

LOCAL COOPERATION AGREEMENT
BETWEEN
THE DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND
THE CITY OF MARGATE
FOR THE CONSTRUCTION OF
THE STORM WATER MANAGEMENT SYSTEM
AND THE BRIGANTINE INLET TO GREAT EGG HARBOR INLET,
ABSECON ISLAND, NEW JERSEY
HURRICANE AND STORM DAMAGE REDUCTION PROJECT
PROJECT NUMBER 6057-I

THIS AGREEMENT made and executed this 22nd day of November, Two Thousand and Seventeen **BY AND BETWEEN THE CITY OF MARGATE**, a Municipal Corporation in the County of Atlantic, New Jersey, hereinafter called "Margate", and the **STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION, ENGINEERING AND CONSTRUCTION DIVISION OF COASTAL ENGINEERING**, hereinafter called the "DEP".

WHEREAS, Construction of the Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, New Jersey Hurricane and Storm Reduction Project, hereinafter referred to as the "Project", was authorized by Section 101(b)(13) of the Water Resources Development Act of 1996, Public Law 104-303; and

WHEREAS, Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended, (33 U.S.C. 2213) specifies the cost-sharing requirements authorized by the federal government, hereinafter referred to as the "Government," through a delegation to the U.S. Army Corps of Engineers, hereinafter referred to as the "Corps," to extend Federal participation in the initial construction and periodic renourishment and construction of shore protection features of the Project for fifty years; and

WHEREAS, the Government and the State as the non-federal sponsor, hereinafter referred to as the "Non-Federal Sponsor," entered into a Project Cooperation Agreement (hereinafter the "2003 PCA") for construction, operation, and maintenance of the Project on July 31, 2003; and

WHEREAS, pursuant to the 2003 PCA, the Government and Non-Federal Sponsor completed Phase I of the Project, which was for the initial construction of the beach and dune features of the Project in Atlantic City and Ventnor City in 2004; and

WHEREAS, under the Construction heading, Chapter 4, Title X, Division A of the Disaster Relief Appropriations Act of 2013, Public Law 113-2 (127 Stat. 24-25) enacted January 29, 2013, hereinafter "DRAA 13," the Secretary of the Army is authorized, at full Federal

expense using funds provided in DRAA 13, to complete construction of certain ongoing construction projects, which includes initial construction for all phases of the Project at an estimated total cost of \$123,395,000; and

WHEREAS, the DEP and the Army Corps of Engineers have entered into a Project Partnership Agreement, hereinafter referred to as the "PPA," on June 23, 2014, attached hereto as Appendix A, for Phase II of the Project, which includes the initial construction of the beach and dune features in the City of Margate and the Borough of Longport and the construction of the Absecon Inlet bulkhead and revetment in the City of Atlantic City, pursuant to the requirements of DRAA 13, and for periodic renourishment, operation, and maintenance of the Project; and

WHEREAS, the DEP and Margate desire to enter into this Local Cooperation Agreement for Phase II of the Project; and

WHEREAS, the periodic renourishment portion of the Project is authorized for fifty years from the execution of the PCA in 2003, at a three year renourishment cycle and is subject to subsequent State Aid Agreements; and

WHEREAS, the DEP has the full authority to perform all of its responsibilities for the Project under New Jersey State Law PL 92, c. 148; PL 95, c. 164 and N.J.S.A. 12:6A-1, et seq.; and

WHEREAS, Margate has the full authority to perform all of its responsibilities for the Project as set forth in this Agreement under N.J.S.A. §§ 40:56-1, et seq., 40:69A-1, et seq., and 40A:12-1, et seq. and the applicable municipal code, and the Mayor of Margate is duly authorized to enter this Agreement; and

WHEREAS, Secretary of the Army is authorized, at full Federal expense using funds provided in DRAA 13, to complete initial construction of the Project; and

WHEREAS, the initial construction of Phase II of the Project, described in further detail in the PPA, will be federally funded 100%, and future project costs, such as periodic renourishment, over the fifty-year life of the Project is 65% federal and 35% non-federal as set forth in the PPA; and

WHEREAS, in the event of periodic renourishments, 75% of the non-federal share will be paid by the DEP and the remaining 25% will be paid by Margate, and will be subject to the availability of Municipal, Federal, and State funding and shall only be authorized through the execution of a future State Aid Agreement between DEP and Margate; and

WHEREAS, Margate has an existing beach patrol building located on the beach at the Benson Avenue street end which is currently at a lower elevation than the proposed project dune. To enhance public safety and emergency response, Margate plans on raising the elevation of the

building to the elevation of the proposed Project dune. The DEP shall reimburse Margate 100% of the cost to raise this building and to provide adequate ramping and stairways, the overall cost of which shall not exceed \$175,000 based on the preliminary engineer's estimate prepared by Remington, Vernick & Walberg, Engineers and with review and approval of the bid specifications and award of bid by DEP; and

WHEREAS, Margate's pre-existing stormwater system, which caused problems with beach ponding prior to the Project that had to be remediated through trenching to the Atlantic Ocean, would not be feasible after the construction of the Project; and

WHEREAS, due to the Project's impact on Margate's pre-existing stormwater system, the Army Corps designed a stormwater management system based on a 2014 Hydrology Study authored by the Army Corps; and

WHEREAS, initial construction of the Project began in early July 2017 in Margate; and

WHEREAS, a significant rainfall event occurred on July 28-29, 2017, which, combined with the Project's construction, resulted in a temporary exacerbation of stormwater ponding on Margate's beach in the area of the Army Corps' stormwater management system; and

WHEREAS, due to the exacerbated ponding, Margate instituted litigation actions against both the Army Corps and the State; and

WHEREAS, the Army Corps instituted short-term mitigation measures that directly addressed the exacerbated stormwater ponding on Margate's beaches; and

WHEREAS, the Army Corps has created a conceptual design for a long-term stormwater management system in Margate, a copy of which is attached hereto as Appendix I; and

WHEREAS, the Army Corps' long-term stormwater management system consists of constructing a system of manifolded pipes that will direct the stormwater through outfall pipes that discharge into the Atlantic Ocean ("Long-Term Stormwater Management System" or "System"); and

WHEREAS, the Long-Term Stormwater Management System includes extending the existing outfall at Monroe Avenue; and

WHEREAS, Margate, the DEP and the Army Corps have reviewed and discussed the Long-Term Stormwater Management System's design and agree that it will address Margate's pre-existing ponding problem as well as any potential exacerbated ponding that may be caused by the Project's construction; and

WHEREAS, Margate, the DEP and the Army Corps have further agreed to work together to finalize and construct the Long-Term Stormwater Management System; and

WHEREAS, the Army Corps will pay 100% of the Long-Term Stormwater Management System's construction costs for those portions of the System that are seaward of the pre-existing bulkhead. To the extent Margate desires to install separate municipal elements that may integrate into and/or complement the System landward of the pre-existing bulkhead, such construction costs will be paid 100% by the DEP, subject to DEP's approval of all bid specifications and acceptance of the bid and Margate shall be fully reimbursed 100% by DEP for all such expenditures, not to exceed \$500,000; and

WHEREAS, Margate agrees to provide the Army Corps and/or State with any easements that the Army Corps deems are necessary to construct the System and conduct future inspections of the System; and

WHEREAS, Margate and DEP agree that all necessary State permits for this Project have been obtained; and

WHEREAS, Margate agrees to operate and maintain the Project, including the Long-Term Stormwater Management System, upon the completion of its construction. Margate shall pay 100% of the operation and maintenance costs for the Project and the System. However, in the event of necessary capital repairs within the federal Project area, the DEP and Margate shall partner on a solution, which may include the sharing of said costs; and

WHEREAS, because the Army Corps notified the DEP and Margate that it could build a wider beach berm in Margate for the same cost, Margate granted a twelve month right of entry to the State for construction of the wider beach; and

WHEREAS, Margate provides public access to the entire beach within the Project at every public street end as well as provides on-street parking (subject to existing limitations which are not required to be changed); as submitted and attached hereto as Appendix H; and

WHEREAS, Margate currently provides restroom facilities at Huntington Avenue and Benson Avenue; and

WHEREAS, the expenditure of public funds is conditioned upon compliance with the State of New Jersey Department of Environmental Protection's Coastal Zone Management Rules and all other applicable laws, rules and regulations; and

NOW THEREFORE, all Parties hereto do mutually agree that the preambles herein are adopted and agreed upon and agree as follows:

(1) The DEP has acquired, pursuant to the Eminent Domain Act, N.J.S.A. 20:3-1 et seq. (the "EDA"), perpetual easements for the properties listed in Appendix C-1 in accordance with the terms of Appendix D for the perpetual easements necessary for public access to and use of the entire beachfront and tidal lands in the Project construction area, as well as construction access necessary for construction, renourishment activities, and maintenance, including providing

access to the DEP, and the Army Corps of Engineers, their representatives, agents, contractors and assigns. The DEP has also acquired, pursuant to the EDA, temporary easements for the properties listed in Appendix C-2 in accordance with the terms of Appendix E necessary for temporary storage and temporary construction activities. As a requirement for the Project, Margate shall provide access necessary to ensure the protection of threatened and endangered wildlife and vegetation and for the implementation and enforcement of the beach wildlife and Seabeach Amaranth management plan developed under (7) below, to the Department, and the Corps, their agents, employees, and contractors.

(2) In satisfying their obligations in this Agreement, the parties hereto shall comply with all of the Department's Coastal Zone Management Rules (N.J.A.C. 7:7-1 et seq.), including but not limited to: Dunes (7:7-9.16); Overwash Areas (7:7-9.17); Coastal High Hazard Areas (7:7-9.18); Erosion Hazard Areas (7:7-9.19); Beaches (7:7-9.22); Endangered or Threatened Wildlife or Plant Species Habitat (7:7-9.36); and Coastal Engineering (7:7-15.11).

(3) Bulldozing, excavation or mechanical alteration of any beach and dune is prohibited, except as permitted by the Department's Standards for Beach and Dune Activities in accordance with the Department's Coastal Zone Management rules (N.J.A.C. 7:7-1 et seq.). Imminent public safety concerns can be mitigated upon the concurrence of the DEP and municipal public safety officials, in accordance with N.J.A.C. 7:7-10.3 and/or N.J.A.C. 7:7-21.1, et seq., where applicable. Margate shall not conduct or allow obstructions or encroachments that reduce the level of protection of the Project or hinder operation and maintenance of the Project.

(4) Margate shall provide and maintain all existing public access and existing parking areas. All public access resulting from the operation of this Agreement shall be provided in a nondiscriminatory manner in accordance with law. Nothing in this provision shall be construed as mandating Margate to amend existing parking regulations including, but not limited to, specified time periods to allow parking in the beach block of Margate.

(5) Margate as a public entity recognizes its continuing obligation to ensure compliance with the Public Trust Doctrine in accordance with the laws of the State of New Jersey.

(6) Margate, pursuant to the Endangered Species Act (16 U.S.C. 1531, et. seq.), its implementing regulations (50 CFR Part 17), and the requirements under the U.S. Fish and Wildlife Service document entitled, "Biological Opinion on the Effects of Federal Beach Nourishment Activities Along the Atlantic Coast of New Jersey Within the U.S. Army Corps of Engineers, Philadelphia District on the Piping Plover (*Charadrius melodus*) and Seabeach Amaranth (*Amaranthus pumilus*)", shall develop and implement one federally approved beach species management plan entitled, "City of Margate Management Plan for the Protection of Listed Species" for the entire municipality. The plan shall be formally adopted through a memorandum of agreement among Margate, the Department's Division of Fish and Wildlife's Nongame Endangered Species Program, and the New Jersey Natural Lands Management Program, and Margate will be required to comply with the following:

Margate must initiate contact with the U.S. Fish and Wildlife Service (Appendix F) within thirty (30) days of the signing of this Agreement. Margate must submit a draft management plan within six (6) months of the signing of this Agreement and have a final approved plan within eighteen (18) months of the signing of this Agreement.

Prior to the completion and adoption of a beach species management plan Margate agrees to observe and implement the guidelines established by the U.S. Fish and Wildlife Service as detailed in "Guidelines for Managing Recreational Activities in Piping Plover Breeding Habitat on the U.S. Atlantic Coast to Avoid Take Under Section 9 of the Endangered Species Act" (Appendix G) and to observe and implement the following U.S. Fish and Wildlife Service recommendations for protection of Seabeach Amaranth in documented protective zone (as based on plant distribution from the last three (3) seasons or if a new plant were to grow):

- Beach raking is prohibited from the landward limit of the dune or seawall to the mean high water line from May 15 to December 1.
- Sand scraping or other mechanical manipulation of the beach is prohibited year round.
- Vehicle use is restricted to essential and emergency services, and to the area below the mean high water line, from May 15 to December 1. Recreational activities and beach raking which include the use of vehicles shall be permitted by Margate subject to a management plan.
- In areas of high pedestrian traffic, Margate does not object to the U.S. Fish and Wildlife Service erecting string and post symbolic fencing to route people away from the protective zones.
- Limit vegetation planting and sand fencing to dune areas, allowing the upper beach to remain unstable and sparsely vegetated. Use only native species of vegetation.

(7) If Margate does not comply with the above requirements, Margate will be in breach of its obligations under this Agreement unless the DEP, in its sole discretion, determines to extend the time for compliance. If the DEP elects not to extend the time for compliance, Margate will be deemed in breach, and the DEP may exercise any remedy available to it under this Agreement or at law or equity, including remedy to require specific performance by Margate of its obligations under this Agreement.

(8) Based upon the PPA, the total cost for all phases of the Project, including beachfill and bulkhead construction, and periodic renourishment, is estimated at \$535,312,000.00 over 50 years. The total costs of initial construction for all phases of the Project are projected to be \$123,395,000.00, with the remaining initial construction cost of Phase II at an approximate cost of \$73,639,000. The projected total costs of periodic renourishment for all phases of the Project are projected to be \$411,917,000.00. Based upon the Non-Federal Sponsor's 35% cost share for periodic renourishment, the Non-Federal Sponsor's cash contribution over the 50-year life of the Project is projected to be \$144,171,000.00.

(9) The estimated cost for the initial construction of the Project's engineered dune and berm components is \$123,395,000.00. This cost includes the sand placement on the beach, mobilization and demobilization, walkovers, outfall betterment work, and administrative costs in the Borough of Longport, City of Margate, Atlantic City and the City of Ventnor. The estimated total cost for the City of Margate's portion of the initial construction is and shall be \$0. Please refer to Appendix B for the cost sharing analysis of the Project.

(10) All Project costs are estimates subject to adjustment by the Federal Government, increases or decreases in equipment and material costs, and inflation, and are not to be construed as the total financial responsibilities of the Federal government, the State as the Non-Federal Sponsor and Margate. However, any such adjustments will not impact Margate's financial responsibilities for the initial construction of Phase II of the Project. The cost of the Project may also increase due to Municipality-requested additional work, i.e. additional work to the Project not covered in this Local Cooperation Agreement paid for at 100% cost by the non-federal sponsor at a 75%/25% cost share or 100% by Margate for non-shore protection work. The final cost for any Municipally-requested additional work will be based on actual cost as documented by records maintained by the DEP and the Corps. The DEP will invoice Margate for their share of the cost of the Municipally-requested additional work, if any. Payment shall be made by Margate within 30 days of its receipt of the invoice, unless a longer time period is agreed to by the DEP.

At the time of executing this Agreement, there are no Municipal betterments as part of the Phase II Project.

(11) The Corps has agreed to complete the design of its Long-Term Stormwater Management System and to construct the System in Margate at 100% federal cost. Margate shall be responsible for all operation and maintenance of the Project as the functional segments of the Project and the System's construction have been completed. Margate agrees that it shall bear all costs associated with its operation and maintenance responsibilities and shall not seek reimbursement from the DEP for any maintenance costs.

(12) Margate understands and agrees that the Long-Term Stormwater Management System cannot be constructed until the State and/or the Army Corps have secured all of the necessary perpetual property rights and/or permits needed, if any. Margate further agrees to cooperate with the State and the Army Corps to secure all necessary permits, if any. Margate further agrees to convert the twelve (12) month right of entry provided to the State for the construction of the wider beach berm into a perpetual shore protection easement to enable continued construction and renourishment of the wider beach berm as well as the Long-Term Stormwater Management System.

(13) Nothing in this Agreement shall be construed to mandate or otherwise require Margate to implement or otherwise participate in any additional replenishment work or other dune project. Margate, however, explicitly agrees not to trench, dig, bulldoze, excavate, demolish, level, raze, destroy, or otherwise artificially impact the Project, particularly the engineered dune, subject to

the provisions of Paragraph 3 herein wherein public safety concerns are reasonably at issue. Margate may maintain the Project to the engineered specifications pursuant to a Coastal Zone permit, but shall not reduce any element of the Project beyond the engineered design as created by the Army Corps.

(14) Margate agrees that the Long-Term Stormwater Management System is a public benefit to Margate. In consideration for the Army Corps' and State's agreement to fully fund the design and construction of the Long-Term Stormwater Management System, Margate agrees that it will settle the valuation phase of the pending condemnation action entitled State of New Jersey, by the Department of Environmental Protection v. City of Margate, Docket No. ATL-L-2295-15 for the sum of \$0 owed to Margate. Margate further agrees that any funds deposited into court in pursuit of such action shall be reimbursed to the State.

(15) If Margate breaches any obligation under this Agreement, then the DEP reserves all legal recourse including but not limited to seeking injunctive relief to force compliance or commencing an action in a court of appropriate jurisdiction to obtain an account and to recover the State's share of any funds provided to Margate under this Agreement, plus interest, legal costs and other expenses. If Margate otherwise breaches any obligation under this Agreement, the DEP reserves the right to cease its performance under this Agreement. Prior to instituting any action under this provision, the DEP shall serve Margate with a written notice of the violation of the Agreement and Margate shall have 60 days to cure any breach or nonpayment. In addition, if Margate fails to perform in accordance with this Agreement, its eligibility for future shore protection funds for other shore protection, flood risk management, and/or stormwater management projects may be impacted.

(16) If the DEP fails to receive annual appropriations or the federal share provided for under the PPA in amounts sufficient to meet the DEP's project costs for the then current upcoming fiscal year, the DEP shall so notify Margate in writing, and 60 days thereafter either party may elect without penalty to terminate this Agreement or to suspend future performance under this Agreement. Such suspension shall remain in effect until such time as the DEP receives sufficient appropriations or until either part elects to terminate this Agreement. Any such termination shall not relieve the parties of liability for any obligation previously incurred.

(17) All notices under this Agreement shall be sent in writing to:

For the DEP:

William T. Dixon, Director
Division of Coastal Engineering
1510 Hooper Avenue, Suite 140
Toms River, New Jersey 08753

For Margate:

The Honorable Michael Becker, Mayor
City of Margate
9001 Winchester Avenue
Margate, New Jersey 08402

Margate herein represents that it has complied with all conditions and obligations imposed by any prior State Aid Agreement with the DEP or has entered into a compliance schedule, which is made a part of this Agreement and is attached hereto.

(18) The waiver of a breach of any of the terms or conditions of this Agreement by the DEP shall not constitute a waiver of any subsequent breach. Any consent by the DEP to a delay in Margate's performance of any obligation shall apply only to the particular transaction to which the consent to delay relates, and it shall not be applicable to any other obligation or transaction under this Agreement.

(19) In the event that any one or more of the provisions of this Agreement shall be determined to be void or unenforceable by a court of competent jurisdiction, or by law, such determination will not render this Agreement invalid or unenforceable and the remaining provisions hereof shall remain in full force and effect.

(20) Nothing contained herein shall be construed so as to create rights in any third party.

(21) This Agreement will take effect upon execution by all parties and will remain in effect, except as otherwise provided in the Agreement, and can be amended by agreement of the parties.

(22) This Agreement may be executed in counterparts.

(23) If any provision of this Agreement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Agreement and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

(24) This Agreement shall be interpreted in accordance with the laws of the State of New Jersey.

(25) After the Project is complete, Margate shall be responsible for ongoing routine operation, maintenance and associated costs of the Project between beach renourishments. Through this Agreement, the DEP specifically assigns the rights to operate the beach to Margate, which shall include all rights and responsibilities thereto, including but not limited to charging beach badge fees pursuant to N.J.S.A. 40:61-22.20, providing lifeguards and trash removal, and continuing Margate's practice of maintaining the beach as a recreational beach. In order to perform certain beach and dune maintenance activities, Margate must have a valid beach and dune maintenance permit issued from the Department's Division of Land Use Regulation.

(26) Future non-routine maintenance of the Project shall be subject to the availability of Municipal, Federal, and State funding and covered in further detail by a future State Aid Agreement signed by the parties if Margate elects to do so.

(27) Future periodic renourishment cycles of the Project shall be subject to the availability of Municipal, Federal, and State funding and shall be covered by a future State Aid Agreement signed by the parties.

(28) All parties understand and agree that the intent of this Project is to provide shoreline stabilization and storm damage reduction along the Atlantic Ocean in the City of Margate. This Project has been designed by the U.S. Army Corps of Engineers and reviewed and approved by the DEP. Due to natural forces and/or changing conditions, there is no guarantee that the beachfill will persist or maintain its engineering integrity and effectiveness post construction.

(29) DEP and Margate agree to utilize their best efforts to try to persuade the Army Corps not to disrupt the 2018 summer season which is understood to commence May 25, 2018 and end September 4, 2018, such disruption to be determined by Margate depending on the drainage project's construction progress. The parties recognize that, pursuant to the PPA, the Army Corps has sole control over the construction contract and schedule.

IN WITNESS WHEREOF, Margate and the DEP have hereunto set their respective names on the day and year first above written.

CITY OF MARGATE

ATTESTED:

BY Michael Becker
Michael Becker
Mayor
City of Margate

Johanna Casey
Johanna Casey
Clerk
City of Margate



**STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENGINEERING & CONSTRUCTION
DIVISION OF COASTAL ENGINEERING**

ATTESTED:

BY William T. Dixon
William T. Dixon
Director
Division of Coastal Engineering

APPROVED:

BY Dave Rosenblatt
Dave Rosenblatt
Assistant Commissioner
Engineering & Construction

The aforementioned Agreement has been reviewed and approved as to form.

Christopher S. Porrino
Attorney General of New Jersey

BY David C. Apy
David C. Apy
Assistant Attorney General

APPENDIX A
THE PPA

PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
FOR
THE BRIGANTINE INLET TO GREAT EGG HARBOR INLET, ABSECON ISLAND,
NEW JERSEY
HURRICANE AND STORM DAMAGE REDUCTION PROJECT

THIS AGREEMENT is entered into this 23rd day of June, 2014, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Philadelphia District (hereinafter the "District Engineer") and the New Jersey Department of Environmental Protection (hereinafter the "Non-Federal Sponsor"), represented by the Commissioner.

WITNESSETH, THAT:

WHEREAS, construction of the Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, New Jersey Hurricane and Storm Damage Reduction Project (hereinafter the "Project", as defined in Article I.A.) was authorized by Section 101(b)(13) of the Water Resources Development Act of 1996, Public Law 104-303;

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

WHEREAS, the Government and the Non-Federal Sponsor entered into a Project Cooperation Agreement (hereinafter the "2003 PCA") for construction, operation, and maintenance of the Project on July 31, 2003;

WHEREAS, pursuant to the 2003 PCA, the Government has constructed some of the storm damage reduction features of the Project and performed some periodic renourishment related thereto;

WHEREAS, under the Construction heading, Chapter 4, Title X, Division A of the Disaster Relief Appropriations Act of 2013, Public Law 113-2 (127 Stat. 24 - 25) enacted January 29, 2013 (hereinafter "DRAA 13"), the Secretary of the Army is authorized, at full Federal expense using funds provided in DRAA 13, to complete construction of certain ongoing construction projects, which includes the remaining storm damage reduction features of the Project at an estimated total cost of \$73,639,000;

WHEREAS, subject to the availability of DRAA 13 funds, the Government will undertake the performance of relocations required for construction of the remaining

storm damage reduction features of the Project, notwithstanding that such work in general is the responsibility of the Non-Federal Sponsor;

WHEREAS, the provisions of Section 902 of the Water Resources Development Act of 1986, as amended, do not apply to DRAA 13 funds that will be used for construction of the remaining storm damage reduction features of the Project;

WHEREAS, the Government and Non-Federal Sponsor desire to enter into a Project Partnership Agreement (hereinafter the "Agreement") for construction of the remaining storm damage reduction features of the Project pursuant to the requirements of DRAA 13, and for periodic renourishment, operation, and maintenance of the Project, which includes the storm damage reduction features constructed pursuant to the 2003 PCA;

WHEREAS, 33 U.S.C. 701h authorizes the Government to undertake, at the Non-Federal Sponsor's full expense, additional work while the Government is carrying out the Project; and

WHEREAS, the Government and the Non-Federal Sponsor have the full authority and capability to perform in accordance with the terms of this Agreement.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I - DEFINITIONS

A. The term "Project" means the placement of approximately 8.1 miles of suitable beach fill to form a storm protection berm from the ocean front of Atlantic City to Longport with a width of 200 feet at elevation of +7.25 feet North American Vertical Datum of 1988 (NAVD88), with a dune at elevation +14.75 feet NAVD88 and a crest width of 25 feet for the ocean front of Atlantic City to Ventnor, transitioning near Ventnor to a berm width of 100 feet at elevation +7.25 feet NAVD88, with a dune at elevation +12.75 feet NAVD88 and a crest width of 25 feet for the ocean front of communities of Ventnor, Margate, and Longport; and 0.3 miles of bulkhead construction with stone revetment at a top elevation of +12.75 feet NAVD88 along the Absecon Inlet frontage of Atlantic City as generally described in the Report of the Chief of Engineers dated December 23, 1996 and as modified by the New Jersey Shore Protection, Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, New Jersey, Hurricane Sandy Limited Reevaluation Report, dated February 5, 2014 and approved by the Division Engineer for the North Atlantic Division on February 8, 2014 (hereinafter the "Decision Document").

B. The term "remaining storm damage reduction features" means those storm damage reduction features of the Project that were not constructed under the 2003 PCA. Such work consists of the placement of approximately 2.7 miles of suitable beach fill from the ocean front of Ventnor to Longport to form a storm protection berm with a

width of 100 feet at elevation of +7.25 feet NAVD88, with a dune at elevation +12.75 feet NAVD88 and a crest width of 25 feet; and 0.3 miles of bulkhead construction with stone revetment at a top elevation of +12.75 feet NAVD88 along the Absecon Inlet frontage of Atlantic City, as generally describe in the Decision Document.

C. The term "periodic renourishment" means the cost shared placement of suitable beach and dune fill material on the Project at appropriate intervals, as generally described in the Decision Document, during the 50 year period of Federal participation that began on the date of initiation of construction of features of the Project pursuant to the 2003 PCA or construction of the remaining storm damage reduction features of the Project pursuant to this Agreement, as applicable.

D. The term "periodic renourishment costs" means all costs incurred by the Government and Non-Federal Sponsor for each cycle of periodic renourishment in accordance with the terms of this Agreement that are directly related to periodic renourishment of the Project performed pursuant to this Agreement. The term includes, but is not necessarily limited to: the Government's engineering, design, and material placement and related costs; the Non-Federal Sponsor's creditable costs and the Government's costs of investigations to identify the existence and extent of hazardous substances; the costs of historic preservation activities except for data recovery for archaeological remains; the Government's supervision and administration costs; the Government's costs of monitoring; the Government's costs of participation in the Project Coordination Team; the Non-Federal Sponsor's creditable costs of additional real property interests and relocations; and the Government's costs of audit. The term does not include any costs for periodic nourishment that was performed pursuant to the 2003 PCA; operation, maintenance, repair, rehabilitation, or replacement; any costs for dispute resolution; any costs for betterments; any costs for additional work; or the Non-Federal Sponsor's cost of negotiating this Agreement.

E. The term "real property interests" means lands, easements, and rights-of-way, including those required for relocations and borrow and dredged material disposal areas. Acquisition of real property interests may require the performance of relocations.

F. The term "relocation" means the provision of a functionally equivalent facility to the owner of a utility, cemetery, highway, railroad, or public facility when such action is required in accordance with applicable legal principles of just compensation. Providing a functionally equivalent facility may include the alteration, lowering, raising, or replacement and attendant demolition of the affected facility or part thereof.

G. The term "functional portion thereof" means a portion of the Project that has been completed and that can function independently, as determined in writing by the District Engineer, although the remainder of the Project is not yet complete.

H. The term "betterment" means a difference in the construction of an element of the Project that results from the application of standards that the Government determines exceed those that the Government would otherwise apply to the construction of that element.

I. The term "additional work" means items of work related to, but not included in, the Project that the Government will undertake on the Non-Federal Sponsor's behalf while the Government is carrying out the Project, with the Non-Federal Sponsor responsible for all costs and any liabilities associated with such work.

ARTICLE II - OBLIGATIONS OF THE PARTIES

A. In accordance with Federal laws, regulations, and policies, the Government shall construct the remaining storm damage reduction features of the Project using DRAA 13 funds. In the event that there are insufficient DRAA 13 funds to complete construction, such completion shall be subject to cost-sharing otherwise applicable to construction of the Project and amendment of this Agreement.

1. In accordance with the provisions of Article III, the Non-Federal Sponsor shall provide all real property interests required for construction, operation, and maintenance of the remaining storm damage reduction features of the Project, except that the Government shall perform all relocations required for construction.

2. The Non-Federal Sponsor shall provide 100 percent of the cost, if any, allocated by the Government to beach improvements with exclusively private benefits. In accordance with Article VII.C., the Non-Federal Sponsor shall provide the full amount of the funds required to cover such costs.

3. When the District Engineer determines that the remaining storm damage reduction features of the Project, or a functional portion thereof, are complete, the District Engineer shall so notify the Non-Federal Sponsor in writing and the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the remaining storm damage reduction features of the Project or such functional portion thereof. The Government shall furnish the Non-Federal Sponsor with an Operation, Maintenance, Repair, Rehabilitation, and Replacement Manual (hereinafter the "OMRR&R Manual") and copies of all as-built drawings for the completed work. The Non-Federal Sponsor will continue to operate, maintain, repair, rehabilitate, and replace the storm damage reduction features constructed pursuant to the 2003 PCA in accordance with the terms of this Agreement.

4. Notwithstanding any other provision of this Agreement, the Government shall not solicit bids on any construction contract for dredging and placement of beach fill until the Government has concluded formal consultation with the National Marine Fisheries Service under section 7(a)(2) of the Endangered Species Act, 16 U.S.C. 1536(a)(2). The Government may suspend or terminate construction of the remaining storm damage reduction features pursuant to Article VIII if the National Marine Fisheries Service finds in a Biological Opinion that construction of the remaining storm damage reduction features is likely to jeopardize the continued existence of any listed species or if the Government determines that suspension or termination is warranted due to the nature or impact of any reasonable and prudent measures or terms

and conditions imposed by the National Marine Fisheries Service in the Biological Opinion.

B. Subject to receiving funds appropriated by the Congress and funds provided by the Non-Federal Sponsor and in accordance with Federal laws, regulations, and policies, the Government shall undertake periodic renourishment as the Government, after consultation with the Non-Federal Sponsor, determines necessary and economically justified.

1. The Non-Federal Sponsor shall contribute 35 percent of the periodic renourishment costs allocated by the Government to hurricane and storm damage reduction for each cycle of periodic renourishment and 100 percent of the periodic renourishment costs allocated by the Government to beach improvements with exclusively private benefits. In accordance with Article III, the Non-Federal Sponsor shall provide any additional real property interests and perform any additional relocations required for a cycle of periodic renourishment. In accordance with Article IV, the Non-Federal Sponsor shall perform any additional investigations for hazardous substances required for a cycle of periodic renourishment. In accordance with Article VII.B., the Non-Federal Sponsor shall provide funds required to meet its cost share for such cycle of periodic renourishment. In addition, in accordance with Article VII.C., the Non-Federal Sponsor shall provide the full amount of the funds required to cover the periodic renourishment costs allocated to beach improvements with exclusively private benefits.

2. When the District Engineer determines that a cycle of periodic renourishment, or a functional portion thereof, is complete, the District Engineer shall so notify the Non-Federal Sponsor in writing and furnish the Non-Federal Sponsor with copies of all as-built drawings for such work. The Government's undertaking of a cycle of periodic renourishment has no effect on the Non-Federal Sponsor's continuing responsibility for operation, maintenance, repair, rehabilitation, and replacement of the Project. If a cycle of periodic renourishment changes those responsibilities, the Non-Federal Sponsor shall commence any additional responsibilities upon notification from the Government.

C. To the extent practicable and in accordance with Federal law and regulations, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on the solicitations for all contracts, including relevant plans and specifications, prior to the Government's issuance of such solicitations; proposed contract modifications, including change orders, prior to contract modification or if not possible as soon thereafter as possible; and all contract claims prior to resolution thereof. Ultimately, the contents of solicitations, award of contracts, execution of contract modifications, and resolution of contract claims shall be exclusively within the control of the Government.

D. The Government may include in its solicitation an optional bid item that the contractor shall take out and maintain Comprehensive General Liability Insurance which policy shall name the Non-Federal Sponsor as an additional insured and the policy may not be cancelled, terminated, or modified without 15 calendar days written advance

notice to the Government and the Non-Federal Sponsor. The Non-Federal Sponsor shall be responsible for all additional costs associated with this bid item. Moreover, the Government's Contracting Officer may decline to include such insurance requirements in any individual contract for construction of the Project where the requirements may result in a restriction in full and open competition, as defined by the Federal Acquisition Regulation, or other applicable procurement regulations. Nothing contained in this paragraph shall be construed to affect or limit in any way any rights or obligations of either party under any other provision of this Agreement, including the obligation of the Non-Federal Sponsor to hold and save the Government free from damages as described in Article X.

E. The Government, as it determines necessary, shall undertake the identification, survey, or evaluation of historic properties and other actions associated with historic preservation. All costs incurred by the Government for such work related to periodic renourishment shall be included in the periodic renourishment costs and shared in accordance with the provisions of this Agreement except that in the unlikely event that there are costs associated with data recovery of archaeological remains, such costs shall be borne entirely by the Government.

F. At least annually and after storm events, the Non-Federal Sponsor, at no cost to the Government, shall perform surveillance of the Project to determine losses of material and provide results of such surveillance to the Government.

G. Not less than once each year, the Non-Federal Sponsor shall inform affected interests of the extent of risk reduction afforded by the Project.

H. The Non-Federal Sponsor shall participate in and comply with applicable Federal floodplain management and flood insurance programs.

I. In accordance with Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), the Non-Federal Sponsor shall prepare an updated floodplain management plan for the Project within one year after the effective date of this Agreement and shall implement such plan not later than one year after completion of construction of the remaining storm damage reduction features. The updated plan shall be designed to reduce the impacts of future flood and coastal events in the project area, including but not limited to, addressing those measures to be undertaken by non-Federal interests to preserve the level of flood and storm damage risk reduction provided by such work. The Non-Federal Sponsor shall provide an information copy of the updated plan to the Government.

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

K. The Non-Federal Sponsor shall prevent obstructions or encroachments on the Project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) that might reduce the level of protection the Project affords, hinder operation and maintenance of the Project, or interfere with the Project's proper function.

L. For those shores, other than Federal shores, protected pursuant to this Agreement using Federal funds, the Non-Federal Sponsor shall ensure the continued public use of such shores compatible with the authorized purpose of the Project.

M. The Non-Federal Sponsor shall provide and maintain necessary access roads, parking areas, and other associated public use facilities, open and available to all on equal terms, as described in the Decision Document.

N. The Non-Federal Sponsor shall not use Federal Program funds to meet any of its obligations under this Agreement unless the Federal agency providing the funds verifies in writing that the funds are authorized to be used for the Project, including periodic renourishment. Federal program funds are those funds provided by a Federal agency, other than the Department of the Army, plus any non-Federal contribution required as a matching share therefor.

O. Except as provided in Article V, the Non-Federal Sponsor shall not be entitled to any credit or reimbursement for costs it incurs in performing its responsibilities under this Agreement.

P. In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all the requirements of applicable Federal laws and implementing regulations, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; the Age Discrimination Act of 1975 (42 U.S.C. 6102); and the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Army Regulation 600-7 issued pursuant thereto.

Q. The Non-Federal Sponsor may request in writing that the Government perform betterments or additional work on behalf of the Non-Federal Sponsor. Each request shall be subject to review and approval by the Division Engineer for the North Atlantic Division. If the Government agrees to such request, the Non-Federal Sponsor, in accordance with Article VII.C., must provide funds sufficient to cover the costs of such work in advance of the Government performing the work.

ARTICLE III - REAL PROPERTY INTERESTS, RELOCATIONS, AND COMPLIANCE WITH PUBLIC LAW 91-646, AS AMENDED

A. The Government, after consultation with the Non-Federal Sponsor, shall determine the real property interests needed for construction, operation, and maintenance of the remaining storm damage reduction features, for periodic renourishment of the

Project and, if applicable, any additional real property interests needed for betterments or additional work. The Government shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of the real property interests that the Government determines the Non-Federal Sponsor must provide, and shall provide the Non-Federal Sponsor with a written notice to proceed with acquisition. The Non-Federal Sponsor shall acquire the real property interests and shall provide the Government with authorization for entry thereto in accordance with the Government's schedule for construction of the remaining storm damage reduction features, or for performance of periodic renourishment, as applicable. The Non-Federal Sponsor shall ensure that real property interests provided for the Project are retained in public ownership for uses compatible with the authorized purposes of the Project.

1. For construction, operation, and maintenance of the remaining storm damage reduction features of the Project, the Government shall perform all relocations. Nothing in this paragraph alters the Non-Federal Sponsor's responsibility under Article IV for the costs of any clean up and response related to the relocations.

2. For periodic renourishment of the Project, the Government, after consultation with the Non-Federal Sponsor, shall determine if any additional relocations are necessary and shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such relocations and shall provide the Non-Federal Sponsor with a written notice to proceed with such relocations. The Non-Federal Sponsor shall perform or ensure the performance of these relocations in accordance with the Government's construction schedule for the cycle of periodic renourishment.

B. To the maximum extent practicable, not later than 30 calendar days after the Government provides to the Non-Federal Sponsor written descriptions and maps of the real property interests required for construction, operation, and maintenance of the remaining storm damage reduction features of the Project, the Non-Federal Sponsor may request in writing that the Government acquire all or specified portions of such real property interests that are owned by private interests. If the Government agrees to such request, the Government shall acquire such real property interests applying Federal laws, policies, and procedures. The Government shall acquire such real property interests in the name of the Non-Federal Sponsor except, if acquired by eminent domain, the Government shall convey all of its right, title and interest to the Non-Federal Sponsor by quitclaim deed or deeds. The Non-Federal Sponsor shall accept delivery of such deed or deeds. The Government's acquiring such real property interests on behalf of the Non-Federal Sponsor does not alter the Non-Federal Sponsor's responsibility under Article IV for the costs of any clean up and response related thereto.

C. The Non-Federal Sponsor shall comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 C.F.R. Part 24, in acquiring real property interests for construction, operation, maintenance, and periodic renourishment of the Project and shall inform all

affected persons of applicable benefits, policies, and procedures in connection with said Act. No person shall be displaced from their residence or business due to an exercise of the authority provided by N.J.S.A. App. §§ A:9-51.5-51.7 or N.J.S.A. § 12:3-64 until all relocation benefits and services required to be provided prior to displacement under said Act and Uniform Regulations have been provided.

ARTICLE IV - HAZARDOUS SUBSTANCES

A. The Non-Federal Sponsor shall be responsible for undertaking any investigations to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA") (42 U.S.C. 9601-9675), that may exist in, on, or under real property interests required for construction, operation, and maintenance of the remaining storm damage reduction features of the Project, and for periodic renourishment of the Project. However, for real property interests that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigations unless the District Engineer provides the Non-Federal Sponsor with prior specific written direction, in which case the Non-Federal Sponsor shall perform such investigations in accordance with such written direction.

B. In the event it is discovered that hazardous substances regulated under CERCLA exist in, on, or under any of the required real property interests, the Non-Federal Sponsor and the Government, in addition to providing any other notice required by applicable law, shall provide prompt written notice to each other, and the Non-Federal Sponsor shall not proceed with the acquisition of such real property interests until the parties agree that the Non-Federal Sponsor should proceed.

C. If hazardous substances regulated under CERCLA are found to exist in, on, or under any required real property interests, the parties shall consider any liability that might arise under CERCLA and determine whether to initiate construction, or if already initiated whether to continue construction, suspend construction, or terminate construction.

1. Should the parties initiate or continue construction, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for the costs of cleanup and response, including the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

2. In the event the parties cannot reach agreement on how to proceed or the Non-Federal Sponsor fails to provide any funds necessary to pay for cleanup and response costs or to otherwise discharge the Non-Federal Sponsor's responsibilities under this Article upon direction by the Government, the Government may suspend or

terminate construction but may undertake any actions it determines necessary to avoid a release of such hazardous substances.

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

E. As between the Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the operator of the Project for purposes of CERCLA liability. To the maximum extent practicable, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the Project in a manner that will not cause liability to arise under CERCLA.

ARTICLE V - REIMBURSEMENT AND CREDIT

A. The Government, in accordance with the provisions of this Article and subject to the availability of DRAA 13 funds, shall reimburse the Non-Federal Sponsor for costs it incurs to perform investigations for hazardous substances and to acquire from private owners real property interests determined by the Government to be required for construction, operation, and maintenance of the remaining storm damage reduction features of the Project, provided such acquisitions or investigations are performed pursuant to this Agreement or were performed pursuant to Government direction under the 2003 PCA. The Government shall include in periodic renourishment costs, and credit towards the Non-Federal Sponsor's share of such costs, the costs of any additional real property interests that the Non-Federal Sponsor must acquire from private owners for periodic renourishment; the costs of any additional relocations for periodic renourishment; and the costs to perform any additional investigation for hazardous substances for periodic renourishment.

B. To the maximum extent practicable, no later than 6 months after it provides the Government with authorization for entry onto a real property interest or pays compensation to the private owner, whichever occurs later, the Non-Federal Sponsor shall provide the Government with documents sufficient to determine the amount of reimbursement or credit to be provided for the real property interest in accordance with paragraphs C.1.a. through C.1.c. of this Article. For incidental costs associated with the acquisition of real property interests, for costs associated with relocations performed by the Non-Federal Sponsor for periodic renourishment, and for costs associated with investigations for hazardous substances, the Non-Federal Sponsor shall provide the Government with documentation sufficient for the Government to determine the amount of reimbursement or credit to be provided in accordance with paragraphs C.1.d., C.2., and C.3. of this Article no less frequently than on a biannual basis, to the maximum extent practicable. The Government shall provide the Non-Federal Sponsor with a list of the documents and any specific requirements necessary for reimbursement and credit.

C. The Government and the Non-Federal Sponsor agree that the amount of costs eligible for reimbursement during construction of the remaining storm damage reduction features, or credit in the case of periodic renourishment, shall be determined and reimbursed or credited in accordance with the following procedures, requirements, and conditions, as well as additional guidelines to be developed and mutually agreed upon by the Government and the Non-Federal Sponsor. Such costs shall be subject to audit in accordance with Article XII.C. to determine reasonableness, allocability, and allowability of costs.

1. Real Property Interests.

a. General Procedure. The Non-Federal Sponsor shall obtain, for each real property interest it has acquired or will acquire from a private owner, an appraisal of the fair market value of such interest on the date of acquisition that is prepared by a qualified appraiser who is acceptable to the parties. To the maximum extent practicable, the appraisal shall meet the data documentation and reporting standards described in the Uniform Appraisal Standards for Federal Land Acquisitions (2000). The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government. In the case of interests in lands subject to shore erosion, appraisals will determine fair market value considering non-speculative, reasonably calculable benefits that increase the property's value, regardless of whether those benefits are enjoyed to a lesser or greater degree by others in the community.

(1) Except for real property interests acquired through eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor shall submit an appraisal for each real property interest to the Government for review and approval no later than, to the maximum extent practicable, 60 calendar days after the Non-Federal Sponsor provides the Government with an authorization for entry for such interest or concludes the acquisition of the interest through negotiation or eminent domain proceedings, whichever occurs later. If after coordination and consultation with the Government, the Non-Federal Sponsor is unable to provide an appraisal that is acceptable to the Government, the Government shall obtain an appraisal to determine the fair market value of the real property interest for crediting and reimbursement purposes.

(2) The Government shall reimburse, or credit in the case of periodic renourishment, the Non-Federal Sponsor the amount actually paid to the private owner of such real property interests but not to exceed the appraised amount approved by the Government. Except for interests in lands subject to shore erosion, where the amount paid by the Non-Federal Sponsor exceeds the approved appraised amount, the Government, at the request of the Non-Federal Sponsor, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the Non-Federal Sponsor, may approve in writing an amount greater than the appraised amount for crediting and reimbursement purposes.

b. Eminent Domain Procedure. For real property interests acquired by eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor shall notify the Government in writing of its intent to institute such proceedings and submit the appraisals of the specific real property interests to be acquired for review and approval by the Government.

(1) If the Government provides written approval of the appraisals, the Non-Federal Sponsor shall use the amount set forth in such appraisals as the estimate of just compensation for the purpose of instituting the eminent domain proceeding. Except as provided in paragraph C.1.b.(3) below, fair market value for crediting and reimbursement purposes shall be either the amount of the court award for the real property interests taken or the amount of any stipulated settlement or portion thereof that the Government approves in writing.

(2) If the Government provides written disapproval of the appraisals, the Government and the Non-Federal Sponsor shall consult to promptly resolve the issues that are identified in the Government's written disapproval. In the event the issues cannot be resolved, the Non-Federal Sponsor may use the amount set forth in its appraisal as the estimate of just compensation for purpose of instituting the eminent domain proceeding. However, fair market value for crediting and reimbursement purposes shall be the amount of the court award for the real property interests taken (or the amount of any stipulated settlement, if applicable), or the amount determined by an appraisal prepared by the Government, whichever is less.

(3) For interests in lands subject to shore erosion acquired by eminent domain proceedings, fair market value for crediting and reimbursement purposes shall be the amount of the court award for the real property interests taken (or the amount of any stipulated settlement, if applicable), or the approved appraisal amount, whichever is less.

c. Waiver of Appraisal. Except as required by paragraph C.1.b. of this Article, the Government may waive the requirement for an appraisal pursuant to this paragraph if, in accordance with 49 C.F.R. Section 24.102(2):

(1) the private owner is donating the property to the Non-Federal Sponsor and releases the Non-Federal Sponsor in writing from its obligation to appraise the property, and the Non-Federal Sponsor submits to the Government a copy of the private owner's written release; or

(2) the Non-Federal Sponsor determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the property proposed for acquisition is estimated at \$10,000 or less, based on a review of available data. When the Non-Federal Sponsor determines that an appraisal is unnecessary, the Non-Federal Sponsor shall prepare the written waiver valuation required by Section 24.102(2) and submit a copy thereof to the Government for approval.

d. Incidental Costs. The Government shall reimburse the Non-Federal Sponsor for incidental costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred, in acquiring from private owners the real property interests required to be provided for construction, operation, and maintenance of the remaining storm damage reduction features of the Project pursuant to Article III. The Government shall include in the periodic renourishment costs, and credit towards the Non-Federal Sponsor's share of such costs, the incidental costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred in acquiring from private owners any additional real property interests required pursuant to Article III for periodic renourishment. Such incidental costs shall include closing and title costs, appraisal costs, survey costs, attorney's fees, plat maps, mapping costs, actual amounts expended for payment of any relocation assistance benefits provided in accordance with Article III.C., and other payments by the Non-Federal Sponsor for items that are generally recognized as compensable, and required to be paid, by applicable state law due to the acquisition of a real property interest pursuant to Article III.

2. Relocations. The Government shall include in the periodic renourishment costs, and credit towards the Non-Federal Sponsor's share of such costs, the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred in the performance of any additional relocations directly related to periodic renourishment.

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

b. For a relocation of a highway, which is any highway, roadway, street, or way, including any bridge thereof, that is owned by a public entity, the costs shall be only that portion of relocation costs that would be necessary to accomplish the relocation in accordance with the design standard that the State of New Jersey would apply under similar conditions of geography and traffic load, reduced by the salvage value of any removed items.

c. Relocation costs include actual costs of performing the relocation; planning, engineering and design costs; supervision and administration costs; and documented incidental costs associated with performance of the relocation, as determined by the Government. Relocation costs do not include any costs due to betterments, as determined by the Government, nor any additional cost of using new material when suitable used material is available.

d. Any credit afforded under the terms of this Agreement for the costs of relocations for periodic renourishment is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40

U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)). Notwithstanding any other provision of this Agreement, credit may be withheld, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

3. Investigations in accordance with Article IV. The Government shall reimburse the Non-Federal Sponsor for costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred for investigations for hazardous substances that may exist in, on, or under real property interests that the Government determines, pursuant to Article III, to be required for construction, operation, and maintenance of the remaining storm damage reduction features of the Project. The Government shall include in the periodic renourishment costs, and credit towards the Non-Federal Sponsor's share of such costs, the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred in the performance of any additional investigations for hazardous substances that may exist in, on, or under real property interests directly related to periodic renourishment.

D. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall not be entitled to reimbursement for costs incurred by the Non-Federal Sponsor using Federal program funds to acquire real property interests or to perform investigations in accordance with Article IV.A. Furthermore, the Non-Federal Sponsor shall not be entitled to reimbursement, or credit in the case of periodic renourishment, for costs incurred by the Non-Federal Sponsor:

1. for real property interests, relocations, or investigations in accordance with Article IV.A. that were previously credited or will be credited towards the non-Federal share of total project costs under the 2003 PCA;

2. for real property interests that were previously provided as an item of local cooperation for another Federal project;

3. to provide real property interests (other than those acquired through relocations) that are owned or controlled by other public entities;

4. to provide any additional real property interests, relocations, or investigations in accordance with Article IV.A. that the Government determines are needed for betterments or additional work; or

5. to defend against claims or litigation relating to an exercise of the authority provided by N.J.S.A. App. §§ A:9-51.5-51.7 or N.J.S.A. § 12:3-64, except for costs solely related to the amount of compensation due to private owners for real property interests taken for the Project.

ARTICLE VI - PROJECT COORDINATION TEAM

To provide for consistent and effective communication, the parties shall establish a Project Coordination Team to discuss the progress of construction and significant issues or actions. The Project Coordination Team shall include the Government's Project Manager and the Non-Federal Sponsor's counterpart and one senior representative each from the Government and Non-Federal Sponsor. The Non-Federal Sponsor's costs for participation on the Project Coordination Team shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

ARTICLE VII - METHOD OF PAYMENT

A. As of the effective date of this Agreement, the periodic renourishment costs for the Project are projected to be \$411,917,000, with the Government's share of such costs projected to be \$267,746,000 and the Non-Federal Sponsor's share of such costs projected to be \$144,171,000; the costs for betterments are projected to be \$0; and the costs for additional work are projected to be \$14,384,000. These amounts are estimates only that are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

B. Payment of Funds for Periodic Renourishment.

1. For each cycle of periodic renourishment performed pursuant to this Agreement, the Government shall provide the Non-Federal Sponsor with quarterly reports setting forth the estimated periodic renourishment costs and the Government's and Non-Federal Sponsor's estimated shares of that cost; costs incurred by the Government, using both Federal and Non-Federal Sponsor funds, to date; the amount of funds provided by the Non-Federal Sponsor to date; the estimated amount of any creditable additional real property interests, relocations, and investigations for hazardous substances, and the estimated amount of funds required from the Non-Federal Sponsor during the upcoming fiscal year, which begins on October 1st of the then-current year and ends on September 30th of the following year.

2. After considering the estimated amount of credit for additional real property interests, relocations, and investigations for hazardous substances, the Government shall determine the estimated total amount of funds required from the Non-Federal Sponsor for the current cycle of periodic renourishment. No later than 60 calendar days prior to the beginning of a fiscal year in which the Government will be incurring periodic renourishment costs, the Government shall notify the Non-Federal Sponsor in writing of the amount of funds required from the Non-Federal Sponsor during that fiscal year. No later than 30 calendar days prior to the beginning of that fiscal year, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government by delivering a check payable to "FAO, USAED, Philadelphia (E5)" 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 providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

3. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary to cover the non-Federal proportionate share of costs as those costs are incurred. If the Government determines at any time that additional funds will be needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's required share of the periodic renourishment costs, the Government shall notify the Non-Federal Sponsor in writing of the amount of additional funds 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.2. of this Article.

4. Upon conclusion of each cycle of periodic renourishment and resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall conduct a final accounting for such cycle and furnish the Non-Federal Sponsor with the written results of such final accounting. Should the final accounting determine that additional funds are required from the Non-Federal Sponsor, the Non-Federal Sponsor, within 60 calendar days of receipt of written notice from the Government, shall provide the Government with the full amount of such additional required funds by delivering a check payable to "FAO, USAED, Philadelphia (E5)" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government. Should the final accounting determine that the Non-Federal Sponsor has provided funds in excess of its required amount, the Government shall refund the excess amount, subject to the availability of funds.

C. Payment of Costs for Beach Improvements with Exclusively Private Benefits, Betterments, and Additional Work.

1. No later than 30 calendar days of receiving written notice of the amount of funds required to cover any such costs, as applicable, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government by delivering a check payable to "FAO, USAED, Philadelphia (E5)" to the District Engineer, or by providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government. If at any time the Government determines that additional funds are required to cover any such costs, as applicable, the Non-Federal Sponsor shall provide those funds within 30 calendar days from receipt of written notice from the Government.

ARTICLE VIII - TERMINATION OR SUSPENSION

A. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Government may suspend or terminate construction or periodic renourishment of the Project unless the Assistant Secretary of the Army (Civil Works)

determines that continuation of such work is in the interest of the United States or is necessary in order to satisfy agreements with other non-Federal interests.

B. If the Government determines at any time that the DRAA 13 funds made available for construction of the remaining storm damage reduction features of the Project are not sufficient to complete such work, the Government shall so notify the Non-Federal Sponsor in writing, and upon exhaustion of such funds, the Government shall suspend construction until the parties execute an amendment to this Agreement that provides for cost-sharing of the remaining work.

C. If hazardous substances regulated under CERCLA are found to exist in, on, or under any required real property interests, the parties shall follow the procedures set forth in Article IV.

D. In the event of termination pursuant to this Article or Article II.A.4., the parties shall conclude their activities relating to construction or periodic renourishment of the Project or functional portion thereof, as applicable. To provide for this eventuality, the Government may reserve a percentage of available funds as a contingency to pay the costs of termination, including any costs of resolution of real property acquisition, resolution of contract claims, and resolution of contract modifications.

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

ARTICLE IX - OPERATION, MAINTENANCE, REPAIR, REHABILITATION, AND REPLACEMENT

A. The Non-Federal Sponsor, at no cost to the Government, shall operate, maintain, repair, rehabilitate, and replace the Project, which includes the storm damage reduction features constructed pursuant to the 2003 PCA. The Non-Federal Sponsor shall conduct its operation, maintenance, repair, rehabilitation, and replacement responsibilities in a manner compatible with the authorized purpose of the Project and in accordance with applicable Federal and State laws and specific directions prescribed by the Government in the OMRR&R Manual and any subsequent amendments thereto. Nothing in this paragraph is intended to affect eligibility under Public Law 84-99 (33 U.S.C. 701n).

B. The Government may enter, at reasonable times and in a reasonable manner, upon real property interests that the Non-Federal Sponsor now or hereafter owns or controls to inspect the Project, and, if necessary, to undertake any work necessary to the functioning of the Project for its authorized purpose. If the Government determines that

the Non-Federal Sponsor is failing to perform its obligations under this Agreement and the Non-Federal Sponsor does not correct such failures within a reasonable time after notification by the Government, the Government may undertake any operation, maintenance, repair, rehabilitation, or replacement of the Project. No operation, maintenance, repair, rehabilitation, or replacement by the Government shall relieve the Non-Federal Sponsor of its obligations under this Agreement or preclude the Government from pursuing any other remedy at law or equity to ensure faithful performance of this Agreement.

ARTICLE X - HOLD AND SAVE

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

ARTICLE XI - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other parties 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 the 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 XII - MAINTENANCE OF RECORDS AND AUDIT

A. The parties shall develop procedures for maintaining books, records, documents, or other evidence pertaining to Project costs and expenses in accordance with 33 C.F.R. 33.20 for a minimum of three years after the final accounting. To the extent permitted under applicable Federal laws and regulations, the parties shall each allow the other to inspect such books, records, documents, or other evidence.

B. The Non-Federal Sponsor is responsible for complying with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507). 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 non-Federal audits shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

C. Pursuant to 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. The Government's costs of audits for any cycle of periodic renourishment shall be included in the periodic renourishment costs.

ARTICLE XIII - RELATIONSHIP OF PARTIES

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. Neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights a party may have to seek relief or redress against that contractor.

ARTICLE XIV - 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 mailed by first-class, registered, or certified mail, as follows:

If to the Non-Federal Sponsor:

Commissioner
New Jersey Department of Environmental Protection
401 E. State St.
7th Floor, East Wing
P.O. Box 402
Trenton, New Jersey 08625-0402

If to the Government:

District Engineer
U.S. Army Engineer District, Philadelphia
Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390

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

ARTICLE XV - CONFIDENTIALITY

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

ARTICLE XVI - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

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

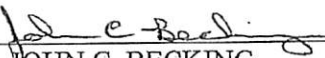
ARTICLE XVII - OBLIGATIONS OF FUTURE APPROPRIATIONS

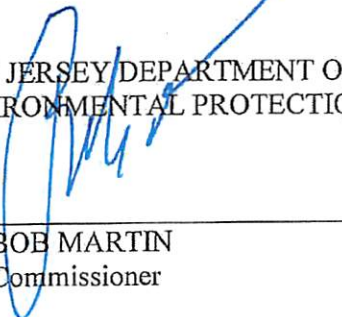
The Non-Federal Sponsor intends to fulfill fully its obligations under this Agreement. Nothing herein shall constitute, nor be deemed to constitute, an obligation of future appropriations by the legislature of the State of New Jersey, where creating such an obligation would be inconsistent with New Jersey Constitution Article 8, Section 2, Paragraphs 2 and 3, NJ.S.A. 59:13-1 et seq., and NJ.S.A. 59:1-1 et seq. of the State of New Jersey.

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

DEPARTMENT OF THE ARMY

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

BY: 
JOHN C. BECKING
Lieutenant Colonel, U.S. Army
District Engineer

BY: 
BOB MARTIN
Commissioner


DATE: 23 Jan 2014

DATE: 6/23/2014

CERTIFICATE OF AUTHORITY

I, David C. Apy, do hereby certify that I am the principal legal officer of the New Jersey Department of Environmental Protection, that the New Jersey Department of Environmental Protection 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 New Jersey Department of Environmental Protection in connection with the Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, New Jersey Hurricane and Storm Damage Reduction Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement, as required by Section 221 of Flood Control Act of 1970, Public Law 91-611, as amended (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Agreement on behalf of the New Jersey Department of Environmental Protection have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this
20th day of June 2014.



DAVID C. APY
Assistant Attorney General

CERTIFICATION REGARDING LOBBYING

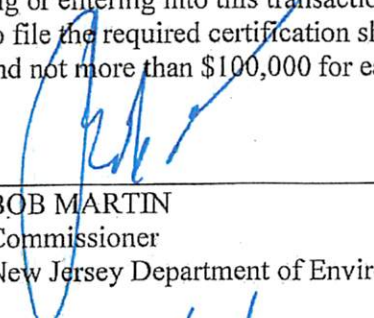
The undersigned certifies, to the best of his or her knowledge and belief that:

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

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

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

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



BOB MARTIN
Commissioner
New Jersey Department of Environmental Protection

DATE: 6/23/2014

AMENDMENT NO. 1
TO THE
PROJECT COOPERATION AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BRIGANTINE INLET TO GREAT EGG HARBOR INLET,
ABSECON ISLAND, NEW JERSEY
SHORELINE PROTECTION PROJECT

THIS AMENDMENT NO. 1 is entered into this 23rd day of June, 2014, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Philadelphia District (hereinafter the "District Engineer") and the New Jersey Department of Environmental Protection (hereinafter the "non-Federal Sponsor"), represented by the Commissioner.

WITNESSETH, THAT:

WHEREAS, construction of the Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, New Jersey Shoreline Protection Project (hereinafter the "Project") was authorized by Section 101(b)(13) of the Water Resources Development Act of 1996, Public Law 104-303;

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

WHEREAS, the Government and the non-Federal Sponsor entered into a Project Cooperation Agreement (hereinafter the "2003 PCA") for construction, operation, and maintenance of the Project on July 31, 2003;

WHEREAS, the Government, pursuant to the 2003 PCA, has constructed and renourished the Atlantic City and Ventnor City reaches of the Project;

WHEREAS, under the Construction heading, Chapter 4, Title X, Division A of the Disaster Relief Appropriations Act of 2013, Public Law 113-2 (127 Stat. 24 - 25) enacted January 29, 2013 (hereinafter "DRAA 13"), the Secretary of the Army is authorized, at full Federal expense using funds provided in DRAA 13, to complete construction of certain ongoing construction projects, which includes the Project; and

WHEREAS, the Government and Non-Federal Sponsor entered into a Project Partnership Agreement on June 23, 2014 to complete construction of the Project in accordance with DRAA 13, and to provide for periodic renourishment, operation, and maintenance of the

completed Project.

NOW THEREFORE, the Government and the non-Federal Sponsor agree to amend the 2003 PCA as follows:

1. After the fourth WHEREAS clause, add:

“WHEREAS, under the Construction heading, Chapter 4, Title X, Division A of the Disaster Relief Appropriations Act of 2013, Public Law 113-2 (127 Stat. 24 – 25) enacted January 29, 2013 (hereinafter “DRAA 13”), the Secretary of the Army is authorized, at full Federal expense using funds provided in DRAA 13, to complete construction of certain ongoing construction projects, which includes the storm damage reduction features of the Project remaining to be constructed after January 29, 2013;”

2. Insert the following new Article following Article XX:

“ARTICLE XXI - COMPLETION OF CONSTRUCTION AT FULL FEDERAL EXPENSE

A. Costs incurred for work undertaken by the Government and the non-Federal Sponsor for the Project prior to January 29, 2013, plus all costs for final accounting and for resolution of claims and appeals associated with this work, that are eligible for inclusion in total project costs will be shared in accordance with the terms of this Agreement. In addition, the value of lands, easements, rights-of-way, relocations, and improvements to enable the proper disposal of dredged or excavated material provided by the non-Federal Sponsor for the features consisting of placement of approximately 5.4 miles of suitable beach fill from the ocean front of Atlantic City to Ventnor to form a storm protection berm with a width of 200 feet at elevation of +7.25 feet North American Vertical Datum of 1988 (NAVD88), with a dune at elevation +14.75 feet NAVD88 and a crest width of 25 feet transitioning near Ventnor to a berm width of 100 feet at elevation +7.25 feet NAVD88, with a dune elevation of +12.75 feet NAVD88 and a crest width of 25 feet will be credited towards the non-Federal share of total project costs in accordance with the terms of this Agreement. Following the resolution of all claims and appeals associated with this work, the Government will perform a final accounting to determine the total costs of initial construction and total costs of periodic nourishment that are shared in accordance with this Agreement, each party's contribution provided thereto, and each party's required share thereof.

B. The features consisting of the placement of approximately 2.7 miles of suitable beach fill from the ocean front of Ventnor to Longport to form a storm protection berm with a width of 100 feet at elevation of +7.25 feet NAVD88, with a dune at elevation +12.75 feet NAVD88 and a crest width of 25 feet and 0.3 miles of bulkhead construction with stone revetment at a top elevation of +12.75 feet NAVD88 along the Absecon Inlet frontage of Atlantic City (hereinafter the “remaining storm damage reduction features”) will be constructed by the Government at full Federal expense in accordance with the terms of the Project Partnership Agreement executed between the Government and the Non-Federal Sponsor on JUNE 23, 2014 (hereinafter the “2014 PPA”). In addition, the costs of lands, easements, and rights-of-way acquired by the non-Federal Sponsor from private owners at the direction of the Government pursuant to the

terms of this Agreement for the remaining storm damage reduction features will be eligible for reimbursement in accordance with the terms of the 20__ PPA. Furthermore, costs incurred by the Non-Federal Sponsor to perform investigations to determine the existence and extent of any hazardous substances regulated under the CERCLA that may exist in, on, or under real property interests required for construction, operation, and maintenance of the remaining storm damage reduction features will be eligible for reimbursement in accordance with the terms of the 20__ PPA provided such investigations were performed at the direction of the Government pursuant to the terms of this Agreement.

C. Any periodic nourishment cycles for the Project, or for a functional portion of the Project, carried out after January 29, 2013 will be performed in accordance with the terms of the 2014 PPA."

3. All other terms and conditions of the 2003 PCA remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed Amendment No. 1, which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

BY: John C. Becking
JOHN C. BECKING
Lieutenant Colonel, U.S. Army
District Engineer

BY: Bob Martin
BOB MARTIN
Commissioner

DATE: 29 Jun 2014


DATE: 6/23/2014

CERTIFICATE OF AUTHORITY

I, David C. Apy, do hereby certify that I am the principal legal officer of the New Jersey Department of Environmental Protection, that the New Jersey Department of Environmental Protection is a legally constituted public body with full authority and legal capability to perform the terms of the Amendment No. 1 to the Project Cooperation Agreement between the Department of the Army and the New Jersey Department of Environmental Protection in connection with the Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, New Jersey Shoreline Protection Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of the Amendment No. 1, as required by Section 221 of Flood Control Act of 1970, Public Law 91-611, as amended (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Amendment on behalf of the New Jersey Department of Environmental Protection have acted within their statutory authority.

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

20TH day of June 2014.



DAVID C. APY
Assistant Attorney General

CERTIFICATION REGARDING LOBBYING

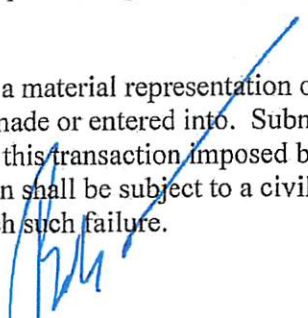
The undersigned certifies, to the best of his or her knowledge and belief that:

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

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

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

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



BOB MARTIN
Commissioner
New Jersey Department of Environmental Protection

DATE: _____

