHABILITATION OF
THE DELRAY BEACH SEGMENT OF
THE PALM BEACH COUNTY, FLORIDA SHORE PROTECTION PROJECT

This MEMORANDUM OF AGREEMENT (hereinafter the "MOA") is entered into this _____ day of _____, _____, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Commander, Jacksonville District (hereinafter the "District Commander"), and Palm Beach County, Florida (hereinafter the "Non-Federal Interest"), represented by the Board of County Commissioners with the Mayor signing on its behalf.

WITNESSETH, THAT:

WHEREAS, the Delray Beach Segment of the Palm Beach County, Florida Shore Protection Project (hereinafter the "Project") was authorized for construction by Section 101 of the Rivers and Harbors Act of 1962, Public Law 87-874;

WHEREAS, by letter dated February 28, 2025, the Non-Federal Interest requests placement of approximately 750,000 cubic yards of sand on its beaches beyond the limits of the Project (hereinafter the "Additional Placement") and agrees to pay all costs of such sand placement; and

WHEREAS, the Government is authorized pursuant to 33 U.S.C. 701h to carry out the Additional Placement in connection with Flood Control and Coastal Emergencies (FCCE) Rehabilitation of the Project pursuant to Public Law 84-99.

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

1. The Non-Federal Interest shall provide to the Government funds to pay all costs, including the costs of environmental compliance, supervision and administration, and engineering and design, associated with the Additional Placement to be carried out in connection with FCCE rehabilitation of the Project. While the Government will endeavor to limit the additional costs associated with the Additional Placement to the current estimate of \$18,000,000, the Non-Federal Interest acknowledges that the actual costs for the Additional Placement may exceed such estimated amount due to

claims or other unforeseen circumstances and that the Non-Federal Interest is responsible for all costs, including any claims, related to the Additional Placement.

2. Within twenty-one (21) calendar days of execution of this MOA, the Non-Federal Interest shall provide to the Government \$18,000,000. If at any time the Government determines that additional funds are needed, the Government shall notify the Non-Federal Interest in writing of the amount, and, no later than fifteen (15) calendar days from receipt of such notice, the Non-Federal Interest shall provide to the Government the full amount of the additional funds.

3. The Non-Federal Interest shall provide the funds to the Government by delivering a check payable to "FAO, USAED Jacksonville (K3)" to the District Commander or providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government.

4. The Government shall not commence the Additional Placement until: a) all applicable environmental laws and regulations have been complied with, including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and Section 401 of the Clean Water Act (33 U.S.C. 1341); and b) the Non-Federal Interest has provided to the Government authorization for entry to all lands, easements, and rights-of-way the Government determines to be required for the Additional Placement.

5. The Government shall provide the Non-Federal Interest with quarterly reports of obligations for the Additional Placement. The first such report shall be provided within thirty (30) calendar days after the final day of the first full quarter of the Government fiscal year following receipt of the funds pursuant to this MOA. Subsequent reports shall be provided within thirty (30) calendar days after the final day of each succeeding quarter until the Government concludes the Additional Placement.

6. Upon completion of the Additional Placement and resolution of all relevant claims and appeals, the Government shall conduct a final accounting of the costs of such work and furnish the Non-Federal Interest with written notice of the results of such final accounting. Such final accounting shall in no way limit the Non-Federal Interest's responsibility to pay for all costs associated with the Additional Placement, including contract claims or any other liability that may become known after the final accounting. If such costs are more than the amount of funds provided by the Non-Federal Interest, the Non-Federal Interest shall provide the required additional funds within thirty (30) calendar days of such written notice by delivering a check payable to "FAO, USAED Jacksonville (K3)" to the District Commander or providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government. If such costs are less than the amount of funds provided by the Non-Federal Interest, the Government shall refund the excess to the Non-Federal Interest.

within thirty (30) calendar days of such written notice, subject to the availability of funds.

7. Before either party to this MOA may bring suit in any court concerning an issue relating to this MOA, such party must first seek in good faith to resolve the issue through negotiation or other forms of nonbinding alternative dispute resolution mutually acceptable to the parties.

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

9. Any notice, request, demand, or other communication required or permitted to be given under this MOA shall be deemed to have been duly given if in writing and either delivered personally or mailed by registered or certified mail, with return receipt, as follows:

If to the Non-Federal Interest:

Mayor
Board of County Commissioners of Palm Beach County, Florida
301 North Olive Avenue, Suite 1201
West Palm Beach, Florida 33401

Director
Palm Beach County Department of Environmental Resources
Management
2300 North Jog Road, 4th Floor
West Palm Beach, Florida 33411-2743

County Attorney
Palm Beach County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401

If to the Government:

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

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

10. This MOA may be modified or amended only by written, mutual agreement of the parties. Either party may unilaterally terminate further performance under this MOA by providing at least 15 calendar days written notice to the other party. In the event of termination, the Non-Federal Interest remains responsible for any and all costs incurred by the Government under this MOA and for any and all costs of closing out or transferring any ongoing contracts.

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

THE DEPARTMENT OF THE ARMY

PALM BEACH COUNTY, FLORIDA

BY: _____

Brandon L. Bowman
Colonel, U.S. Army
District Commander

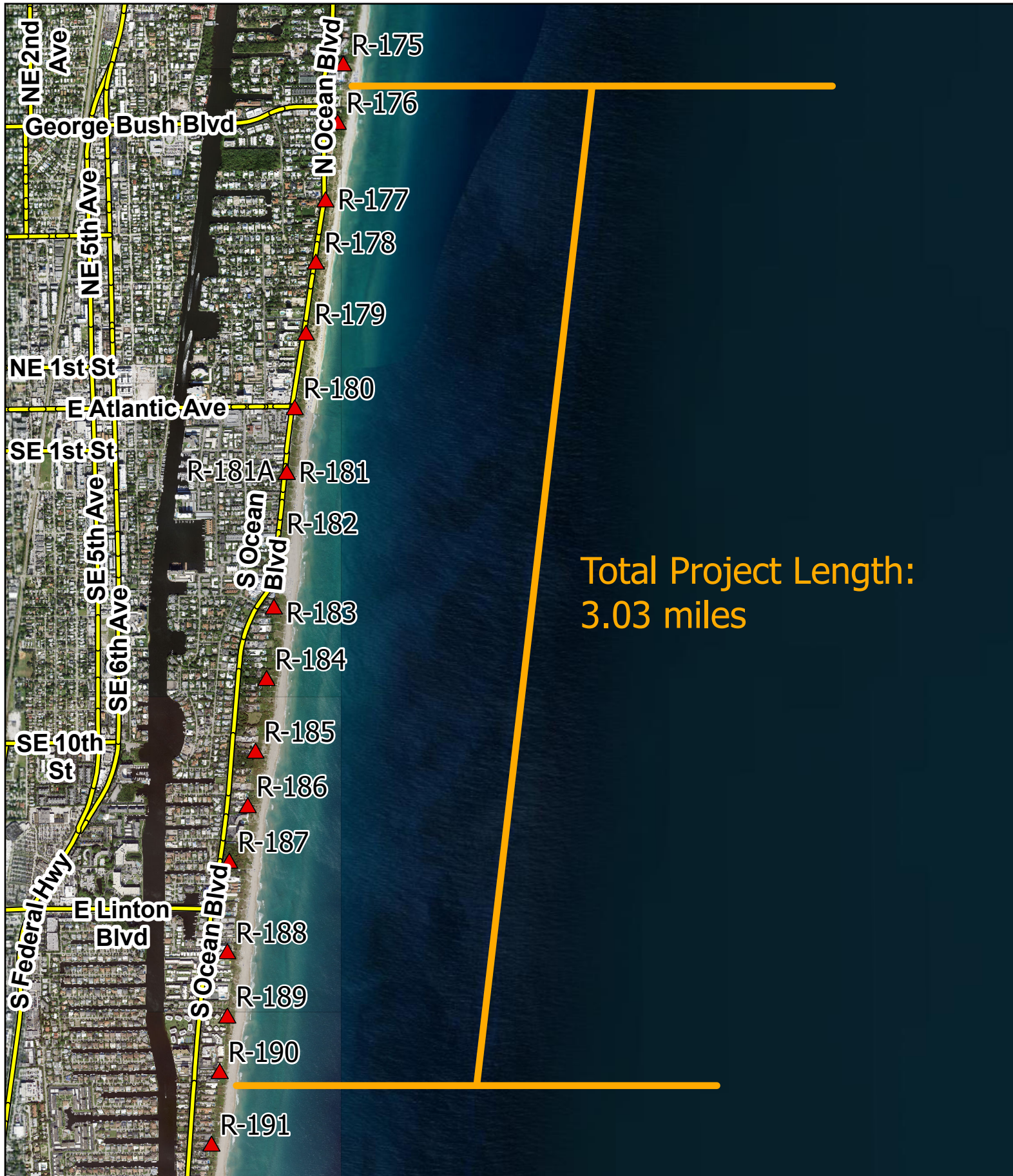
BY: _____

Maria G. Marino
Mayor
Board of County
Commissioners

DATE: _____

DATE: _____

Exhibit B – Delray Beach Additional Sand
Placement Area



Palm Beach County Department of
Environmental Resources Management
2300 North Jog Road, 4th Floor
West Palm Beach, Florida 33411-2741
(561) 233-2400

Exhibit B: Delray Beach Additional Sand Placement Area

05/06/2025

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