

Board of Directors Virtual Board Meeting

August 03, 2020 09:00 AM



Agenda Topic

Presenter

I.	Call Meeting to Order/Virtual Meeting Instructions	Chairman Shelton
II.	Time of Reflection/Moment of Silence	Palmer Clarkson
III.	Approval of Minutes - June 22, 2020	Chairman Shelton
IV.	Public Comments	Chairman Shelton
V.	New Business	
	BD2020-08-01 City of Jacksonville Contribution & Short-Term Loan Harbor Deepening Contract C	Beth McCague
	AC2020-07-23-01 Construction Management and Inspection Services	James Bennett
VI.	CEO Update	Eric Green
VII.	Reports	
	R2020-08-01 Engineering and Construction Update	James Bennett
	R2020-08-02 Financial Highlights by Beth McCague	Info Only
	R2020-08-03 Financials/Vital Statistics	Mike McClung
	R2020-08-04 Commercial Highlights	Robert Peek
VIII.	Miscellaneous	
A.	Emergency Purchases - None	
B.	Unbudgeted Transactions - None	
	C. Awards Minutes - 7/23/2020	
IX.	Adjourn	Chairman Shelton

The next Board of Directors meeting is scheduled for Tuesday, September 8, 2020.



Minutes for Board of Directors Meeting

06/22/2020 | 09:15 AM - 10:43 AM - Eastern Time (US and Canada)

Boardroom - 2831 Talleyrand Avenue

Attendees:

Board Members Attending:

Mr. Jamie Shelton, Chairman
Ms. Wendy Hamilton Vice Chair/Treasurer
Mr. Palmer Clarkson, Secretary
Dr. John A. Newman, Member
Mr. Ed Fleming, Member
Mr. Daniel Bean, Member

Other Attendees:

Mr. Eric Green, CEO
Ms. Beth McCague, CFO
Mr. Fred Wong, COO
Ms. Linda Williams, Chief, Adm. & Corporate Performance
Mr. James Bennett, Sr. Director, Facilities Development
Mr. Robert Peek, Director & GM of Sales & Marketing
Mr. Mike McClung, Director, Finance
Mr. David Migut, Office of General Counsel
Mr. Ron Salem, City Council Liaison
Ms. Rebecca Dicks, Board Liaison

Agenda

A meeting of the Jacksonville Port Authority Board of Directors was held on Monday, June 22, 2020 at the Port Central Office Building, 2831 Talleyrand Avenue, Jacksonville, Florida. Chairman Shelton called the meeting to order at 9:15 a.m. and welcomed all attendees.

Chairman Shelton stated for the record that due to Governor DeSantis' extension of Executive Order 20-69 allowing these types of meetings to be conducted by communications media technology through June 30, 2020, and in keeping in compliance with social distancing recommendations, he has requested that all other interested parties who would like to attend this meeting do so via the video/audio conferencing as stated on the Public Meeting Notice.

Pledge of Allegiance/Moment of Silence

Board Member Wendy Hamilton led the audience in the Pledge of Allegiance and moment of silence.

Approval of Minutes - May 4 2020

Chairman Shelton called for approval of the May 4, 2020 Board of Directors Meeting Minutes. After a motion by Dr. Newman and a second by Mr. Bean, the Board unanimously approved the minutes as submitted.

Public Comments

Chairman Shelton asked if there were any comments from the public. There being none, he moved on to Presentations.

Presentations

Mr. Eric Green, CEO of JAXPORT, recognized Robert Peek, GM of Sales & Marketing, for reaching his 25-year milestone and thanked him for his service.

New Business

BD2020-06-01

Proposed Operating and Capital Budget for FY2021

Ms. Beth McCague presented this submission for Board approval of JAXPORT's proposed FYE2021 Operating and Capital Budget as presented and its submission in the appropriate format to the Finance Committee of the Jacksonville City Council. This submission was approved earlier by the Audit Committee and recommended for approval by the full board.

Chairman Shelton asked Wendy Hamilton, Chair of the Audit Committee, if she would like to add any remarks. Ms. Hamilton stated that the Audit committee did meet earlier this morning and unanimously voted to approve the Proposed Operating and Capital Budget for FY2021. She thanked Beth and her team for putting together a good and thoughtful budget especially during these uncertain times.

After a motion by Mr. Bean and a second by Mr. Clarkson, the Board voted to approve this submission.

BD2020-06-02

Public Transportation Grant Agreement with FDOT for JAXPORT's Dredge Material Management Area Initiative

Mr. James Bennett presented this submission for Board approval to enter into a Public Transportation Grant Agreement with the Florida Department of Transportation (FDOT) to provide additional capacity

for maintenance dredging material at JAXPORT's two dredge material management areas. The \$6 million initiative includes \$3 million in funds from FDOT with a \$3 million JAXPORT match.

After a motion by Mr. Bean and a second by Mr. Fleming, the Board voted to approve this submission.

BD2020-06-03

Authorize and Approve the Sovereignty Submerged Lands Easement for the August Drive Bridge over Wynn's Creek

Mr. Fred Wong presented this submission seeking Board approval to accept a submerged land easement from Florida Department of Environmental Protection for sheet pile wall replacement and future bridge repairs to the August Drive bridge at the entrance of the cruise terminal.

After a motion by Mr. Bean and a second by Dr. Newman, the Board voted to approve this submission.

BD2020-06-04

Authorize and Approve the Granting of Easement to FDOT for Dynamic Message Signs at Talleyrand Avenue

Mr. Fred Wong presented this submission seeking Board approval for grant land easements to FDOT for the installation of three dynamic messaging signs to improve traffic flow around the Talleyrand Marine Terminal.

After a motion by Mr. Bean and a second by Mr. Fleming, the Board voted to approve this submission.

BD2020-06-05

Tote Maritime Puerto Rico LLC - Lease Amendment

Ms. Beth McCague presented this submission for Board approval to amend the lease agreement with TOTE Maritime regarding the company's minimum annual guarantee.

After a motion by Mr. Fleming and a second by Dr. Newman, the Board voted to approve this submission. Board member Daniel Bean recused himself from voting on this issue due to a conflict of interest.

CEO Update

Mr. Green stated that he asked Captain Mark Vlaun of the U.S. Coast Guard and Chief Keith Powers of the Jacksonville Fire and Rescue Department to attend today's meeting to update the Board regarding the fire onboard the Höegh Xiamen on June 4, 2020 at the Blount Island terminal. Mr. Green stated that this fire presented a very challenging situation and could have been much worse if it had not been for Chief Powers and Captain Vlaun. Their teams worked around the clock to methodically contain the fire, safeguarding human lives and protecting the environment. This was truly an incredible joint effort, and one JAXPORT is extremely grateful for. Mr. Green then introduced Capt. Vlaun and asked him to say a few words.

Captain Vlaun informed the Board that the fire initially happened around 4:00 p.m. on June 4, 2020 when the Höegh Xiamen caught fire on its seventh deck after completing its loading operations at the Blount Island terminal. He stated that crews sprayed 25,000 gallons of water per minute onto the ship to help keep it cool. The Coast Guard's main goal in fighting this fire was to maintain the structural integrity of the ship so it wouldn't sink and cause environmental problems.

Mr. Green then introduced Chief Powers. Chief Powers stated that approximately 120 firefighters were sent to battle this fire. Firefighters closed the ship's dampers to starve the fire of oxygen. At about 6:45 p.m., there was an explosion that injured eight firefighters. Two of the firefighters were transported to Shand's hospital burn unit in Gainesville where they underwent surgery and skin grafts as a result of their injuries. All eight firefighters are now recovering at home but they have a long haul ahead of them. After burning for a week, the fire was officially extinguished by June 12, 2020.

Mr. Green and Chairman Shelton then presented Capt. Vlaun and Chief Powers with commemorative plaques and thanked them for their leadership and outstanding response during the Höegh Xiamen vessel fire.

Reports

R2020-06-01 Engineering and Construction Update

Mr. James Bennett provided an overview of the key capital and engineering projects.

R2020-06-02 Financial Highlights by Beth McCague

Ms. Beth McCague provided Financial Highlights to the Board in their books for the month of May 2020.

R2020-06-03 Financials/Vital Statistics by Mike McClung

Mr. Mike McClung provided an overview of the financials and vital statistics to the Board in their books for the month of May 2020.

R2020-06-04 Commercial Highlights

Mr. Robert Peek provided updated commercial highlights to the Board for the month of June 2020.

Other Business

Chairman Shelton announced a change in the Board meeting schedule beginning in January 2021. JAXPORT 2021 Board meetings will take place on the fourth Monday of each month.

Miscellaneous

A. Emergency Purchases - None

There were no emergency purchases.

B. Unbudgeted Transactions - None

There were no unbudgeted transactions.

Adjourn

There being no further business of the Board, the meeting adjourned at 10:43 a.m.



SUBMISSION FOR BOARD APPROVAL

SUBJECT: City of Jacksonville Contribution & Short-Term Loan Harbor Deepening Contract C

COST: \$35,000,000 Contribution/ Fiscal Year 2020
\$25,000,000 Contribution Fiscal Year 2021
Up to \$10,000,000 Contribution for Fiscal Year 2021(TBD based on Amount of Contract Awarded)
\$40,000,000 Short Term Loan

BUDGETED: N/A

BACKGROUND:

In February 2018, construction began on the project to deepen the Harbor from 40’ to 47’. The project, led by the Army Corps of Engineers, is divided into three contracts; Contract A (3 miles), Contact B (5 miles) and Contract C (3 miles). Contract A began February 2018 and concluded March 2020. Contract B began October 2019, is ahead of schedule, and expected to conclude November 2020. Contract C is expected to be awarded September 2020.

Funding to date has been provided by the following:

The Federal Government	\$193 million (includes 2020 commitment)
The Florida Department of Transportation	70 million
JAXPORT	40 million
Tenant	28 million (includes 2021 commitment)

The City of Jacksonville, through legislation 2020-0261, will contribute \$35 million towards Contract C in August of 2020 and \$25 million in Fiscal Year 2021, with an additional \$10 million available (subject to City Council approval). The final amount will be determined based on the Contract amount of Contract C. In addition, the City will provide a short-term loan to JAXPORT to provide \$40 million of the \$46 million 2020 contribution committed from the State of Florida, FDOT towards Contract C on a reimbursement basis. This short-term loan will be repaid from reimbursements received from FDOT from time to time as construction proceeds. It is anticipated the loan will be extinguished in approximately two years. A rate of interest equal to the rate paid by the City for its Commercial Paper issuance will be paid to the City by JAXPORT.



SUBMISSION FOR BOARD APPROVAL

RECOMMENDATION:

It is recommended that the Board approve the terms and conditions of the contributions and the short-term loan from the City towards this project, adopt the attached resolution and authorize the actions set forth therein.

ATTACHMENTS:

- Board Resolution
- Proposed City of Jacksonville Ordinance 2020-377
- Project Funding Agreement

RECOMMENDED FOR APPROVAL:

Beth McCague
Chief Financial Officer

Signature and Date

SUBMITTED FOR APPROVAL:

Eric Green
Chief Executive Officer

Signature and Date

BOARD APPROVAL:

August 3, 2020
Meeting Date

Rebecca Dicks/Recording Secretary

ATTEST:

J. Palmer Clarkson, Secretary

Jamie Shelton, Chairman

A RESOLUTION OF THE JACKSONVILLE PORT AUTHORITY APPROVING ACCEPTANCE OF A \$35,00,000 CONTRIBUTION TOWARDS HARBOR DEEPENING IN FISCAL YEAR 2020 AND UP TO \$35,000,000 IN FISCAL YEAR 2021, AND ACCEPTING THE TERMS AND CONDITIONS OF A \$40 MILLION SHORT TERM LOAN FROM THE CITY, AND AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO EXECUTE ALL DOCUMENTATION REQUIRED TO RECEIVE THESE FUNDS.

WHEREAS, the Jacksonville Port Authority (the "Authority") has entered into agreement with the Army Corps of Engineers to deepen the Harbor from 40' to 47', and

WHEREAS, such agreement requires the Authority, as local sponsor, to provide all funds necessary to construct the project less amounts provided by the Federal Government for this purpose, and

WHEREAS, the Federal Government has provided/committed \$193 million of funds toward this project, and Local Sponsor funds have been provided/committed to date by JAXPORT (\$40 million), a tenant (\$28 million) and the Florida Department of Transportation (\$70 million), and

WHEREAS, Local Sponsor funds for the final phase of the project, Contract C Base, are required in the amount of \$104 million and the FDOT has agreed to provide \$46 million on a reimbursement basis, and

WHEREAS, the City of Jacksonville has authorized contributions towards this project with the passage of City Ordinance 2020-377 in the following amounts: \$35 million in fiscal year 2020 and \$25 million in fiscal year 2021 and up to an additional \$10 million in fiscal year 2021 (2021 contributions subject to City Council approval) with the final amount determined once construction contract for Contract C has been awarded, and

WHEREAS, the City will additionally provide a \$40 million short term loan with repayment to be made by reimbursement from the State of Florida (FDOT) from time to time as construction proceeds. The loan is estimated to be outstanding on a declining basis over two years. JAXPORT will pay the interest rate, including fees, that the City incurs to provide this loan.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Jacksonville Port Authority:

Section 1: The Jacksonville Port Authority confirms its desire to accept funds from the City of Jacksonville to be used exclusively for Contract C of Harbor Deepening and to accept the terms and conditions of the \$40 million short term loan as detailed in the Funding Agreement to be used to advance fund contributions from the State of Florida toward Harbor Deepening Contract C.

Section 2: The Chief Executive Officer, or his authorized representative, is herein specifically authorized to enter into and sign such documents as may be necessary, including Assurances, Certifications and all other documents as may be required.

Section 3: Effective Date. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this 3rd day of August, 2020.

(Official Seal)

JACKSONVILLE PORT AUTHORITY

Jamie Shelton, Chairman

ATTEST:

J. Palmer Clarkson, Secretary

1 Introduced by the Council President at the request of the Mayor and
2 Co-Sponsored by Council Members Bowman, Salem, Cumber, Freeman,
3 Pittman, White, Becton, Dennis, R. Gaffney and Newby:
4
5

6 **ORDINANCE 2020-377**

7 AN ORDINANCE MAKING CERTAIN FINDINGS AND
8 AUTHORIZING: (1) THE BORROWING FROM THE CITY'S
9 COMMERCIAL PAPER FACILITY IN THE UP TO,
10 MAXIMUM AMOUNT OF \$40,000,000; AND (2) THE
11 APPROPRIATION OF \$35,000,000 OF NET PROJECT
12 FUNDS AS AUTHORIZED BY ORDINANCE 2020-261-E
13 AND AS AMENDED HEREBY, TO PROVIDE FUNDING FOR
14 THE ST. JOHNS RIVER HARBOR DEEPENING PROJECT
15 AS INITIATED BY B.T. 20-095; AMENDING 2019-
16 504-E, THE FY 2019-2020 BUDGET ORDINANCE, TO
17 REPLACE THE SCHEDULE B4 IN ORDER TO ALLOW FOR
18 "JAXPORT DREDGING" AND "JPA OBLIGATION -
19 JAXPORT DREDGING"; AMENDING SUPPLEMENTAL BOND
20 ORDINANCE 2020-261-E (THE "SUPPLEMENTAL BOND
21 ORDINANCE") TO INCREASE THE NET PROJECT FUNDS
22 FROM \$120,000,000 TO \$155,000,000 AND ADDING
23 THE ST. JOHNS RIVER HARBOR DEEPENING PROJECT
24 TO **EXHIBIT 1** OF THE SUPPLEMENTAL BOND
25 ORDINANCE; AUTHORIZING THE CITY TO ENTER INTO
26 AN AGREEMENT WITH THE JACKSONVILLE PORT
27 AUTHORITY ("JAXPORT") TO PROVIDE CITY FUNDING
28 FOR THE DREDGING PROJECT IN THE FORM OF A
29 \$40,000,000 LOAN AND A \$35,000,000 GRANT;
30 INVOKING THE EXCEPTION OF 126.107(G)
31 (EXEMPTIONS), CHAPTER 126 (PROCUREMENT CODE),

1 ORDINANCE CODE, TO DIRECT CONTRACT WITH
2 JAXPORT; REQUESTING THAT THE FINANCE AND
3 ADMINISTRATION DEPARTMENT ADMINISTER THE
4 AGREEMENT AUTHORIZED HEREIN; REQUESTING ONE-
5 CYCLE EMERGENCY PASSAGE; PROVIDING AN
6 EFFECTIVE DATE.

7 **WHEREAS**, the City Council of the City of Jacksonville, Florida
8 (the "Council") previously enacted Ordinance 2006-888-E, as amended
9 and supplemented (the "Special Revenue Bond Ordinance"), including
10 by Ordinance 2020-261-E (the "Supplemental Bond Ordinance")
11 providing for the issuance of additional bonds to refund certain
12 bonds described in the Supplemental Bond Ordinance, and also to
13 finance and refinance the acquisition and construction of certain
14 capital equipment and improvements for the City, as described in
15 the Supplemental Bond Ordinance; and

16 **WHEREAS**, the Jacksonville Port Authority ("JAXPORT"), pursuant
17 to the contract entered into between JAXPORT and the United States
18 Army Corps of Engineers ("ACOE") (the "PPA") is the local sponsor
19 of the Jacksonville St. Johns River harbor deepening project
20 pursuant to which the navigation channel of the St. Johns River is
21 being deepened from 40 to 47 feet and to also provide for a new
22 vessel turning basin and other improvements (collectively, the
23 "Project"); and

24 **WHEREAS**, the Project, through Phase C, is projected to have an
25 overall cost of approximately \$484,000,000, with such costs having
26 been funded to date by the United States Government, the Florida
27 Department of Transportation ("FDOT"), private sector contributions
28 and funds provided directly by JAXPORT; and

29 **WHEREAS**, the upcoming Phase C of the Project (the "Phase C
30 Project") is anticipated to have a project cost of \$223,823,200,
31 and JAXPORT has entered into a Public Transportation Grant

1 Agreement (as amended, the "FDOT Grant Agreement") pursuant to
2 which the FDOT has agreed to partially fund on a reimbursement
3 basis the Phase C Project in the up-to amount of \$46,103,589 (the
4 "FDOT Grant Funds"); and

5 **WHEREAS,** the Project will provide significant economic
6 benefits to the City and its residents by providing increased
7 economic activity and high salary jobs in the City of Jacksonville
8 and thus constitutes a valid governmental undertaking of the City
9 for municipal purposes and a Project as set forth in the Special
10 Revenue Bond Ordinance; and

11 **WHEREAS,** JAXPORT has requested and the City has agreed to
12 provide a \$35,000,000 grant (the "2020 City Grant") to be used
13 exclusively to partially fund the Phase C Project costs, and the
14 City has agreed to include in its fiscal year 2020-21 budget,
15 subject to Council approval, a minimum of an additional \$25,000,000
16 (the "2021 City Grant" and collectively with the 2020 City Grant,
17 the "City Grants") to be used exclusively to fund the costs of the
18 Phase C Project, with any Phase C Project costs in excess of the
19 City Grants and the City Loan Funds (defined below) the
20 responsibility of JAXPORT; subject to Council approval the 2021
21 City Grant may be increased by up to \$10,000,000 depending on the
22 dredging bids received by the ACOE for the construction of the
23 Phase C Project; and

24 **WHEREAS,** under the terms of the PPA the ACOE requires JAXPORT
25 to provide the entirety of the Phase C Project local sponsor costs,
26 in the estimated amount of \$104,783,624, at the time of contract
27 award for the Phase C Project and prior to commencement of the
28 work, which will require JAXPORT to borrow approximately
29 \$46,103,589 in order for the Phase C Project to be fully funded;
30 and

31 **WHEREAS,** the City is willing to provide JAXPORT a bridge loan

1 in the amount of \$40,000,000 (the "City Loan Funds") pursuant to
2 the terms and conditions of the Agreement authorized herein to
3 ensure the Phase C Project is funded and completed in a timely
4 manner, which will be repaid to the City on a periodic basis as
5 work on the Phase C Project proceeds and JAXPORT is reimbursed
6 therefore from the FDOT Grant Funds, with JAXPORT providing the
7 entirety of such reimbursed FDOT Grant Funds to the City within ten
8 (10) days of receipt by JAXPORT; and

9 **WHEREAS**, the Project is in the public interest and the
10 financial assistance contemplated herein take into account and give
11 consideration to the long-term public interests and public interest
12 benefits to be achieved by the City; and

13 **BE IT ORDAINED** by the Council of the City of Jacksonville:

14 **Section 1. Findings.** It is hereby ascertained, determined,
15 found and declared as follows:

16 (a) The recitals set forth herein are true and correct.

17 (b) The Project will promote and further the public and
18 municipal purposes of the City.

19 (c) Enhancement of the City's tax base and revenues, are
20 matters of State and City policy and State and City concern in
21 order that the State and its counties and municipalities, including
22 the City, shall not continue to be endangered by unemployment,
23 underemployment, economic recession, poverty, crime and disease,
24 and consume an excessive proportion of the State and City revenues
25 because of the extra services required for police, fire, accident,
26 health care, elderly care, charity care, hospitalization, public
27 housing and housing assistance, and other forms of public
28 protection, services and facilities.

29 (d) The provision of the City's assistance as identified in
30 the Agreement is necessary and appropriate to make the Project
31 feasible; and the City's assistance is reasonable and not

1 excessive, taking into account the extent of the public benefits
2 expected to be derived from the Project, and taking into account
3 all other forms of assistance available.

4 (e) JAXPORT is qualified to carry out and complete the
5 construction and equipping of the Project, in accordance with the
6 Agreement and PPA.

7 (f) The authorizations provided by this Ordinance are for
8 public uses and purposes for which the City may use its powers as a
9 county, municipality and as a political subdivision of the State of
10 Florida and may expend public funds, and the necessity in the
11 public interest for the provisions herein enacted is hereby
12 declared as a matter of legislative determination.

13 (g) This Resolution is adopted pursuant to the provisions of
14 Chapters 163, 166 and 125, Florida Statutes, as amended, the City's
15 Charter, and other applicable provisions of law.

16 **Section 2. Appropriation.** For the 2019-2020 fiscal year,
17 within the City's budget, there are hereby appropriated the
18 indicated sum(s) from the account(s) listed in subsection (a) to
19 the account(s) listed in subsection (b):

20 (The account information is attached hereto as **Exhibit 2** and
21 incorporated herein by this reference)

22 (a) Appropriated from:

23 See B.T. 20-095 \$75,000,000

24 (b) Appropriated to:

25 See B.T. 20-095 \$75,000,000

26 (c) **Explanation of Appropriation:**

27 The funding above appropriates \$35,000,000 of bond
28 proceeds that will be provided to the JAXPORT in the form
29 of a grant, and \$40,000,000 from the City's Commercial
30 Paper Facility that will be provided to the JAXPORT as a
31 bridge loan, in each case to be used to provide the

1 City's share of funding for the St. Johns River harbor
2 deepening project.

3 **Section 3. Purpose.** The purpose of the appropriation in
4 Section 2 is to provide: (1) a \$35,000,000 grant to the
5 Jacksonville Port Authority pursuant to the Agreement authorized
6 herein to provide a portion of the City funding for the Project;
7 and (2) a \$40,000,000 bridge loan to JAXPOPRT to be disbursed in
8 accordance with the Agreement authorized herein to provide funding
9 for the Project. The \$40,000,000 tranche of City funding are
10 matching funds and will be repaid to the City on a periodic basis
11 after JAXPORT receives its reimbursement of funds from the State of
12 Florida Department of Transportation during construction of the
13 Project, with the issuance and interest cost thereon being
14 reimbursed to the City by JAXPORT.

15 **Section 4. Amending 2019-504-E, the FY 2019-2020 Budget**
16 **Ordinance, to replace the Schedule B4 to allow funding for the St.**
17 **Johns River harbor deepening project.** 2019-504-E, the FY 2019-2020
18 Budget Ordinance, is hereby amended to replace Schedule B4,
19 entitled "FY 19-20 Debt Management Fund Detail," in order to allow
20 for the funding by the City of the St. Johns River harbor deepening
21 project as authorized herein. The Revised Schedule B4 is attached
22 hereto as **Exhibit 3.**

23 **Section 5. Amending Supplemental Ordinance 2020-261-E to**
24 **increase the net project funds amount and replace Exhibit 1 to**
25 **authorizes funding for the Project.** Ordinance 2020-261-E is hereby
26 amended to: (i) increase the authorized amount of net project funds
27 for the financing and refinancing of the Series 2020 Project from
28 \$120,000,000 to \$155,000,000; and (ii) add the Project to the
29 Series 2020 Project list and replace **Exhibit 1** of the Supplemental
30 Bond Ordinance with the **Revised Exhibit 1** attached hereto and
31 incorporated herein.

1 **Section 6. Authorizing the Borrowing and Appropriation of**
2 **Funds from the City's Commercial Paper Program.** The City is hereby
3 authorized to borrow an additional maximum amount of up to
4 \$40,000,000 under its Commercial Paper Program and such funds are
5 hereby appropriated to fund a portion of the Project.

6 **Section 7. Authorizing the City to enter into an**
7 **agreement with the Jacksonville Port Authority.** The City is hereby
8 authorized to enter into an Agreement with the Jacksonville Port
9 Authority ("Agreement") in substantially the form placed **On File**
10 with the Legislative Services Division for the purposes described
11 in Section 3.

12 **Section 8. Invoking the exception to Section 126.107(g),**
13 **Ordinance Code.** The City is hereby authorized to enter into the
14 Agreement with the Jacksonville Port Authority for the purposes
15 described in Section 3. Pursuant to Section 126.107(g)
16 (Exemptions), Part 1 (General Regulations), Chapter 126
17 (Procurement Code), *Ordinance Code*, such procurement is exempted
18 from competitive solicitation because the supplies or services are
19 to be provided by those specifically prescribed within authorizing
20 legislation that appropriates the same. With the exception of the
21 foregoing, all other provisions of Chapter 126, *Ordinance Code*,
22 shall remain in full force and effect.

23 **Section 9. Oversight Department.** The Finance and
24 Administration Department shall provide oversight for the Agreement
25 authorized herein.

26 **Section 10. Requesting one-cycle emergency passage**
27 **pursuant to Council Rule 4.901 Emergency.** One-cycle emergency
28 passage of this legislation is requested. The nature of the
29 emergency is that JAXPORT is required to have local sponsor funds
30 for the Phase C Project in the amount of \$104,783,624 to the Army
31 Corp of Engineers by no later than August 20, 2020 or the Phase C

**JACKSONVILLE PORT AUTHORITY HARBOR DEEPENING
PROJECT FUNDING AGREEMENT**

This Jacksonville Port Authority Harbor Deepening Project Funding Agreement (“Agreement”) is entered and effective as of the ___ day of _____, 2020 (the “Effective Date”) between **JACKSONVILLE PORT AUTHORITY**, an independent public agency existing under Chapter 2004-465, Laws of Florida, as amended (“JAXPORT”) and the **CITY OF JACKSONVILLE**, a consolidated municipal corporation and political subdivision of the State of Florida (“City”).

WHEREAS, JAXPORT, pursuant to the contract entered into between JAXPORT and the United States Army Corps of Engineers (“Corps”) attached hereto as Exhibit A (the “PPA”) is the local sponsor of the Jacksonville harbor deepening project pursuant to which the navigation channel of the St. Johns River is being deepened from 40 to 47 feet and also provides for a new vessel turning basin and other improvements (the “Project”); and

WHEREAS, the Project, through Phase C, is projected to have an overall cost of approximately \$484,000,000 dollars, with such costs being provided, as of the Effective Date hereof, by the United States Government, the Florida Department of Transportation (“FDOT”), private sector contributions and funds provided directly by JAXPORT; and

WHEREAS, the upcoming Phase C of the Project (the “Phase C Project”) is anticipated to have a project cost of \$223,823,200, and JAXPORT has entered into a Public Transportation Grant Agreement (as amended, the “FDOT Grant Agreement”), attached hereto as Exhibit B, pursuant to which the FDOT has agreed to partially fund on a reimbursement basis the Phase C Project in the up-to amount of \$46,103,589 (the “FDOT Grant Funds”); and

WHEREAS, the Project will provide significant economic benefits to the City and its residents by providing increased economic activity and high salary jobs in the City of Jacksonville; and

WHEREAS, JAXPORT has requested and the City has agreed to provide a \$35 million grant (the “2020 City Grant”) to be used exclusively to partially fund the Phase C Project costs, and the City has agreed to include in its fiscal year 2020-21 budget, subject to Council approval, a minimum of an additional \$25,000,000 (the “2021 City Grant”) and collectively with the 2020 City Grant, the “City Grants”) to be used exclusively to fund the costs of the Phase C Project, with any Phase C Project costs in excess of the City Grants and the City Loan Funds (defined below) the responsibility of JAXPORT; subject to Council approval the 2021 City Grant may be increased by up to \$10,000,000 depending on the dredging bids received by the Corps for the construction of the Phase C Project; and

WHEREAS, under the terms of the PPA the Corps requires JAXPORT to provide the entirety of the Phase C Project local sponsor costs, in the estimated amount of \$104,783,624, at the time of contract award for the Phase C Project and prior to commencement of the work, which will require JAXPORT to borrow approximately \$46,103,589 in order for the Phase C Project to be fully funded; and

WHEREAS, the City is willing to provide JAXPORT a bridge loan in the amount of \$40,000,000 (the “City Loan Funds”) pursuant to the terms and conditions of this Agreement to ensure the Phase C Project is funded and completed in a timely manner, which will be repaid to the City on a periodic basis as work on the Phase C Project proceeds and JAXPORT is reimbursed therefore from the FDOT Grant Funds, with JAXPORT providing the entirety of such reimbursed FDOT Grant Funds to the City within ten (10) days of receipt by JAXPORT; and

WHEREAS, pursuant to Ordinance 2020-261-E, as amended, and Ordinance 2020-377-E, the City is authorized to provide the 2020 City Grant and the \$40,000,000 in City Loan Funds to JAXPORT for the purposes set forth in this Agreement; and

WHEREAS, the financial contributions set forth herein constitute the City’s entire participation in the harbor deepening project;

NOW, THEREFORE, in consideration of the mutual undertakings and agreements herein of City and JAXPORT, and for Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are acknowledged, City and JAXPORT hereby represent, warrant, covenant and agree as follows:

1. **RECITALS INCORPORATED.** The foregoing recitals are true and correct and incorporated as material terms of this Agreement.
2. **CITY GRANTS FOR PHASE C PROJECT.** City will provide the \$35,000,000 2020 City Grant to JAXPORT to be used exclusively to partially fund the costs of Phase C Project. The 2020 City Grant shall be disbursed to JAXPORT no later than August 14, 2020, and the City has agreed to include in its fiscal year 2020-21 budget, subject to Council approval, a minimum of an additional \$25,000,000 (the “2021 City Grant” and collectively with the 2020 City Grant, the “City Grants”) to be used exclusively to fund the costs of Phase C of the Project, with any Phase C Project costs in excess of the City Grants and the City Loan Funds (defined below) the responsibility of JAXPORT. Subject to Council approval, the 2021 City Grant may be increased by up to \$10,000,000 depending on the dredging bids received by the Corps for the construction of the Phase C Project. The 2021 City Grant shall be payable by the City to JAXPORT no later than December 15, 2020. The City’s obligation to pay the 2020 City Grant to JAXPORT is contingent upon the State of Florida appropriating and encumbering funding in the amount of \$46,103,589 to the FDOT Grant Agreement.
3. **2020 BRIDGE LOAN.** The City is authorized and will provide in lump sum no later than August 14, 2020 a bridge loan to JAXPORT in City Fiscal Year 2019-20 in the up-to amount of forty million dollars (\$40,000,000) (the “Loan”). The City’s obligation to provide the City Loan Funds to JAXPORT is contingent upon the appropriation and encumbrance of funds by the State of Florida to the FDOT Grant Agreement in the amount of \$46,103,589 as set forth in Section 2 above. JAXPORT represents and warrants that it will provide the entirety of the City Loan Funds to the Corps to pay for construction of the Phase C Project. The City Loan Funds advanced under this Agreement are in addition to, and not in substitution for, any funds provided to JAXPORT by the City pursuant to any existing Interlocal or other Agreements between the City and JAXPORT.

4. **REPAYMENT; INTEREST.** JAXPORT will repay the City Loan Funds in full to the City no later than September 30, 2023, and as otherwise set forth in this Agreement. As JAXPORT is periodically reimbursed by the FDOT pursuant to the FDOT Grant Agreement for the Phase C Project costs (each, a “FDOT Reimbursement” and collectively the “FDOT Reimbursements”), JAXPORT will provide one hundred percent of each FDOT Reimbursement to the City within ten (10) days of receipt thereof by JAXPORT, until such time as the City Loan Funds and interest due are paid in full. JAXPORT will also reimburse and pay to the City on an annual basis by each September 30 during the term of this Agreement, in addition to the City Loan Funds, the interest expense and transaction costs paid by the City. No later than September 15 of each year during the term of this Agreement, the City shall submit an invoice with an interest calculation for the loan interest due for the previous twelve (12) months, or such lesser period of time as may be applicable in the first or last loan year. Upon receipt of each FDOT Reimbursement by the City, the City will credit such amounts against the then outstanding Loan balance. To assist the City in keeping interest costs low for JAXPORT’s benefit, as commercial paper resets at varying frequencies throughout the year, JAXPORT shall provide as much advance notice to the City of anticipated paydowns so that the City may structure the commercial paper resets to coincide as closely as practicable to anticipated payment dates expected from the port. The payment obligations of JAXPORT hereunder are junior and subordinate in all respects to and subordinate to the payment obligations of JAXPORT under its senior and subordinate debt obligations.

5. **PHASE C PROJECT COST SAVINGS.** To the extent the successful bids for the Phase C Project result in a Phase C Project cost less than the \$223,823,200 estimated in the PPA, then such cost savings attributed to JAXPORT as the local sponsor of the Phase C Project shall be applied to reduce, on a 50/50 basis, the amount of the City Grants and Loan actually disbursed to JAXPORT.

6. **MAXIMUM INDEBTEDNESS.** The maximum indebtedness of the City for all grants, loans and other costs under this Agreement shall be a fixed, monetary amount not to exceed ONE HUNDRED TEN MILLION AND NO/100 DOLLARS (\$110,000,000). Upon the Effective Date of this Agreement, the City is authorized to disburse the \$40,000,000 bridge loan and the \$35,000,000 in 2020 City Grant funds as authorized by 2020-261-E, as amended, and Ordinance 2020-377-E, in accordance with the terms and conditions of this Agreement. The 2021 City Grant in the up-to maximum amount of \$35,000,000 will be appropriated to this Agreement by subsequent legislation, subject to Council approval.

7. **SEVERABILITY.** If any of the provisions of this Agreement are deemed to be unenforceable and the unenforceability of said provisions does not adversely affect the purpose and intent of this Agreement, the enforceability of the remaining provisions of this Agreement shall not be affected.

8. **SUCCESSORS IN INTEREST.** This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives and successors. Whenever used, the singular shall include the plural and one gender shall include all genders. Neither party to this Agreement may assign this Agreement or any interest therein without the prior written consent of the other party.

9. **NOTICE**. Whenever either party desires or is required to give notice unto the other, it must be given by written notice, and either delivered personally, transmitted via facsimile transmission, mailed postage prepaid, or sent by overnight courier to the appropriate address as is designated in writing by a party to this Agreement.

10. **ENTIRE AGREEMENT**. This Agreement, together with the ordinances and other documents expressly referred to herein, contains the entire agreement between the parties pertaining to the subject matter set forth herein and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, modification or amendment to this Agreement shall be binding unless executed in writing by the parties.

11. **WAIVER**. Failure of either party to insist upon strict performance of any covenant or condition of this Agreement, or to exercise any right herein contained, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition or right; but the same shall remain in full force and effect.

12. **FUTURE FUNDING**. This Agreement is limited to the terms expressly set forth herein and shall not construed to require the City to provide funding other than the City Grant Funds and City Loan Funds as set forth herein, nor is it intended to prevent the City from providing other funds for direct investment in the Project pursuant to a separate instrument.

13. **COUNTERPARTS**. This Agreement may be executed in one or more counterparts, but all such counterparts, when duly executed, shall constitute one and the same Agreement. Delivery of a signed counterpart by electronic means shall be valid for all purposes.

14. **ADDENDUM**. Any addendum or exhibit attached hereto shall be deemed a part of this Agreement.

[Signatures on following page]

CITY OF JACKSONVILLE

JACKSONVILLE PORT AUTHORITY

By: _____
Lenny Curry
Mayor

By: _____
Eric B. Green
Chief Executive Officer

Attest:

By: _____
James R. McCain, Jr.
Corporation Secretary

Approved as to legal form for
City of Jacksonville only:

Approved as to legal form for
JAXPORT only:

Office of General Counsel

Office of General Counsel
Chief Legal Counsel – JAXPORT

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EXHIBIT A

PPA

PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
JACKSONVILLE PORT AUTHORITY
FOR CONSTRUCTION
OF THE
JACKSONVILLE HARBOR NAVIGATION PROJECT

THIS AGREEMENT is entered into this 31st day of January, 2017, by and between the Department of the Army (hereinafter the "Government") represented by the U.S. Army Engineer, Jacksonville District and the Jacksonville Port Authority (hereinafter the "Non-Federal Sponsor"), represented by its Chief Executive Officer.

WITNESSETH, THAT:

WHEREAS, the Jacksonville Harbor Navigation Study, Duval County, Florida Final Integrated General Reevaluation Report II and Supplemental Environmental Impact Statement, dated April 2014, identifies a plan that maximizes net national economic development (hereinafter the "*NED Plan*", as defined in Article I.C. of this Agreement) for commercial navigation;

WHEREAS, the Non-Federal Sponsor prefers construction of a locally preferred plan, which provides greater channel depths (hereinafter the "*Project*", as defined in Article I.A. of this Agreement), and is willing to pay 100 percent of the *total costs of construction of the general navigation features that exceed the total costs of construction of the NED Plan*;

WHEREAS, the Non-Federal Sponsor has agreed to conduct monitoring and modeling efforts post construction solely at Non-Federal expense, which will be in addition to the cost-shared monitoring for one year post construction;

WHEREAS, construction of the *Project* was authorized by Section 7002(1) of the Water Resources Reform and Development Act of 2014, Public Law 113-121;

WHEREAS, Section 101 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2211), specifies the cost-sharing requirements applicable to the construction, operation, and maintenance of the *Project*;

WHEREAS, Section 902 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2280), establishes the maximum amount of costs for the *Project* and sets forth procedures for adjusting such maximum amount;

WHEREAS, the Government and a non-Federal interest entered into an agreement, dated May 21, 2014, for engineering and design of the *Project* (hereinafter the "Design Agreement"), with the Non-Federal Sponsor paying a portion of the costs for engineering and design;

WHEREAS, Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and Section 101 of the Water Resources Development Act of

1986, Public Law 99-662, as amended (33 U.S.C. 2211), provide, *inter alia*, that the Secretary of the Army shall not commence construction of any water resources project until a non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project;

WHEREAS, the Secretary of the Army is authorized, pursuant to 33 U.S.C. 561, to accept an advance of funds from the Non-Federal Sponsor for the prosecution of this authorized navigation project;

WHEREAS, the Non-Federal Sponsor considers it to be in its interest to expedite the construction of the *Project* by providing all funding required for construction of the *Project*, including advancing the Federal share of the cost of the *Project*;

WHEREAS, the Non-Federal Sponsor understands that neither execution of this Agreement nor acceptance of advanced funds represents or gives rise to any commitment on the part of the Government to budget for funds to reimburse any funds advanced by the Non-Federal Sponsor;

WHEREAS, the Non-Federal Sponsor understands that it will be reimbursed for advanced funds only if Congress appropriates funds specifically for that purpose;

WHEREAS, Section 102 of the Energy and Water Development Appropriations Act, 2006, Public Law 109-103, provides that total reimbursements provided for all applicable general authorities and specific project authorities shall not exceed \$100,000,000 in each fiscal year;

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

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

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

ARTICLE I - DEFINITIONS

A. The term "*Project*" shall mean the *general navigation features* and all lands, easements, rights-of-way, and *relocations* that the Government determines to be necessary for construction or operation and maintenance of the *general navigation features*, but shall not include aids to navigation or the *local service facilities*.

B. The term "*general navigation features*" shall mean deepening of the existing 40-foot mean lower low water (MLLW) channel to 47 feet MLLW from the entrance channel to approximately River Mile (RM) 13; widening at Mile Point, the Training Wall Reach, and the St.

Johns Bluff Reach; widening both sides of the channel in varying amounts up to 300 feet for Cuts 40 to 41 (approximately RM 7-8); construction of two new turning basins at Blount Island and Brills Cut; implementation of mitigation in the form of conservation land purchase of 638 acres of freshwater wetlands, uplands, river shoreline, and salt marsh wetlands to offset minor impacts to wetlands and submerged aquatic vegetation and monitoring for the period of construction plus one year post-construction with the possibility of additional monitoring as generally described in the "Jacksonville Harbor Navigation Study Final Integrated General Reevaluation Report II and Supplemental Environmental Impact Statement, Duval County, Florida," dated April 2014 and approved by the Chief of Engineers on April 16, 2014, with the Assistant Secretary of the Army for Civil Works approval of the locally preferred plan on May 17, 2013. The term does not include any lands, easements, rights-of-way, or *relocations*; *betterments*; aids to navigation; or *local service facilities*.

C. The term "*NED Plan*" shall mean deepening of portions of the project optimized at a channel depth of 45 feet with associated channel widening and turning basins, and mitigation required for the *NED Plan* as generally described in the "Jacksonville Harbor Navigation Study Final Integrated General Reevaluation Report II and Supplemental Environmental Impact Statement, Duval County, Florida," dated April 2014 and approved by the Chief of Engineers on April 16, 2014. The term does not include any lands, easements, rights-of-way, or *relocations*; *betterments*; aids to navigation; or *local service facilities*.

D. The term "*period of construction*" shall mean the time from the date that the Government either issues the solicitation for the first construction contract for the *general navigation features* or commences construction of the *general navigation features* using the Government's own forces, whichever is earlier, to the date that construction of the *general navigation features* is complete, as determined by the Government, or the date that this Agreement is terminated in accordance with Article XI or Article XII.D. of this Agreement, whichever is earlier.

E. The term "*total costs of construction of the general navigation features*" shall mean the costs of engineering and design pursuant to the Design Agreement and all costs incurred by the Non-Federal Sponsor or the Government in accordance with the terms of this Agreement directly related to construction of the *general navigation features* for the *Project*, which include, but are not necessarily limited to: the Government's engineering and design costs during construction; the costs of mitigation associated with construction of the *general navigation features*, including the costs of monitoring by the Non-Federal Sponsor in accordance with Article II.G. of this Agreement; the Non-Federal Sponsor's and the Government's costs of investigations to identify the existence and extent of hazardous substances in accordance with Article XII.A. of this Agreement; the Government's costs of historic preservation activities in accordance with Articles XV.A.1. and XV.C.1. of this Agreement; the Government's actual construction costs; the Government's supervision and administration costs; the Government's costs of contract dispute settlements or awards; and the Non-Federal Sponsor's and the Government's costs associated with obtaining the water quality certification. The term does not include the value of any lands, easements, rights-of-way, or *relocations*; costs of operation and maintenance of the *general navigation features*; any costs of dispute resolution under Article VI of this Agreement; any costs of aids to navigation; any costs of construction or operation and maintenance of the *local service facilities*; or the Non-Federal Sponsor's costs of negotiating this Agreement.

F. The term “*total costs of construction of the NED Plan*” shall mean the sum of all costs that would have been incurred by the Non-Federal Sponsor and the Government had the *NED Plan* been constructed.

G. The term “*incremental costs*” shall mean the difference between the *total costs of construction of the general navigation features* and the *total costs of construction of the NED Plan*.

H. The term “*relocation*” shall mean providing a functionally equivalent facility to the owner of a utility, cemetery, highway (which includes any highway, roadway, street or way, including any bridge thereof, that is owned by a public entity), railroad (including any bridge thereof), or public facility, excluding any bridge over navigable waters of the United States, when such action is authorized in accordance with applicable legal principles of just compensation or providing a functionally equivalent facility when such action is specifically provided for, and is identified as a *relocation*, in the authorizing legislation for the *Project* or any report referenced therein. Providing a functionally equivalent facility may take the form of alteration, lowering, raising, or replacement and attendant demolition of the affected facility or part thereof.

I. The term “*betterment*” shall mean a difference in the engineering and design or construction of an element of the *general navigation features* that results from the application of standards that the Government determines exceed those that the Government would otherwise apply to the engineering and design or construction of that element. The term does not include features in addition to the *general navigation features*.

J. The term “*dredged or excavated material disposal facility*” shall mean improvements necessary on lands, easements, or rights-of-way to enable the disposal of dredged or excavated material associated with construction or operation and maintenance of the other *general navigation features*. Such improvements may include, but are not necessarily limited to, retaining dikes, wasteweirs, bulkheads, embankments, monitoring features, stilling basins, or de-watering pumps or pipes. The term also includes modifications to a dredged or excavated material disposal facility to increase capacity beyond that created by regularly recurring operation and maintenance activities.

K. The term “*over-depth*” shall mean additional dimensions associated with a given depth that are required to accomplish advance maintenance, if any, and to compensate for dredging inaccuracies at that depth.

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

M. The term “*local service facilities*” shall mean the berthing and service facilities necessary to realize the benefits of the *general navigation features*.

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

A. The Non-Federal Sponsor shall provide all funding required after the date of execution of this Agreement for construction of the *general navigation features*, including advancing the Federal share of the cost of the *general navigation features*.

1. The Government shall allocate the *total costs of construction of the general navigation features* among the following depth increments: depth of the *NED Plan* in excess of 20 feet but not in excess of 45 feet, excluding associated *over-depth* and entrance channel wave allowances, and depth of the *Project* in excess of the *NED Plan*.

2. The Non-Federal Sponsor's share of the *total costs of construction of the general navigation features* required during the *period of construction* is as follows: 25 percent of the costs of the depth of the *NED Plan* in excess of 20 feet but not in excess of 45 feet and 100 percent of all *incremental costs* associated with implementation of the *Project* in excess of the cost of the *NED Plan*.

3. The Non-Federal Sponsor's share shall also include an additional amount equal to 10 percent of *total costs of construction of the NED Plan* less the amount of credit afforded by the Government for the value of the lands, easements, rights-of-way, and *relocations*.

4. The Non-Federal Sponsor has elected to provide all funding required to construct the *general navigation features* and understands that neither execution of this Agreement nor acceptance of advanced funds constitutes, represents, or implies any commitment on the part of the Department of the Army or the Federal Government to budget or appropriate funds to provide for reimbursement of the advanced funds. To the extent that funds are specifically appropriated for construction, the Government will use those funds to cover the Federal share of the *total costs of construction of the general navigation features* for contracts not yet awarded. To the extent that funds are appropriated specifically for reimbursement of the advanced funds, the Government shall reimburse the Non-Federal Sponsor the Federal share of the *total costs of construction of the general navigation features*.

B. The Government, using those funds provided by the Non-Federal Sponsor and any funds that are specifically appropriated for construction, shall expeditiously construct the *general navigation features*, applying those procedures usually applied to Federal projects, in accordance with Federal laws, regulations, and policies.

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

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

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

C. In accordance with Article III of this Agreement, the Non-Federal Sponsor shall provide all lands, easements, and rights-of-way, including those necessary for the borrowing of material or the disposal of dredged or excavated material, that the Government determines the Non-Federal Sponsor must provide for construction or operation and maintenance of the *general navigation features*, and shall perform or ensure performance of all *relocations* that the Government determines to be necessary for construction or operation and maintenance of the *general navigation features*. The Non-Federal Sponsor shall not be entitled to reimbursement for any value of lands, easements, rights-of-way, and *relocations* provided or performed pursuant to Article III of this Agreement even if such value exceeds 10 percent of *total costs of construction of the NED Plan*.

D. If the Government concludes there is a need to re-evaluate the *Project* to determine whether the full length of the channel to RM 13 should be deepened, such a re-evaluation of the *Project* will be accomplished at the direction of the Government, which may be by contract or using in-house resources, and the cost will be included in the *total costs of construction of the general navigation features*.

E. The District Engineer shall promptly notify the Non-Federal Sponsor in writing of the conclusion of the *period of construction*. Upon providing such notification, the Government shall conduct an accounting, in accordance with Article V of this Agreement, and furnish the results to the Non-Federal Sponsor.

F. The Government, subject to the availability of funds and as it determines necessary, shall operate and maintain the *general navigation features*.

1. The Government shall be responsible for the costs of operation and maintenance of the general navigation features, except the Non-Federal Sponsor shall be responsible for, and shall pay, in accordance with Article V.G. of this Agreement, 100 percent of the increase in annual operation and maintenance costs, if any, attributable to operation and maintenance of depths in excess of the *NED Plan*.

2. The Non-Federal Sponsor hereby authorizes the Government to enter, at reasonable times and in a reasonable manner, upon property that the Non-Federal Sponsor now or hereafter owns or controls for the purpose of operating and maintaining the *general navigation features*. However, nothing contained herein shall convey to the Government any interest in real property owned or controlled by the Non-Federal Sponsor.

3. The Non-Federal Sponsor hereby authorizes the Government to perform all activities on the lands, easements, and rights-of-way provided by the Non-Federal Sponsor to

enable the disposal of dredged or excavated material that, in the Government's sole discretion, are necessary for the operation and maintenance of the *general navigation features*. Such activities include, but are not necessarily limited to, construction or operation and maintenance of the *dredged or excavated material disposal facilities* and management of disposal of dredged or excavated material associated with construction or operation and maintenance of the other *general navigation features*. In addition, as between the Government and the Non-Federal Sponsor, for so long as a *dredged or excavated material disposal facility* is required for construction or operation and maintenance of the other *general navigation features* as determined by the Government, the Government shall have the full authority and exclusive right to operate and maintain or manage such facility, including the exclusive right to place, remove, use, or reuse the materials therein for any purpose without charge to the Government.

G. The Non-Federal Sponsor shall not use funds provided by another Federal agency to meet any of its obligations under this Agreement unless that Federal agency verifies in writing that the funds are authorized to be used to carry out the *Project*.

H. Subject to applicable Federal laws and regulations, the Non-Federal Sponsor, at no cost to the Government and in a timely manner, shall undertake all actions associated with the *local service facilities*, including dredging, excavation, and disposal of material therefrom, that are necessary to realize the benefits of the *general navigation features*. The Government shall have no obligation under this Agreement for construction, including modification or improvement, of the *local service facilities* or construction of any other facilities to be provided by the Non-Federal Sponsor or a third party.

I. The Non-Federal Sponsor may request the Government to perform or provide, on behalf of the Non-Federal Sponsor, one or more of the services (hereinafter the "additional work") described in this paragraph. Such requests shall be in writing and shall describe the additional work requested to be performed or provided. If in its sole discretion the Government elects to perform or provide the requested additional work or any portion thereof, it shall so notify the Non-Federal Sponsor in a writing that sets forth any applicable terms and conditions, which must be consistent with this Agreement. In the event of conflict between such a writing and this Agreement, this Agreement shall control. The Non-Federal Sponsor shall be solely responsible for all costs of the additional work performed or provided by the Government under this paragraph and shall pay all such costs in accordance with Article V.F. of this Agreement.

1. Acquisition of lands, easements, or rights-of-way or performance of *relocations* for the *general navigation features*. Notwithstanding the acquisition of lands, easements, or rights-of-way or performance of *relocations* by the Government, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for any costs of cleanup and response in accordance with Article XII of this Agreement.

2. Inclusion of *betterments* in the engineering and design or construction of the *general navigation features*. In the event the Government elects to include any such *betterments*, the Government shall allocate the costs of the *general navigation features* that include *betterments* between *total costs of construction of the general navigation features* and the costs of the *betterments*.

3. Engineering and design, construction, including modification or improvement of, or operation and maintenance of the *local service facilities* in conjunction with the

engineering and design, construction, or operation and maintenance of the associated *general navigation features*. Notwithstanding the performance of this additional work by the Government, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for any costs of cleanup and response in accordance with Article XII of this Agreement.

J. In addition to the ongoing, regular discussions of the parties in the delivery of the Project, the Government and the Non-Federal Sponsor may establish a Project Coordination Team to discuss significant issues or actions. The Government's costs for participation on the Project Coordination Team shall not be included in the design and construction costs that are cost shared but shall be included in calculating the Federal Participation Limit. The Non-Federal Sponsor's costs for participation on the Project Coordination Team shall not be included in the design and construction costs that are cost shared and shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

ARTICLE III - LANDS, RELOCATIONS, AND COMPLIANCE WITH
PUBLIC LAW 91-646, AS AMENDED

A. The Government, after consultation with the Non-Federal Sponsor, shall determine the lands, easements, and rights-of-way necessary for construction or operation and maintenance of the *general navigation features*, including those necessary for the borrowing of material, the disposal of dredged or excavated material, and *relocations*, and including those that the Government determines to be subject to the navigation servitude. The Government in a timely manner shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of the lands, easements, and rights-of-way that the Government determines the Non-Federal Sponsor must provide, in detail sufficient to enable the Non-Federal Sponsor to fulfill its obligations under this paragraph, and shall provide the Non-Federal Sponsor with a written notice to proceed with acquisition of such lands, easements, and rights-of-way. Prior to the issuance of the solicitation for each Government contract for construction or operation and maintenance of the *general navigation features*, or prior to the Government incurring any financial obligation for construction or operation and maintenance of a *general navigation feature* using the Government's own forces, the Non-Federal Sponsor shall acquire all lands, easements, and rights-of-way the Government determines the Non-Federal Sponsor must provide for that work and shall provide the Government with authorization for entry thereto. Furthermore, prior to the end of the *period of construction*, the Non-Federal Sponsor shall acquire all lands, easements, and rights-of-way necessary for construction or operation and maintenance of the applicable *general navigation features*, as set forth in such descriptions, and shall provide the Government with authorization for entry thereto. The Non-Federal Sponsor shall ensure that lands, easements, and rights-of-way that the Government determines to be required for the operation and maintenance of the *general navigation features* and that were provided by the Non-Federal Sponsor are retained in public ownership for uses compatible with the authorized purposes of the *Project*. Although the parties currently anticipate that dredged or excavated material from construction, operation, and maintenance of the *general navigation features* will be disposed of at offshore dredged material disposal locations, to the extent that it becomes necessary for the dredged or excavated material to be disposed in another manner, the Non-Federal Sponsor shall provide lands, easements, and rights-of-way necessary for such disposal in accordance with the provisions of this Article of the Agreement.

B. The Government, after consultation with the Non-Federal Sponsor, shall determine the *relocations* necessary for construction or operation and maintenance of the *general navigation features*, including those necessary to enable the borrowing of material or the disposal of dredged or excavated material. The Government, in a timely manner shall provide the Non-Federal Sponsor with general written descriptions, including maps as appropriate, of such *relocations* in detail sufficient to enable the Non-Federal Sponsor to fulfill its obligations under this paragraph, and shall provide the Non-Federal Sponsor with a written notice to proceed with such *relocations*. Prior to the issuance of the solicitation for each Government contract for construction or operation and maintenance of the *general navigation features*, or prior to the Government incurring any financial obligation for construction or operation and maintenance of a *general navigation feature* using the Government's own forces, the Non-Federal Sponsor shall prepare or ensure the preparation of plans and specifications for, and perform or ensure the performance of, all *relocations* the Government determines to be necessary for that work.

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 lands, easements, and rights-of-way necessary for construction or operation and maintenance of the *general navigation features* and the *local service facilities*, including those necessary for *relocations*, the borrowing of material, or the disposal of dredged or excavated material, and shall inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

ARTICLE IV - CREDIT FOR VALUE OF LANDS AND RELOCATIONS

A. To determine the additional amount owed by the Non-Federal Sponsor pursuant to Article II.A.3. of this Agreement, the Government shall afford credit toward an amount equal to 10 percent of *total costs of construction of the NED Plan* for the value of the lands, easements, and rights-of-way that the Non-Federal Sponsor must provide pursuant to Article III of this Agreement, and for the value of the *relocations* that the Non-Federal Sponsor must perform or for which it must ensure performance pursuant to Article III of this Agreement. However, no credit shall be afforded for the value of any lands, easements, rights-of-way or *relocations* that have been provided previously as an item of cooperation for another Federal project. In addition, no credit shall be afforded for the value of lands, easements, rights-of-way, or *relocations* that were acquired or performed using funds provided by another Federal agency unless that Federal agency verifies in writing that the funds are authorized to be used to carry out the *Project*.

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

C. For the sole purpose of determining the amount of credit to be afforded in accordance with this Agreement and except as otherwise provided in paragraph D. of this Article, the value of lands, easements, and rights-of-way, including those necessary for the *relocations*, borrowing of material, and the disposal of dredged or excavated material, shall be the fair market value of

the real property interests, plus certain incidental costs of acquiring those interests, as determined in accordance with the provisions of this paragraph.

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

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

a. The Non-Federal Sponsor shall obtain, for each real property interest, an appraisal that is prepared by a qualified appraiser who is acceptable to the Non-Federal Sponsor and the Government. The Non-Federal Sponsor shall provide the Government with the appraisal no later than 6 months after the Non-Federal Sponsor provides the Government with an authorization for entry for such real property interest. The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government. The fair market value shall be the amount set forth in the Non-Federal Sponsor's appraisal, if such appraisal is approved by the Government. In the event the Government does not approve the Non-Federal Sponsor's appraisal, the Non-Federal Sponsor may obtain a second appraisal, and the fair market value shall be the amount set forth in the Non-Federal Sponsor's second appraisal, if such appraisal is approved by the Government. In the event the Government does not approve the Non-Federal Sponsor's second appraisal, the Non-Federal Sponsor chooses not to obtain a second appraisal, or the Non-Federal Sponsor does not provide the first appraisal as required in this paragraph, the Government shall obtain an appraisal, and the fair market value shall be the amount set forth in the Government's appraisal, if such appraisal is approved by the Non-Federal Sponsor. In the event the Non-Federal Sponsor does not approve the Government's appraisal, the Government, after consultation with the Non-Federal Sponsor, shall consider the Government's and the Non-Federal Sponsor's appraisals and determine an amount based thereon, which shall be deemed to be the fair market value.

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

3. **Eminent Domain Valuation Procedure.** For lands, easements, or rights-of-way acquired by eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor, prior to instituting such proceedings, shall submit to the Government notification in writing of its intent to institute such proceedings and an appraisal of the specific real property interests to be acquired in such proceedings. The Government shall have 60 days

after receipt of such a notice and appraisal within which to review the appraisal, if not previously approved by the Government in writing.

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

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

c. For lands, easements, or rights-of-way acquired by eminent domain proceedings instituted in accordance with paragraph C.3. of this Article, fair market value shall be either the amount of the court award for the real property interests taken, to the extent the Government determined such interests are necessary for construction or operation and maintenance of the *general navigation features*, or the amount of any stipulated settlement or portion thereof that the Government approves in writing.

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

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

D. For the sole purpose of determining the amount of credit to be afforded in accordance with this Agreement, the value of lands, easements, and rights-of-way, including those necessary for *relocations*, the borrowing of material, and the disposal of dredged or excavated material, that the Government acquires on behalf of the Non-Federal Sponsor pursuant to Article II.I.1. of this Agreement shall be the fair market value of the real property interests, plus certain incidental costs of acquiring those interests, as determined in accordance with the provisions of this paragraph.

1. The fair market value of such real property interests shall be the amount paid by the Government.

2. The value of the interest shall include the documented incidental costs of acquiring the interest. Such incidental costs shall include, but not necessarily be limited to, closing and title costs, appraisal costs, survey costs, attorney's fees, plat maps, mapping costs, and actual amounts expended for payment of any relocation assistance benefits in accordance with Public Law 91-646, as amended.

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

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

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

3. For a *relocation* of a utility, the value shall be only that portion of *relocation* costs borne by the Non-Federal Sponsor 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.

4. *Relocation* costs shall include, but not necessarily be limited to, actual costs of performing the *relocation*; planning, engineering and design costs; supervision and administration costs; and documented incidental costs associated with performance of the *relocation*, as determined by the Government. *Relocation* costs shall not include any additional cost of using new material when suitable used material is available. *Relocation* costs shall be

subject to an audit in accordance with Article VIII.B. of this Agreement to determine reasonableness, allocability, and allowability of costs.

F. Any credit afforded for the value of *relocations* performed within the *Project* boundaries is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)). The Non-Federal Sponsor acknowledges that the Government may, as appropriate, adjust or withhold credit to reflect any payment that should have been made by the Non-Federal Sponsor or any of its agents or contractors pursuant to these laws.

ARTICLE V - METHOD OF PAYMENT

A. Beginning October 1, 2016 and by each quarterly anniversary thereof until the conclusion of the *period of construction* and resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall maintain and provide to the Non-Federal Sponsor records of costs incurred, current projections of costs, funding provided by the Non-Federal Sponsor, and credit afforded for the value of lands, easements, rights-of-way, and *relocations*. As of the effective date of this Agreement, *total costs of construction of the general navigation features* are projected to be \$704,484,000, *total costs of construction of the NED Plan* are expected to be \$587,537,000, *incremental costs* are expected to be \$116,947,000, the credit to be afforded for the value of lands, easements, rights-of-way, and *relocations* to be provided or performed through the end of the *period of construction* is projected to be \$0, and the 10% additional amount required by Article II.A.3. of this Agreement is projected to be \$51,898,000. These amounts are estimates subject to adjustment by the Government, after consultation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

B. No later than 15 business days (which excludes Saturdays, Sundays, and Federal holidays) after the date of execution of this Agreement, the Non-Federal Sponsor shall provide to the Government \$350,000, which is the estimated amount of costs associated with the solicitation for the construction contract for the *general navigation features*. Not less than 60 calendar days prior to the scheduled date for advertisement of the initial and subsequent construction contracts, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and the funds the Government determines to be required from the Non-Federal Sponsor for costs associated with award of the base contract, and the Non-Federal Sponsor shall provide to the Government the full amount no later than 30 calendar days prior to the scheduled award date. The Non-Federal Sponsor shall provide funds required under this paragraph by delivering a check payable to "FAO, USAED, Jacksonville (K3)" 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 providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

C. No later than 30 calendar days prior to exercise of any contract option, the Non-Federal Sponsor shall provide to the Government the full amount of costs associated with such

option, as determined in writing by the Government, through any of the payment mechanisms specified in paragraph B. of this Article.

D. If at any time the Government determines that additional funds will be needed from the Non-Federal Sponsor, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. No later than 30 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B. of this Article.

E. Upon conclusion of the *period of construction* and resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall conduct a final accounting for the *period of construction* and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. If outstanding relevant claims and appeals or eminent domain proceedings prevent a final accounting for the *period of construction* from being conducted in a timely manner, the Government shall conduct an interim accounting for the *period of construction* and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals and eminent domain proceedings for the *period of construction* are resolved, the Government shall amend the interim accounting to complete the final accounting for the *period of construction* and furnish the Non-Federal Sponsor with written notice of the results of such final accounting.

1. The final or interim accounting, as applicable, shall determine *total costs of construction of the NED Plan* and the costs allocated by the Government for operation and maintenance of any preexisting non-Federal navigation project. In addition, the final or interim accounting, as applicable shall determine each party's required share thereof and each party's total contributions thereto as of the date of such accounting.

2. Should the final or interim accounting, as applicable, show that the *total costs of construction of the general navigation features* exceed the amount of funding provided by the Non-Federal Sponsor, the Non-Federal Sponsor, no later than 90 calendar days after receipt of written notice, shall make a payment to the Government in an amount equal to the difference by delivering a check payable to "FAO, USAED, Jacksonville (K3)" to the District Engineer or providing an Electronic Funds Transfer in accordance with procedures established by the Government.

3. Should the final accounting show that the amount of funding provided by the Non-Federal Sponsor exceeds the *total costs of construction of the general navigation features*, the Government shall refund the excess to the Non-Federal Sponsor.

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

1. Not less than 60 calendar days prior to the scheduled date for the initiation of additional work, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and of the full amount of funds the Government determines to be required from the Non-Federal Sponsor to cover the costs of the additional work. No later than 30 calendar days prior to the Government initiating the additional work, the Non-Federal Sponsor shall provide the Government with the full amount of the funds required to cover the costs of such

additional work through any of the payment mechanisms specified in paragraph B. of this Article.

2. If at any time the Government determines that the Non-Federal Sponsor must provide additional funds to pay for such additional work, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. No later than 30 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B of this Article.

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

1. If the Government determines that operation and maintenance of the *general navigation features* will be necessary in an upcoming *fiscal year*, no later than 60 calendar days prior to the beginning of the *fiscal year*, the Government will notify the Non-Federal Sponsor in writing of the projected amount the Government determines to be required from the Non-Federal Sponsor, and no later than 30 calendar days prior to the beginning of such *fiscal year*, the Non-Federal Sponsor shall provide the required funds through any of the payment mechanisms specified in paragraph B. of this Article.

2. If at any time the Government determines that additional funds will be needed from the Non-Federal Sponsor in the current *fiscal year*, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. No later than 30 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B. of this Article.

ARTICLE VI - DISPUTE RESOLUTION

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

ARTICLE VII - HOLD AND SAVE

The Non-Federal Sponsor shall hold and save the Government free from all damages arising from construction or operation and maintenance of the *Project*, any *betterments*, and the *local service facilities*, except for damages due to the fault or negligence of the Government or its contractors in the construction or operation and maintenance of the *Project*.

ARTICLE VIII - MAINTENANCE OF RECORDS AND AUDIT

A. The parties shall develop procedures for the maintenance by the Non-Federal Sponsor of books, records, documents, or other evidence pertaining to costs and expenses for a minimum of three years after the final accounting. The Non-Federal Sponsor shall assure that such materials are reasonably available for examination, audit, or reproduction by the Government.

B. The Government may conduct, or arrange for the conduct of, audits of the Project. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government's costs of audits shall not be included in total project costs, but shall be included in calculating the Federal Participation Limit.

C. To the extent permitted under applicable Federal laws and regulations, the Government shall allow the Non-Federal Sponsor to inspect books, records, documents, or other evidence pertaining to costs and expenses maintained by the Government, or at the request of the Non-Federal Sponsor, provide to the Non-Federal Sponsor or independent auditors any such 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.

ARTICLE IX - FEDERAL AND STATE LAWS

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

ARTICLE X - RELATIONSHIP OF PARTIES

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

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

ARTICLE XI - TERMINATION OR SUSPENSION

A. If the Government determines at any time the Non-Federal Sponsor is failing to fulfill its obligations under this Agreement, the Government shall provide the Non-Federal Sponsor written notice regarding the details of the Non-Federal Sponsor's failure to provide a required payment or otherwise to perform in accordance with this Agreement. If the Non-Federal Sponsor does not, within 90 days of such notice, provide a required payment or correct its performance in a manner satisfactory to the Government, the Assistant Secretary of the Army (Civil Works) may terminate this Agreement or suspend future performance under this Agreement unless she determines that continuation of work on the *general navigation features* is in the interest of the United States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the *Project*.

B. Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Article or Article XII.D. of this Agreement shall not relieve the parties of liability for any obligation previously incurred.

ARTICLE XII - HAZARDOUS SUBSTANCES

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

1. All actual costs incurred by the Non-Federal Sponsor for such investigations for hazardous substances that are determined by the Government to be attributable to the *general navigation features* shall be included in *total costs of construction of the general navigation features* and, as determined by the Government, included in *total costs of construction of the NED Plan*, and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article VIII.B. of this Agreement to determine reasonableness, allocability, and allowability of costs.

2. All actual costs incurred by the Government for such investigations for hazardous substances that are determined by the Government to be attributable to the *general navigation features* shall be included in *total costs of construction of the general navigation features* and, as determined by the Government, included in *total costs of construction of the NED Plan*, and shared in accordance with the provisions of this Agreement.

B. The Non-Federal Sponsor shall perform, or ensure performance of, any investigations it determines to be necessary to identify the existence and extent of any hazardous substances regulated under CERCLA that may exist in, on, or under lands, easements, and rights-of-way necessary solely for construction or operation and maintenance of the *local service facilities*. However, for any of those lands that the Government determines to be subject to the navigation servitude, the Non-Federal Sponsor must obtain prior written instructions from the District Engineer regarding the method of testing and must perform such investigations only in accordance with those instructions. The costs of any investigations performed under this paragraph shall be borne entirely by the Non-Federal Sponsor. The Government shall have no obligation under this Agreement for the costs of any investigations performed under this paragraph.

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

D. The Government and the Non-Federal Sponsor shall determine whether to initiate construction or operation and maintenance of the *general navigation features*, or, if already in construction or operation and maintenance of the *general navigation features*, whether to continue with construction or operation and maintenance of the *general navigation features*, suspend future performance under this Agreement, or terminate this Agreement for the convenience of the Government, in any case where hazardous substances regulated under CERCLA are found to exist in, on, or under any lands, easements, or rights-of-way that the Government determines, pursuant to Article III of this Agreement, to be necessary for construction or operation and maintenance of the *general navigation features*. Should the Government and the Non-Federal Sponsor determine to initiate or continue with construction or operation and maintenance of the *general navigation features* after considering any liability that may arise under CERCLA, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for the costs of cleanup and response, to include the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall not be considered a part of *total costs of construction of the general navigation features* or *total costs of construction of the NED Plan*. In the event 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 paragraph upon direction by the Government, the Government, in its sole discretion, may either terminate this Agreement for the convenience of the Government, suspend future performance under this Agreement, or continue work on the *general navigation features*. The Government shall have no obligation under this Agreement for the costs of any cleanup and response, to include the costs of any studies and investigations necessary to determine an appropriate response to the

ARTICLE XV - HISTORIC PRESERVATION

A. The Government, as it determines necessary for the *Project*, shall perform any identification, survey, or evaluation of historic properties.

1. Any costs of identification, survey, and evaluation of historic properties determined by the Government to be attributable to construction of the *general navigation features* shall be included in *total costs of construction of the general navigation features* and, as determined by the Government, included in *total costs of construction of the NED Plan*, and shared in accordance with the provisions of this Agreement.

2. Any costs of identification, survey, and evaluation of historic properties determined by the Government to be attributable to operation and maintenance of the *general navigation features* shall be considered financial obligations for operation and maintenance of the *general navigation features* and shared in accordance with Article II.F. of this Agreement.

B. The Government, as it determines necessary for the *Project*, shall perform any archeological data recovery activities associated with historic preservation. As specified in Section 7(a) of Public Law 86-523, as renumbered and amended by Public Law 93-291 (16 U.S.C. Section 469c(a)), the costs of archeological data recovery activities associated with historic preservation shall be borne entirely by the Government and shall not be included in *total costs of construction of the general navigation features*, up to the statutory limit of one percent of the total amount authorized to be appropriated to the Government for the *NED Plan*.

C. The Government shall not incur costs for archeological data recovery activities that exceed the statutory one percent limit specified in paragraph B. of this Article unless and until the Assistant Secretary of the Army (Civil Works) has waived that limit (and the Secretary of the Interior has concurred in the waiver) in accordance with Section 208(3) of Public Law 96-515, as amended (16 U.S.C. Section 469c-2(3)).

1. Any costs of archeological data recovery activities that exceed the one percent limit and are determined by the Government to be attributable to construction of the *NED Plan* shall be included in *total costs of construction of the general navigation features* and shared in accordance with the provisions of this Agreement.

2. Any costs of archeological data recovery activities that exceed the one percent limit and are determined by the Government to be attributable to operation and maintenance of the *NED Plan* shall be considered financial obligations for operation and maintenance of the *general navigation features* and shared in accordance with Article II.F. of this Agreement.

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 party to this Agreement.

ARTICLE XVII - NON-LIABILITY OF OFFICERS AND EMPLOYEES

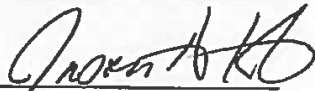
No officer, agent, consultant, or employee of the Non-Federal Sponsor, nor any officer, agent, consultant, or employee of the Government, may be charged personally, or held liable, under the terms or provisions of this Agreement because of any breach, attempted breach, or alleged breach thereof, except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

ARTICLE XVIII - SECTION 902 PROJECT COST LIMITS

The Non-Federal Sponsor has reviewed the provisions set forth in Section 902 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2280), and understands that it establishes a maximum amount for the *Project*. Notwithstanding any other provision of this Agreement, the Government shall not incur any additional financial obligation for the *Project* if such obligation would cause total costs of the *Project* to exceed this maximum amount, unless otherwise authorized by law. On the effective date of this Agreement, this maximum amount for the *Project* is estimated to be \$766,865,000, as calculated in accordance with ER 1105-2-100 using October 1, 2016 price levels and allowances for projected future inflation. The Government shall adjust this maximum amount in accordance with Section 902 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2280).

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

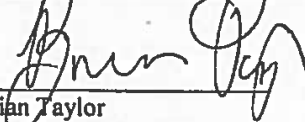
DEPARTMENT OF THE ARMY



Jason A. Kirk, P.E.
Colonel, U.S. Army
District Engineer

DATE: 31 JAN 2017

JACKSONVILLE PORT AUTHORITY



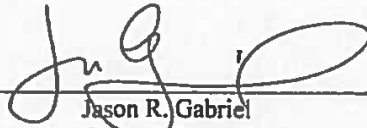
Brian Taylor
Chief Executive Officer

DATE: 1/31/17

CERTIFICATE OF AUTHORITY

I, Jason R. Gabriel, do hereby certify that I am the principal legal officer of the Jacksonville Port Authority, that the Jacksonville Port Authority 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 Jacksonville Port Authority in connection with construction of the Jacksonville Harbor Navigation Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed this Agreement on behalf of the Jacksonville Port Authority have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this
31st day of January ~~2016~~ 2017



Jason R. Gabriel
General Counsel
Jacksonville Port Authority

CERTIFICATION REGARDING LOBBYING

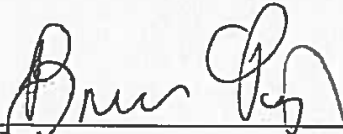
The undersigned certifies, to the best of his or her knowledge and belief that:

(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.



Brian Taylor
Chief Executive Officer
Jacksonville Port Authority

DATE: 1/31/17

EXHIBIT B

FDOT Grant Agreement

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PUBLIC TRANSPORTATION
AMENDMENT TO THE PUBLIC TRANSPORTATION
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Financial Project Number(s): <small>(item-segment-phase-sequence)</small>	Fund(s):	GMR, DIS	FLAIR Category:
<u>437356-1-94-21</u>	Work Activity Code/Function:	<u>215</u>	Object Code: <u>751000</u>
	Federal Number/Federal Award		Org. Code: <u>55022020229</u>
	Identification Number (FAIN) – Transit only:		Vendor Number: <u>F593730270001</u>
Contract Number: <u>G1K24</u>	Federal Award Date:		Amendment No.: <u>1</u>
CFDA Number: <u>N/A</u>	Agency DUNS Number:	<u>06-190-0957</u>	
CFDA Title: <u>N/A</u>			
CSFA Number: <u>55.005</u>			
CSFA Title: <u>Seaport Grant Program</u>			

THIS AMENDMENT TO THE PUBLIC TRANSPORTATION GRANT AGREEMENT (“Amendment”) is made and entered into on _____, by and between the State of Florida, Department of Transportation (“Department”), and Jacksonville Port Authority, (“Agency”), collectively referred to as the “Parties.”

RECITALS

WHEREAS, the Department and the Agency on 3/16/2020 (date original Agreement entered) entered into a Public Transportation Grant Agreement (“Agreement”).

WHEREAS, the Parties have agreed to modify the Agreement on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants in this Amendment, the Agreement is amended as follows:

1. **Amendment Description.** The project is amended to increase Department participation in Jacksonville Port Authority’s deepening and widening initiative (United States Army Corps of Engineers ‘Contract C’).

2. **Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

- Aviation
- Seaports**
- Transit
- Intermodal
- Rail Crossing Closure
- Match to Direct Federal Funding (Aviation or Transit)
 (Note: Section 15 and Exhibit G do not apply to federally matched funding)
- Other

3. **Exhibits.** The following Exhibits are updated, attached, and incorporated into this Agreement:

- Exhibit A: Project Description and Responsibilities
- Exhibit B: Schedule of Financial Assistance
- *Exhibit B1: Deferred Reimbursement Financial Provisions
- *Exhibit B2: Advance Payment Financial Provisions
- *Exhibit C: Terms and Conditions of Construction
- Exhibit D: Agency Resolution
- Exhibit E: Program Specific Terms and Conditions
- Exhibit F: Contract Payment Requirements
- *Exhibit G: Financial Assistance (Single Audit Act)
- *Exhibit H: Audit Requirements for Awards of Federal Financial Assistance

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X *Additional Exhibit(s): Exhibit B3: Terms of Cost Reimbursement - Federal Navigation Projects

4. Project Cost.

The estimated total cost of the Project is X increased/ decreased by \$80,491,252 bringing the revised total cost of the project to \$92,207,178.

The Department's participation is X increased/ decreased by \$40,245,626 The Department agrees to participate in the Project cost up to the maximum amount of \$46,103,589 and, additionally the Department's participation in the Project shall not exceed 50.00% of the total eligible cost of the Project.

Except as modified, amended, or changed by this Amendment, all of the terms and conditions of the Agreement and any amendments thereto shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment on the day and year written above.

AGENCY Jacksonville Port
Authority

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: _____
Name: _____
Title: _____

By: _____
Name: Authorized Official or James M. Knight, P.E.
Title: Urban Planning and Modal Administrator

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

Legal Review: _____

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EXHIBIT B**Schedule of Financial Assistance**

FUNDS AWARDED TO THE AGENCY AND REQUIRED MATCHING FUNDS PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

A. Fund Type and Fiscal Year:

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
437356-1-94-21	GMR	088794	2020	751000	55.005	Seaport Grant Program	\$5,857,963
437356-1-94-21	LF	088794	2020	-	-	Local Matching Funds	\$5,857,963
437356-1-94-21	GMR	088794	2021	751000	55.005	Seaport Grant Program	\$35,245,625
437356-1-94-21	DIS	088794	2021	751000	55.005	Seaport Grant Program	\$5,000,001
437356-1-94-21	LF	088794	2021	-	-	Local Matching Funds	\$40,245,626
Total Financial Assistance							\$92,207,178

B. Estimate of Project Costs by Grant Phase:

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Planning	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Environmental/Design/Construction	\$46,103,589	\$46,103,589	\$0	\$92,207,178	50.00	50.00	0.00
Capital Equipment	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Match to Direct Federal Funding	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Mobility Management (Transit Only)	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Totals	\$46,103,589	\$46,103,589	\$0	\$92,207,178			

*Shifting items between these grant phases requires execution of an Amendment to the Public Transportation Grant Agreement.

BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Justin Ryan

 Department Grant Manager Name

 Signature

 Date

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EXHIBIT B3
TERMS OF COST REIMBURSEMENT – FEDERAL NAVIGATION PROJECTS

A. Reimbursement Rate.

1. The Department will provide no more than one-half the non-federal share of the United States Army Corps of Engineers (USACE) contract, excluding environmental monitoring costs, which the Agency will solely fund.
2. The Department's cost reimbursement rate will be determined by the Department's participating share in the USACE contract.
3. For illustration purposes, if the USACE contract is \$100 million and the total non-federal share is \$50 million (or 50 percent), the Department's participating share would be \$25 million or 25 percent. Under this scenario, the Department would reimburse 25 percent of each USACE vendor invoice amount.

B. Agency Invoicing.

1. Physical work must be completed and approved by USACE prior to the Agency seeking corresponding reimbursement from the Department.
2. The Agency's invoices for reimbursement shall be in an amount proportional to the Department's financial participation in the USACE contract.

C. Invoice Supporting Documentation.

1. Minimum requirements for invoices and supporting documentation are described in **Exhibit "F", Contract Payment Requirements.**
2. The Agency's invoice shall be accompanied by USACE vendor invoicing and vendor payment packages, including project figures (e.g., bathymetric depth surveys) which demonstrate a commensurate level of incremental progress has been made.

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EXHIBIT C

TERMS AND CONDITIONS OF CONSTRUCTION

1. Design and Construction Standards and Required Approvals.

- a. The Agency understands that it is responsible for the preparation and certification of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project or, if applicable, the Agency shall require their design-build contractor or construction management contractor to hire a qualified consultant for the design phase of the Project.
- b. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Agency shall not begin the construction phase of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department's Project Manager, FDOT District 2 Seaport Coordinator (email: justin.ryan@dot.state.fl.us) or from an appointed designee. Any construction phase work performed prior to the execution of this required Notice to Proceed is not subject to reimbursement.
- c. The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Project Manager prior to bidding or commencing construction of the Project.
- d. The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with applicable law(s).
- e. The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that the construction work will meet all applicable Agency and Department standards.
- f. Upon completion of the work authorized by this Agreement, the Agency shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineer's Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached to this Exhibit. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans or specifications, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

2. Construction on the Department's Right of Way. If the Project involves construction on the Department's right-of-way, then the following provisions apply to any and all portions of the Project that are constructed on the Department's right-of-way:

- a. The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project. The Agency must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or the Contractor exhibits past project experience in the last five years that are comparable in scale, composition, and overall quality to the site characterized within the scope of services of this Project.

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- b. Construction Engineering Inspection (CEI) services will be provided by the Agency by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Notwithstanding the foregoing, the Department may issue a written waiver of the CEI requirement for portions of Projects involving the construction of bus shelters, stops, or pads.
- c. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction, the Department Design Standards, and the Manual of Uniform Traffic Control Devices (MUTCD). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, Florida Design Manual, Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book"), and the Department Traffic Engineering Manual. The Agency will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Agency shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Agency shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.
- d. The Agency shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Agency shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is FDOT District 2 Seaport Coordinator.
- e. The Agency shall be responsible for monitoring construction operations and the maintenance of traffic (MOT) throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Agency is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Agency that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
- f. The Agency shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
- g. The Agency will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
- h. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Agency, except as may otherwise be provided in separate agreements. The Agency shall not acquire any right, title, interest or

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estate in Department right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Agency's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, F.S.

- i. The Agency shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.
- j. The Agency shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.
- k. The Agency shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the United States Coast Guard and local governmental entities.
- l. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Agency. The Agency shall bear all construction delay costs incurred by the Department.
- m. The Agency shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
- n. The Agency will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
- o. The acceptance procedure will include a final "walk-through" by Agency and Department personnel. Upon completion of construction, the Agency will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Agency shall remove its presence, including, but not limited to, all of the Agency's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
- p. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Agency. The Agency shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Agency and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Agency fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Agency's sole cost and expense,

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without Department liability to the Agency for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice within thirty (30) days of the date of the invoice.

- q. The Agency shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Agency shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.
- r. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Agency to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.
- s. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
- t. Restricted hours of operation will be as follows, unless otherwise approved by the Department's District Construction Engineer or designee (insert hours and days of the week for restricted operation): Not Applicable
- u. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contact info:

Phone: (386) 758-3714 Fax: (386) 758-3707

Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)

- 3. **Engineer's Certification of Compliance.** The Agency shall complete and submit and if applicable Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

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ENGINEER'S CERTIFICATION OF COMPLIANCE

PUBLIC TRANSPORTATION GRANT AGREEMENT
BETWEEN
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and _____

PROJECT DESCRIPTION: _____

DEPARTMENT CONTRACT NO.: _____

FINANCIAL MANAGEMENT NO.: _____

In accordance with the Terms and Conditions of the Public Transportation Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish the Department a set of "as-built" plans for construction on the Department's Right of Way certified by the Engineer of Record/CEI.

By: _____, P.E.

SEAL:

Name: _____

Date: _____

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EXHIBIT E
PROGRAM SPECIFIC TERMS AND CONDITIONS – SEAPORTS

A. General.

1. These assurances shall form an integral part of the Agreement between the Department and the Agency.
2. These assurances delineate the obligations of the parties to this Agreement to ensure their commitment and compliance with specific provisions of **Exhibit “A”, Project Description and Responsibilities** and **Exhibit “B”, Schedule of Financial Assistance** as well as serving to protect public investment in seaports and the continued viability of the State Seaport System.
3. The Agency shall comply with the assurances as specified in this Agreement.

B. Required Documents. The documents listed below, as applicable, are required to be submitted to the Department by the Agency in accordance with the terms of this Agreement:

1. Quarterly Progress Reports provided within thirty (30) days of the end of each calendar year quarter, if requested by the Department.
2. Electronic invoice summaries and backup information, including a progress report must be submitted to the District Office when requesting payment.
3. All proposals, plans, specifications, and third party contracts covering the Project.
4. The Agency will upload required and final close out documents to the Department's web-based grant management system (e.g., SeaCIP.com).

C. Duration of Terms and Assurances.

1. The terms and assurances of this Agreement shall remain in full force and effect throughout the useful life of a facility developed; equipment acquired; or Project items installed within a facility for a seaport development project, but shall not exceed 20 years from the effective date of this Agreement.
2. There shall be no limit on the duration of the terms and assurances of this Agreement with respect to real property acquired with funds provided by the State of Florida.

D. Compliance with Laws and Rules. The Agency hereby certifies, with respect to this Project, it will comply, within its authority, with all applicable, current laws and rules of the State of Florida and local governments, which may apply to the Project. Including but not limited to the following (current version of each):

1. Chapter 311, Florida Statutes (F.S.)
2. Local Government Requirements
 - a. Local Zoning/Land Use Ordinance
 - b. Local Comprehensive Plan

E. Construction Certification. The Agency hereby certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, including but not limited to the following:

1. Federal Requirements
2. Local Government Requirements
 - a. Local Building Codes
 - b. Local Zoning Codes
3. Department Requirements
 - a. Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the “Florida Green Book”)
 - b. Manual on Uniform Traffic Control Devices

F. Consistency with Local Government Plans.

1. The Agency assures the Project is consistent with the currently existing and planned future land use development plans approved by the local government having jurisdictional responsibility for the area surrounding the seaport.
2. The Agency assures that it has given fair consideration to the interest of local communities and has had reasonable consultation with those parties affected by the Project.

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3. The Agency assures that the Comprehensive Master Plan, if applicable, is incorporated as part of the approved local government comprehensive plan as required by Chapter 163, F.S.
- G. Land Acquisition Projects.** For the purchase of real property, the Agency assures that it will:
1. Acquire the land in accordance with federal and state laws governing such action.
 2. Maintain direct control of Project administration, including:
 - a. Maintain responsibility for all related contract letting and administrative procedures.
 - b. Ensure a qualified, State certified general appraiser provides all necessary services and documentation.
 - c. Furnish the Department with a projected schedule of events and a cash flow projection within 20 calendar days after completion of the review appraisal.
 - d. Establish a Project account for the purchase of the land.
 - e. Collect and disburse federal, state, and local Project funds.
 3. The Agency assures that it shall use the land for seaport purposes in accordance with the terms and assurances of this Agreement within 10 years of acquisition.
- H. Preserving Rights, Powers and Interest.**
1. The Agency will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms and assurances of this Agreement without the written approval of the Department. Further, it will act promptly to acquire, extinguish, or modify, in a manner acceptable to the Department, any outstanding rights or claims of right of others which would interfere with such performance by the Agency.
 2. If an arrangement is made for management and operation of the funded facility or equipment by any entity or person other than the Agency, the Agency shall reserve sufficient rights and authority to ensure that the funded facility or equipment will be operated and maintained in accordance with the terms and assurances of this Agreement.
 3. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in the funded facility or equipment without prior written approval by the Department. This assurance shall not limit the Agency's right to lease seaport property, facilities or equipment for seaport-compatible purposes in the regular course of seaport business.
- I. Third Party Contracts.** The Department reserves the right to approve third party contracts, except that written approval is hereby granted for:
1. Execution of contracts for materials from a valid state or intergovernmental contract. Such materials must be included in the Department approved Project scope and/or quantities.
 2. Other contracts less than \$5,000.00 excluding engineering consultant services and construction contracts. Such services and/or materials must be included in the Department approved Project scope and/or quantities.
 3. Construction change orders less than \$5,000.00. Change orders must be fully executed prior to performance of work.
 4. Contracts, purchase orders, and construction change orders (excluding engineering consultant services) up to the threshold limits of Category Three. Such contracts must be for services and/or materials included in the Department approved Project scope and/or quantities. Purchasing Categories and Thresholds are defined in Section 287.017, F.S., and Chapter 60, Florida Administrative Code. The threshold limits are adjusted periodically for inflation, and it shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Agreement comply with the current threshold limits. Obligations made in excess of the appropriate limits shall be cause for Department non-participation.
 5. In all cases, the Agency shall include a copy of the executed contract or other agreement with the backup documentation of the invoice for reimbursement of costs associated with the contract.
- J. Inspection or verification and approval of deliverables.** Section 215.422(1), F.S., allows 5 working days for the approval and inspection of goods and services unless the bid specifications, purchase orders, or contracts specifies otherwise. The Agreement extends this timeline by specifying that the inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of an invoice.

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K. Federal Navigation Projects

1. Funding reimbursed from any federal agency for this Project shall be remitted to the Department, in an amount proportional to the Department's participating share in the Project. The Agency shall remit such funds to the Department immediately upon receipt.
2. Department funding, as listed in **Exhibit "B", Schedule of Financial Assistance**, may not be used for environmental monitoring costs.

L. Acquisition of Crane. Department funding, as listed in **Exhibit "B", Schedule of Financial Assistance** will be cost reimbursed using the following schedule, unless stated otherwise in **Exhibit "A", Project Description and Responsibilities**:

1. Sixty (60) percent after landside delivery and acceptance by the Agency.
2. Forty (40) percent after installation and commissioning has been completed.

-- End of Exhibit E --

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EXHIBIT F

Contract Payment Requirements
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**PUBLIC TRANSPORTATION
GRANT AGREEMENT EXHIBITS**

Form 725-000-02
STRATEGIC
DEVELOPMENT
OGC 02/20

EXHIBIT G

AUDIT REQUIREMENTS FOR AWARDS OF STATE FINANCIAL ASSISTANCE

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:~

Awarding Agency: Florida Department of Transportation
State Project Title: Seaport Grant Program
CSFA Number: 55.005
***Award Amount:** \$46,103,589

*The award amount may change with amendments

Specific project information for CSFA Number 55.005 is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number 55.005 are provided at: <https://apps.fldfs.com/fsaa/searchCompliance.aspx>

The State Projects Compliance Supplement is provided at: <https://apps.fldfs.com/fsaa/compliance.aspx>

**SUBMISSION FOR AWARDS COMMITTEE
AND CHIEF EXECUTIVE OFFICER APPROVAL
JACKSONVILLE PORT AUTHORITY**

AC-2020-07-23-01
Reference No.

File

07/23/2020
Date

**SUBJECT: Construction Management and Inspection Services for JPA
JPA Contract No.: AE-177C
C&ES Consultants, Inc.**

COST: N/A

BUDGETED

NON-BUDGETED

BACKGROUND:

On Wednesday, May 6, 2020, in accordance with requirements of the Consultants' Competitive Negotiations Act (CCNA), Procurement Services solicited Request for Qualifications (RFQ) AE-177C, Construction Management and Inspection Services. Through the implementation of this contract, the most qualified Consultant Firm will assist the Sr. Director of Engineering & Construction and other JPA staff in performing construction management and inspection services for marine/civil construction projects on an as needed basis in support of JPA's Capital Works and Facilities Inspection Programs. Work performed under this contract includes, but is not limited to, construction management; construction inspection for marine, civil, and building construction projects; condition inspections and assessments of facilities, buildings, certain bridges, berths, underwater structures, and container handling cranes; inspection of stormwater ponds, inspection of Dredge Material Management Areas; and collection and analytical testing of samples of storm water discharge as required by JPA's participation in a Multi-sector Generic Permit under the National Pollutant Discharge Elimination System (NPDES).

On June 17, 2020, Procurement Services received three (3) conforming Statements of Qualifications (SOQ) from the following firms: C&ES Consultants, Inc., Civil Services, Inc. and AE Engineering, Inc. Upon review and evaluation of Statements of Qualifications the firms were shortlisted by the Authority's Evaluation Committee which consisted of: Linda Williams, Chief, Administration & Corporate Performance, James Bennett, Sr. Director, Engineering & Construction, and Doug Menefee, Director, Terminal Operations.

On July 20, 2020 the Awards Committee and the Chief Executive Officer approved the ordinal rankings and authorized negotiations to be conducted with C&ES Consultants, Inc., the most qualified firms. In accordance with the JAXPORT's Procurement Code and CCNA rules and regulations, the Negotiation Team conducted successful negotiations with the top ranked firms. The negotiated rates include, direct personnel wages; employee benefits; overhead/profit, and related professional fees. These rates will be firm for the initial period of the contract with subsequent renewals to be negotiated and awarded based on performance and adherence to all terms and conditions of the contract. The initial period of the agreement is three (3) years with two (2), one (1) year renewal options, made at the discretion of the Jacksonville Port Authority.

At the conclusion of negotiations from the top-ranked firm, it is the consensus of the Evaluation Committee and the Engineering Department to recommend award of one contract to C&ES Consultants, Inc., the most qualified firm.

RECOMMENDATION:

Management recommends that the Board of Directors approve the award of a contract to C&ES Consultants, Inc., for the provision of Construction Management and Inspection Services, based upon agreed negotiated rates between the Jacksonville Port Authority and C&ES Consultants, Inc.

AC-2020-07-23-01

Once necessary approvals are obtained by the Awards Committee Chairman, the Chief Executive Officer is authorized to sign purchase orders, agreements or contracts for the Award.

Attachments: C&ES Consultants, Inc., negotiated rates.

ORIGINATED BY:

[Signature Box]

James Bennett, Sr. Director, Engineering

SUBMITTED FOR APPROVAL

[Signature Box]

Jacqueline Glass, Director, Procurement Services

AWARDS COMMITTEE ACTION

APPROVED

REJECTED

DEFERRED

CONDITIONS OF APPROVAL (IF ANY):

[Signature Box]

Retta Rogers, Secretary to Awards Committee

CHIEF EXECUTIVE OFFICER ACTION

APPROVED

REJECTED

DEFERRED

CONDITIONS OF APPROVAL (IF ANY):

Date

Eric Green, Chief Executive Officer

CONDITIONS OF APPROVAL (IF ANY):

Date

Rebecca Dicks, Corporate Secretary

BOARD DECISION

APPROVED

REJECTED

DEFERRED

CONDITIONS OF APPROVAL (IF ANY):

Date

Board Chairman

Date

Board Secretary

AE-177C Construction Management and Inspection Services Negotiated Pricing

Reimbursable Rates	2015	2020
Auto Mileage	Government Rate	Government Rate
Meals, Not-To-Exceed Per Diem	\$50.00	\$50.00
Hotel	\$ At Cost	\$ At Cost
Travel (Airline, Rental Car)	\$ At Cost	\$ At Cost
Overhead and Margin - FDOT Rates 6/30/2021	2015	2020
Overhead Rate Home/Branch		160.06%
Facilities Capital Cost of Money		1.471%
Home Direct Expense		0.00%
Overhead Rate Subcontractor		5%
Profit Margin		10%

Job Categories	2015 Agreement	2020 Proposed Rates	% Increase
Project Director	\$206.00	\$226.00	8.85%
Project Manager	\$165.00	\$185.00	10.81%
Senior Engineer	\$145.00	\$165.00	12.12%
Drafter or CADD Operator	\$67.00	\$85.00	21.18%
Facilities Inspector	\$85.00	\$95.00	10.53%
Field Inspector	\$76.00	\$86.00	11.63%
Clerical/Secretary	\$60.00	\$65.00	7.69%
Prime/Subconsultant*			
Senior Scheduler - Senior Estimator	\$140.00	\$150.00	6.67%
Project Engineer / Project Architect***	\$115.00	\$150.00	23.33%
Design Engineer or Architect	\$105.00	\$125.00	16.00%
Designer or Technician	\$90.00	\$105.00	14.29%
Civil/Roadway Inspector (PE)	\$110.00	\$123.00	10.57%
Subconsultant/Prime**			
Specialty Inspector	N/A	\$135.00	N/A
Structural Inspection	N/A	\$164.75	N/A
Architecture & Contract Administration	N/A	\$139.65	N/A
Bridge Assessment & Inspection	N/A	\$164.75	N/A
CEI Staff Augmentation Oversight & Support Services	N/A	\$86.00	N/A
Sr. Environmental Specialist	N/A	\$202.71	N/A
Inspection Report & Administrative Services	N/A	\$75.00	N/A
Planners	N/A	\$139.65	N/A

* Depending on the scope of work may be handled by prime or subconsultant

**Will most likely be handled by subconsultant

***Subconsultant rate based on level of complexity of past scope of work

Board of Directors Virtual Board Meeting - R2020-08-01 Engineering and Construction Update

KEY CAPITAL PROJECTS

No.	Contract Number	Project Description	Vendor	Scope	Original Contract Amt. (\$)	Approved Change Orders To Date	Total Contract as Amended	Payments to Date	Work Invoiced to Date	Tax Savings Purchase Orders Paid to Date	Work Remaining To Invoice	Proposed Change Orders (PCO's)	Remarks
1	AE-1436D	Rehabilitate Berths 33 & 34	HDR Eng., Inc.	Engineering Services During Construction BIMT Wharf Reconstruction Phase II	\$1,813,479	\$26,200	\$1,839,679	\$1,213,486	\$1,213,486		\$626,193	\$0	HDR awarded contract for Services During Construction. HDR is performing on-site daily observation including reports. Their services are critical in answering RFI's to keep the contractor working expeditiously.
	C-1436C		Manson Construction	BIMT Wharf Rehabilitation Phase II	\$51,021,172	\$205,188	\$51,226,360	\$26,625,331	\$12,375,228	\$14,250,103	\$24,601,029	\$7,452	Manson Construction Co was awarded the construction contract to build Phase 2A and 2B on BIMT wharf. Construction NTP was issued on December 3, 2018. Contract completion date is February 1, 2021. Contractor is behind schedule but making every effort to improve the schedule. Installation of bents on waterside pile started on November 4. The last bent was poured last week. 90% of pre-cast panels have been installed. Rebar and forms are being set for deck pours. 40% of the deck pours have been completed. R-Line crane rail concrete pours are complete. M-Line concrete pours will follow the completion of the pre-cast panels installation.

Financial Highlights

June 2020

Revenue

June performance was better than anticipated. The Puerto Rico carriers had heavy cargo moving to restock stores which have reopened on the island. Asian trade held steady; Bulk products were all ahead of plan for the month and the Military completed the 101st Airborne Division move which resulted in \$209,163 revenue for the month. In addition, the Norwegian Cruise ships stayed for the month of June resulting in \$320 thousand of revenue. Our Auto line of business is still struggling with the effects of the pandemic. Our processors handled only 24,419 units in June. This is up from the 16,544 units in May, but still less than half of budgeted. Other Revenue which consists of Escort Fees, Tipping Fees and the NCL ship layup fees produced a total of \$797,014. Even with the low Auto volume and no Carnival cruise sailing revenue, with the significant contribution of Other Revenue we realized \$5.38 million in total monthly revenue. This is on par with prior period 2019 and short of plan by just \$463 thousand. This better than expected performance in the container area gives us hope business may be stabilizing.

Expenses

Since the aggressive action we took in March to cut expenses have remained less than budget, June was no exception. All line items were underbudget for the month. Notably, Salaries/Benefits were 10% less than plan. We have dredging scheduled at Dames Point in July and both Blount Island and Talleyrand berths will be dredged before year end. We are still forecasting a \$1 million savings to budget this year in this category.

Operating Income Before Debt Service and Depreciation was \$2.633 million, favorable to plan by \$136 thousand. In the Non-Operating Income categories, Shared Revenue from the City was slightly over plan and Debt Service was slightly less than plan. Net Income Before Depreciation was \$1.6 million, ahead of plan by \$360 thousand.

YEAR TO DATE

Current Operating Revenues are tracking at \$49 million, short of plan by \$3.2 million. While these results are stronger than expected, we continue to forecast year-end revenues at \$60 million. Container volumes are showing good increases, but auto cargo is very weak and there are no clear signs of a return to normal. In addition, Carnival has not yet confirmed any additional sailings this fiscal year and the Norwegian ship layup revenue, which supplements the lost cruise revenue, is only confirmed through the end of July. To mitigate the weaker top line revenue, we continue to keep expenses at their reduced levels. Year-to-Date Income Before Depreciation is \$12.5 million. This is \$1 million favorable to budget, largely the result of expense savings and reduced debt service, an outcome of the 2012 Bond Refunding transaction.

BALANCE SHEET

The Balance Sheet remains strong and stable. Cash Balances are \$16.909 million. Accounts Receivable is higher than normal at \$7.792 million. The major cause of that increase is a billing to TraPac for dredging at their berths. All other receivables are turning as normal. To date, we have seen no deterioration in the ability of our tenants and shipping agents to pay invoices.

CONCERNS

The impact of COVID-19, particularly on the world's automobile manufacturing business, remains a risk. While Puerto Rico carriers have experienced a good month, it not clear that this level can be sustained or if it is only a blip of increased business as stores restock their shelves. Also, the Hoeugh Ximamen vessel is still at berth 20. Cargo is now being taken off the ship and Captain Vlaun is determining when and how the ship, which has been declared a total loss, will leave the berth. There are three risks here. The first is working with all involved companies to make sure JAXPORT receives payment for time at the berth and the impact the incident has caused. That total as of July 15th approximates \$539 thousand. The second and larger risk rests with the safe removal of the ship from the harbor. The third risk is the uncertainty of how the ship's fire may have damaged the berth. Once the ship is removed, engineers will examine the berth. Any damage must be repaired. The resulting repair and time out of service for the repair may be costly. Berth 20 is our busiest Auto berth. We need it back in service to handle what we hope will be a recovering auto line of business.

VITAL STATISTICS

JUNE FY2020 - Cargo Performance

CARGO INDICATORS

	VARIANCE					YEAR-TO- DATE			VARIANCE	
	Actual	Budget	Prior	Budget	Prior	Actual	Budget	Prior	Budget	Prior
Vessel Calls	112	147	141	-24%	-21%	1,146	1,322	1,299	-13%	-12%
Total Tons	884,493	1,037,775	888,564	-15%	0%	7,336,338	9,339,978	8,226,711	-21%	-11%
Total Revenue	5,379,964	5,862,574	5,407,050	-8%	-1%	\$49,447,169	\$52,656,591	\$53,129,914	-6%	-7%

OPERATING REVENUE / STATISTICS

	VARIANCE					YEAR-TO- DATE			VARIANCE	
	Actual	Budget	Prior	Budget	Prior	Actual	Budget	Prior	Budget	Prior
Container Revenue	\$2,506,144	\$3,134,428	\$2,800,514	-20%	-11%	\$24,309,088	\$28,209,852	\$26,943,084	-14%	-10%
Container TEU's	101,822	125,361	110,319	-19%	-8%	925,409	1,128,247	1,007,111	-18%	-8%
ICTF Rail Lifts	930	1,500	1,404	-38%	-34%	10,485	13,500	11,305	-22%	-7%
Auto Revenue	\$991,586	\$1,393,070	\$1,427,676	-29%	-31%	\$11,551,159	\$12,537,632	\$13,105,308	-8%	-12%
Auto Units	24,419	55,302	52,465	-56%	-53%	403,987	497,715	533,865	-19%	-24%
Military Revenue	\$209,163	\$41,969	\$39,268	398%	433%	\$1,323,101	\$377,719	\$303,637	250%	336%
Military Units	718	111	-	550%	0%	6,375	995	988	541%	545%
Breakbulk Revenue	\$409,858	\$385,343	\$308,860	6%	33%	\$3,014,613	\$3,468,087	\$3,097,523	-13%	-3%
Breakbulk Tons	97,481	104,841	78,091	-7%	25%	599,271	943,565	695,677	-36%	-14%
Liquid Bulk Revenue	\$274,261	\$106,829	\$130,583	157%	110%	\$1,231,804	\$961,461	\$1,040,086	28%	18%
Liquid Bulk Tons	59,891	30,107	37,118	99%	61%	330,273	270,960	288,105	22%	15%
Dry Bulk Revenue	\$191,938	\$174,815	\$152,448	10%	26%	\$1,542,729	\$1,573,335	\$1,516,851	-2%	2%
Dry Bulk Tons	111,857	75,592	47,635	48%	135%	600,226	680,332	690,432	-12%	-13%
Cruise Revenue	\$0	\$415,163	\$406,403	-100%	-100%	\$1,896,597	\$3,629,892	\$4,345,339	-48%	-56%
Cruise Passengers	-	16,915	15,860	-100%	-100%	74,865	134,119	147,555	-44%	-49%
Total Cargo Revenue	\$4,582,950	\$5,651,617	\$5,265,752	-19%	-13%	\$44,869,091	\$50,757,978	\$50,351,827	-12%	-11%
Other Revenue	\$797,014	\$210,957	\$141,299	278%	464%	\$4,578,078	\$1,898,613	\$2,778,087	141%	65%

Jacksonville Port Authority
Comparative Income Statement (Unaudited)
For the 9 months ending 06/30/2020

	Current Month Actual	Current Month Budget	Budget Variance	Prior Year Month Actual	Current YTD Actual	Current YTD Budget	Budget Variance	Prior Year YTD Actual
OPERATING REVENUES								
CONTAINERS	2,506,144	3,134,428	(628,284)	2,800,514	24,309,088	28,209,852	(3,900,764)	26,943,084
AUTOS	991,586	1,393,070	(401,484)	1,427,676	11,551,159	12,537,632	(986,473)	13,105,308
MILITARY	209,163	41,969	167,194	39,268	1,323,101	377,719	945,382	303,637
BREAK BULK	409,858	385,343	24,515	308,860	3,014,613	3,468,087	(453,474)	3,097,523
LIQUID BULK	274,261	106,829	167,432	130,583	1,231,804	961,461	270,343	1,040,086
DRY BULK	191,938	174,815	17,123	152,448	1,542,729	1,573,335	(30,606)	1,516,851
CRUISE	-	415,163	(415,163)	406,403	1,896,597	3,629,892	(1,733,295)	4,345,339
OTHER OPERATING REVENUE	797,014	210,957	586,057	141,299	4,578,078	1,898,613	2,679,465	2,778,087
TOTAL OPERATING REVENUES	5,379,964	5,862,574	(482,610)	5,407,050	49,447,169	52,656,591	(3,209,422)	53,129,914
OPERATING EXPENSES								
SALARIES & BENEFITS	1,386,324	1,549,087	(162,763)	1,321,359	12,781,893	13,879,024	(1,097,131)	13,135,388
SERVICES & SUPPLIES	357,476	419,174	(61,698)	430,796	3,189,236	3,772,574	(583,338)	3,342,052
SECURITY SERVICES	369,091	457,412	(88,321)	404,146	3,838,743	4,116,708	(277,965)	3,471,711
BUSINESS TRAVEL AND TRAINING	1,686	51,336	(49,650)	69,276	263,842	462,024	(198,183)	289,031
PROMO,ADV,DUES & MEMBERSHIPS	43,332	74,533	(31,201)	47,321	471,200	670,797	(199,597)	620,067
UTILITY SERVICES	62,500	74,673	(12,173)	69,573	570,456	672,057	(101,601)	813,234
REPAIRS & MAINTENANCE	134,245	198,159	(63,914)	196,052	1,460,550	1,783,431	(322,881)	1,395,339
CRANE MAINTENANCE PASS THRU	(17,432)	(50,000)	32,568	-	(305,246)	(450,000)	144,754	-
BERTH MAINTENANCE DREDGING	395,723	571,777	(176,054)	152,768	4,595,364	5,145,993	(550,629)	3,629,510
MISCELLANEOUS	13,589	19,457	(5,868)	10,351	129,086	175,113	(46,027)	155,732
TOTAL OPERATING EXPENSES	2,746,533	3,365,608	(619,075)	2,701,642	26,995,124	30,227,721	(3,232,597)	26,852,066
OPERATING INC BEFORE DS AND DEPR	2,633,431	2,496,966	136,465	2,705,408	22,452,046	22,428,870	23,176	26,277,848
NON OPERATING INCOME								
INVESTMENT INCOME	415	61,743	(61,328)	41,783	223,221	555,687	(332,466)	606,400
SHARED REVENUE FROM CITY	159,502	136,463	23,039	237,422	1,549,682	1,228,167	321,515	1,747,148
TOTAL NON OPERATING ITEMS	159,917	198,206	(38,289)	279,205	1,772,904	1,783,854	(10,950)	2,353,547
NON OPERATING EXPENSE								
DEBT SERVICE	1,157,711	1,289,033	(131,322)	1,896,391	10,825,458	11,601,297	(775,839)	16,993,987
CONTRIBUTIONS TO TENANTS	-	129,944	(129,944)	222,119	900,539	1,169,496	(268,957)	1,598,548
OTHER NON OP EXPENSE	(30)	803	(833)	3,667	6,795	7,227	(432)	3,882
TOTAL NON OPERATING EXPENSE	1,157,681	1,419,780	(262,099)	2,122,176	11,732,793	12,778,020	(1,045,227)	18,596,417
INCOME BEFORE DEPRECIATION	1,635,667	1,275,392	360,275	862,437	12,492,157	11,434,704	1,057,453	10,034,978

Jacksonville Port Authority
Balance Sheet (in thousands)
At June 30, 2020

	<u>June 30,2020</u>	<u>May 31, 2020</u>	<u>September 30, 2019</u>
Current Assets			
Cash & cash equivalents	16,909	16,767	16,705
Restricted cash & cash equivalents	4,069	2,805	5,451
Accounts receivable, net	7,792	6,194	6,681
Notes and other receivables	63	849	160
Grants receivable	784	754	2,326
Inventories and other assets	1,867	2,051	1,613
Total Current Assets	31,484	29,420	32,936
Noncurrent Assets			
Restricted cash & cash equivalents	16,494	16,500	18,144
Restricted Cash for Cap Projects	3,456	3,830	8,821
Grants receivable - noncurrent	16,361	15,984	6,345
Deferred outflow of resources	12,902	12,981	6,181
Capital Assets, net	772,196	774,579	779,924
Total Noncurrent Assets	821,409	823,874	819,415
Total Assets	852,893	853,294	852,351
Current liabilities			
Accounts payable	3,231	2,719	2,790
Construction accounts payable	503	1,322	4,595
Accrued expenses	564	532	897
Accrued interest payable	1,383	793	3,801
Retainage payable	998	998	998
Unearned Revenue	7,401	7,401	7,401
Bonds and Notes Payable	4,153	4,153	4,153
Total Current Liabilities	18,233	17,918	24,635
Noncurrent liabilities			
Unearned Revenue	122,974	123,474	128,114
Accrued Expenses	3,581	3,529	3,533
Line of credit	19,524	19,134	12,427
Bonds and notes payable	225,210	225,225	225,903
Other Obligations	8,537	8,537	8,537
Net Pension Liability	15,877	15,877	15,877
Deferred inflow of resources	1,697	1,697	1,697
Total Non Current Liabilities	397,400	397,473	396,088
Total Liabilities	415,633	415,391	420,723
Net Position	437,260	437,903	431,628



COMMERCIAL REPORT

JAXPORT BOARD MEETING
August 2020

COMMERCIAL OVERVIEW

MARKETING

- **JAXPORT 2020 Annual Magazine**

SALES

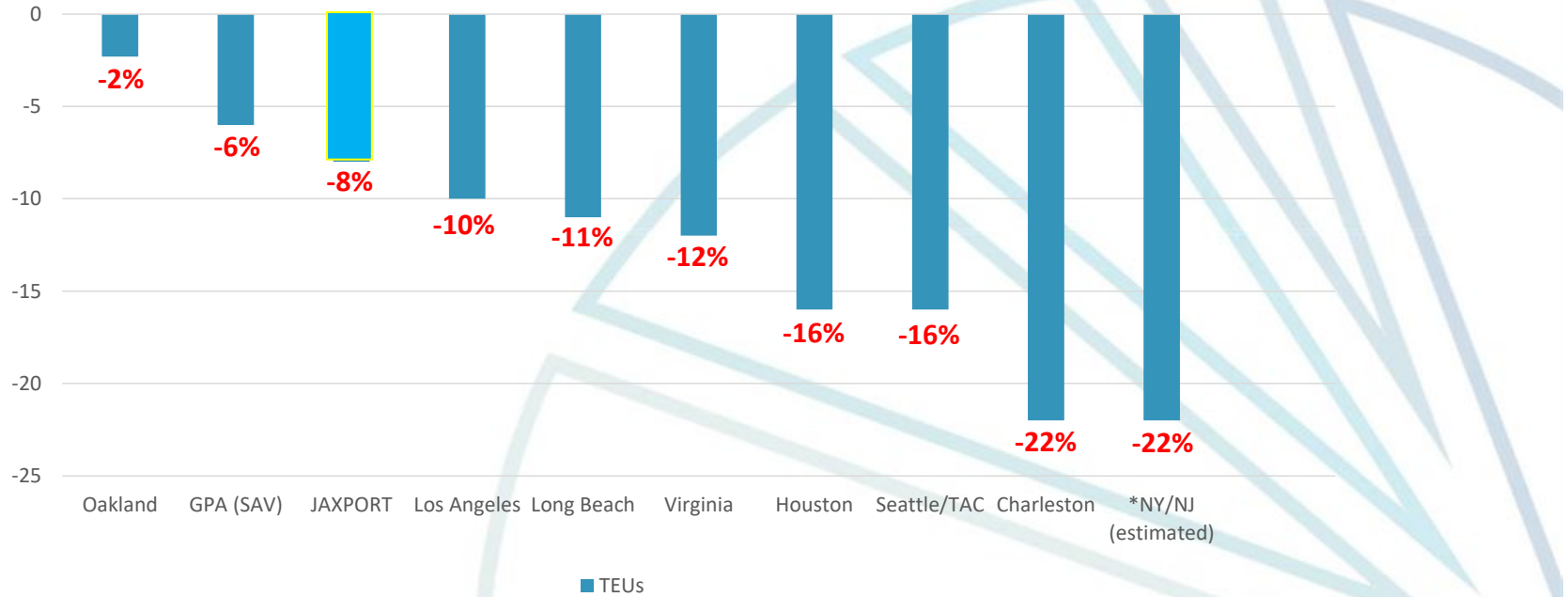
- **Industry outlook**
- **JAXPORT container volumes**
 - **Puerto Rico led Month-Over-Month increase**



COMMERCIAL OVERVIEW

CONTAINER VOLUMES AT TOP 10 U.S. PORTS

June 2020 vs. June 2019



Source: Individual Port Websites and PIERS

COMMERCIAL OVERVIEW

- **Autos – Rebounding**
- **Breakbulk and Bulk (*liquid and dry*)**
- Strong June



KEY OPPORTUNITIES IN PIPELINE

TOTAL OPEN OPPORTUNITIES: \$12.2 MILLION in Pipeline

COMPANY

NEW ANNUAL REVENUE

- Project Granular **\$318,000**
- Project Glykos **\$100,000**
- Project Power Source **\$60,000**
- Project Power Walk **\$38,000**

KEY NEW BUSINESS

NOTABLE NEW BUSINESS

Project Home Office (*Wayfair DC*)

Project Turner (*Dollar General DC*)

Project Sunshade (*solar projects*)

Project Light (*residential tile*)

ANNUAL VOLUME

3,400 TEUs

2,400 TEUs

1,800 TEUs

250 TEUs



COMMERCIAL

REPORT

JAXPORT BOARD MEETING

August 2020



Post Office Box 3005
2831 Talleyrand Avenue
Jacksonville, Florida 32206-0005

AWARDS COMMITTEE GO TO MEETING MINUTES

July 23, 2020

Awards Committee Attending:

Mr. Fred Wong – Chairman
Ms. Linda Williams (Recusal)
Mr. Robert Peek
Ms. Jackie Glass
Ms. Retta Rogers, Recording Secretary

Other Attendees:

James Bennett
Marv Grieve
Sandra Platt
Steve Davis – C&ES Consultants, Inc.

Fred Wong called the meeting to order at 3:00 PM

Item No. 1

AC2020-07-23-01

Construction Management and Inspection Services for JPA
JPA Contract No.: AE-177C
C&ES Consultants, Inc.

A motion was made and seconded. The Awards Committee voted unanimously to award this contract.

(Item No. 1 Requires Board Approval)

The meeting was adjourned at 3:07 PM