RESOLUTION NO. 2026-365

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF A DESIGN AGREEMENT BETWEEN THE DEPARTMENT OF THE ARMY AND ST. JOHNS COUNTY, FLORIDA, FOR THE ST. JOHNS COUNTY, FLORIDA, PONTE VEDRA BEACH COASTAL STORM RISK MANAGEMENT PROJECT; PROVIDING FOR THE EFFECT OF RECITALS; AUTHORIZING THE CHAIR TO EXECUTE THE DESIGN AGREEMENT; AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE SUPPLEMENTAL DOCUMENTS; APPROVING THE TRANSFER OF COUNTY FUNDS FOR THE LOCAL MATCH; PROVIDING FOR CORRECTION OF ERRORS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on April 19, 2021, the Board of County Commissioners approved a Feasibility Cost Sharing Agreement with the U.S. Army Corps of Engineers (USACE) for a coastal storm risk management feasibility study for Ponte Vedra Beach, which was subsequently expanded to include South Ponte Vedra Beach; and

WHEREAS, the USACE completed the feasibility study in February 2024, and the Chief of Engineers approved the St. Johns County, Florida, Ponte Vedra Beach Coastal Storm Risk Management Final Integrated Feasibility Report and Environmental Assessment on April 18, 2024; and

WHEREAS, the recommended project consists of approximately 5.1 miles of beach and dune nourishment generally extending from Florida Department of Environmental Protection reference monuments R-78 to R-102.5; and

WHEREAS, the Department of the Army and St. Johns County desire to enter into a Design Agreement for preconstruction engineering and design through preparation of plans and specifications for the initial construction contract for the project; and

WHEREAS, the Design Agreement estimates total design costs of $2,003,000, of which the Federal Government will contribute 65 percent ($1,302,000) and St. Johns County, as Non-Federal Sponsor, will contribute 35 percent ($701,000), subject to the terms of the Design Agreement; and

WHEREAS, the County must transfer funds from the Tourist Development Category V Reserves totaling $35,002 for the local match of FDEP Grant Agreement No. 26SJ1; and

WHEREAS, on October 7, 2025, the Board approved funding actions for the County's local share of preconstruction engineering and design, including a Florida Department of Environmental Protection grant agreement and transfer of Tourist Development Tax funds; and

WHEREAS, the County has reviewed the terms, provisions, and requirements of the Design Agreement, attached hereto as Exhibit "A," and has determined that entering into the Design Agreement serves the public interest of St. Johns County.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are incorporated by reference into the body of this Resolution and are adopted as findings of fact.

Section 2. The Chair of the Board of County Commissioners is hereby authorized to execute the Design Agreement between the Department of the Army and St. Johns County, Florida, for the St. Johns County, Florida, Ponte Vedra Beach Coastal Storm Risk Management Project, in substantially the form attached hereto as Exhibit "A."

Section 3. The County Administrator, or designee, is hereby authorized to execute any supplemental paperwork or documentation necessary to carry out the terms of the Design Agreement.

Section 4. To the extent there are typographical, administrative, or scrivener's errors that do not change the tone, tenor, or concept of this Resolution, such errors may be corrected without further action by the Board of County Commissioners.

Section 5. This Resolution shall become effective immediately upon its adoption.

Passed and Adopted by the Board of County Commissioners of St. Johns County, State of Florida, this 3rd day of November 2026.

ATTEST: Brandon J. Patty, Clerk of the Circuit Court and Comptroller

By: Crystal Smith
Deputy Clerk

Rendition Date: NOV 03 2026

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Clay Murphy
Clay Murphy, Chair

Effective Date: NOV 03 2026

ST. JOHNS COUNTY FLORIDA

DESIGN AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
ST. JOHNS COUNTY, FLORIDA
FOR
DESIGN
FOR THE
ST. JOHNS COUNTY, FLORIDA PONTE VEDRA BEACH COASTAL STORM RISK MANAGEMENT PROJECT

THIS AGREEMENT is entered into this ___ day of _____, _____, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander for Jacksonville District (hereinafter the "District Commander") and St. Johns County, Florida (hereinafter the "Non-Federal Sponsor"), represented by the Chair of its Board of County Commissioners.

WITNESSETH, THAT:

WHEREAS, Federal funds were provided in the Energy and Water Development and Related Agencies Appropriations Act, 2026, Public Law 119-74, to initiate design of the St. Johns County, Florida, Ponte Vedra Beach Coastal Storm Risk Management Project;

WHEREAS, Section 103 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2213), specifies the cost-sharing requirements applicable to construction of the Project, and Section 105(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(c)), provides that the costs of design shall be shared in the same percentages as construction of the Project;

WHEREAS, based on the Project's primary purpose of coastal storm risk management, the parties agree that the Non-Federal Sponsor shall contribute 35 percent of the design costs under this Agreement; and

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

NOW, THEREFORE, the parties agree as follows:

ARTICLE I - DEFINITIONS

A. The term "Project" means approximately 5.1 miles of beach and dune nourishment, as generally described in the St. Johns County, Florida Ponte Vedra Beach Coastal Storm Risk Management Final Integrated Feasibility Report and

Environmental Assessment, dated February 2024 and approved by the Chief of Engineers on April 18, 2024.

B. The term "Design" means detailed preconstruction engineering and design work to be performed up through preparation of plans and specifications for the initial construction contract only for the Project.

C. The term "pre-Agreement costs" means the costs incurred by the Government for preparation of the Design Agreement package for approval by the Division Commander for South Atlantic Division (hereinafter the "Division Commander") and for negotiation of the Design Agreement with the Non-Federal Sponsor.

D. The term "design costs" means the sum of all costs that are directly related to the Design and cost shared in accordance with the terms of this Agreement. The term includes the Government's pre-Agreement costs; the Government's costs for preconstruction engineering and design, including economic, real estate, and environmental analyses, a safety assurance review, if required, an updated, certified fully funded cost estimate for the Project, and supervision and administration; the Government's costs for the development of the Project Partnership Agreement (hereinafter "PPA") package and negotiation of the PPA with the Non-Federal Sponsor, as applicable; and the Non-Federal Sponsor's creditable costs for in-kind contributions, if any. The term does not include any costs for dispute resolution; participation by the Government and Non-Federal Sponsor in the Design Coordination Team to discuss significant issues and actions; audits; betterments; or the Non-Federal Sponsor's cost to negotiate this Agreement or the PPA.

E. The term "HTRW" means hazardous, toxic, and radioactive wastes, which includes any material listed as a "hazardous substance" (42 U.S.C. 9601(14)) regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA") (42 U.S.C. 9601-9675) and any other regulated material in accordance with applicable laws and regulations.

F. The term "in-kind contributions" means those creditable materials or services provided by the Non-Federal Sponsor that are identified as being integral to Design of the Project by the Division Commander. To be integral, the material or service must be part of the work that the Government would otherwise have undertaken for Design of the Project. In-kind contributions also include any investigations performed by the Non-Federal Sponsor to identify the existence and extent of any HTRW as required for Design of the Project.

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

H. The term "fiscal year" means one year beginning on October 1st and ending on September 30th of the following year.

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

A. In accordance with Federal laws, regulations, and policies, the Government shall conduct the Design using funds appropriated by the Congress and funds provided by the Non-Federal Sponsor. In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all requirements of applicable Federal laws and implementing regulations, including but not limited to, if applicable, Section 601 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; the Age Discrimination Act of 1975 (42 U.S.C. 6102); and the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Army Regulation 600-7 issued pursuant thereto.

B. The Non-Federal Sponsor shall contribute 35 percent of design costs in accordance with the provisions of this paragraph.

1. The Non-Federal Sponsor shall be responsible for undertaking any investigations that the Government determines are required for Design of the Project to identify the existence and extent of any HTRW.

2. After considering the estimated amount of credit for in-kind contributions, if any, that will be afforded in accordance with paragraph C. of this Article, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor for the initial fiscal year of the Design to meet its cost share for the design costs, including pre-Agreement costs. No later than 60 calendar days after such notification, the Non-Federal Sponsor shall provide the full amount of such funds to the Government in accordance with Article III.C.

3. No later than August 1st prior to each subsequent fiscal year of the Design, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor during that fiscal year to meet its cost share. No later than September 1st prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government in accordance with Article III.C.

C. The Government shall include in design costs and credit towards the Non-Federal Sponsor's share of such costs, the cost of in-kind contributions performed by the Non-Federal Sponsor that are determined by the Government to be integral to Design of the Project. Creditable in-kind contributions may include costs for engineering, design, and supervision and administration, but shall not include any costs associated with betterments. Such costs shall be subject to audit in accordance with Article VII to determine reasonableness, allocability, and allowability, and crediting shall be in accordance with the following procedures, requirements, and limitations:

1. As in-kind contributions are completed and no later than 60 calendar days after such completion, the Non-Federal Sponsor shall provide the Government

appropriate documentation for the Government to determine the costs that are creditable to the Non-Federal Sponsor's share of design costs. Failure to provide such documentation in a timely manner may result in denial of credit. Appropriate documentation includes invoices and certification of specific payments to contractors, suppliers, and the Non-Federal Sponsor's employees.

2. No credit shall be afforded for the following: interest charges, or any adjustment to reflect changes in price levels between the time the in-kind contributions are completed and credit is afforded; the value of in-kind contributions obtained at no cost to the Non-Federal Sponsor; any items provided or performed prior to the effective date of this Agreement unless covered by an In-Kind Memorandum of Understanding; any items not identified as integral in the integral determination report; or costs that exceed the Government's estimate of the cost for such in-kind contributions.

3. No reimbursement will be provided for any in-kind contributions that exceed the Non-Federal Sponsor's share of the design costs under this Agreement.

D. To the extent practicable and in accordance with Federal laws, regulations, and policies, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on contract solicitations prior to the Government's issuance of such solicitations; proposed contract modifications, including change orders; and contract claims prior to resolution thereof. Ultimately, the contents of solicitations, award of contracts, execution of contract modifications, and resolution of contract claims shall be exclusively within the control of the Government.

E. The Non-Federal Sponsor shall not use Federal program funds to meet any of its obligations under this Agreement unless the funds are not expressly prohibited from such use and the Federal agency providing the funds verifies in writing that the funds are otherwise eligible to be used for the Project. Federal program funds are those funds provided by a Federal agency, plus any non-Federal contribution required as a matching share therefor.

F. In addition to the ongoing, regular discussions between the parties regarding Design delivery, the Government and the Non-Federal Sponsor may establish a Design Coordination Team to discuss significant issues or actions. Neither the Government's nor the Non-Federal Sponsor's costs for participation on the Design Coordination Team shall be included in the design costs. The Non-Federal Sponsor's costs for participation on the Design Coordination Team shall be paid solely by the Non-Federal Sponsor without reimbursement or credit.

G. The Non-Federal Sponsor may request in writing that the Government include betterments in the Design of the Project. Each request shall be subject to review and written approval by the Division Commander. If the Government agrees to such request, the Non-Federal Sponsor, in accordance with Article III.F., must provide funds to cover the difference in the costs for design of such work, as determined by the Government, in advance of the Government performing the work.

H. If the Government and Non-Federal Sponsor enter into a PPA for construction of the Project, the Government shall include the design costs in the calculation of construction costs for the Project in accordance with the terms and conditions of the PPA.

ARTICLE III - PROVISION OF NON-FEDERAL COST SHARE

A. As of the effective date of this Agreement, design costs are projected to be $2,003,000, with the Government's share of such costs projected to be $1,302,000, and the Non-Federal Sponsor's share of such costs projected to be $701,000, which includes creditable in-kind contributions projected to be $0 and the amount of funds required to meet its cost share projected to be $701,000. Costs for betterments are projected to be $0. 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. The Government shall provide the Non-Federal Sponsor with monthly reports setting forth the estimated design costs and the Government's and Non-Federal Sponsor's estimated shares of such costs; costs incurred by the Government, using both Federal and Non-Federal Sponsor funds, to date; the amount of funds provided by the Non-Federal Sponsor to date; the estimated amount of any creditable in-kind contributions; and the estimated remaining cost of the Design.

C. The Non-Federal Sponsor shall provide to the Government required funds by delivering a check payable to "FAO, USAED, Jacksonville (K3)" to the District Commander, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

D. The Government shall draw from the funds provided by the Non-Federal Sponsor to cover the non-Federal share of the design costs as those costs are incurred. If the Government determines at any time that additional funds are needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's required share of the design costs, the Government shall provide the Non-Federal Sponsor with written notice of the amount of additional funds required. Within 60 calendar days of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional funds.

E. Upon completion or termination of the Design and resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with the written results of such final accounting. Should the final accounting determine that additional funds are required from the Non-Federal Sponsor,

the Non-Federal Sponsor, within 60 calendar days of written notice from the Government, shall provide the Government with the full amount of such additional funds by delivering a check payable to "FAO, USAED, Jacksonville (K3)" to the District Commander, or by providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government. Should the final accounting determine that the Non-Federal Sponsor has provided funds in excess of its required amount, the Government shall refund the excess amount, subject to the availability of funds or if requested by the Non-Federal Sponsor, apply the excess amount towards the non-Federal share of the cost of construction of the Project in the event a PPA is executed for the Project. Such final accounting does not limit the Non-Federal Sponsor's responsibility to pay its share of design costs, including contract claims or any other liability that may become known after the final accounting.

F. If the Government agrees to include betterments on the Non-Federal Sponsor's behalf, the Government shall provide written notice to the Non-Federal Sponsor of the amount of funds required to cover such costs. No later than 30 calendar days after receipt of such written notice, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government through either payment method specified in Article III.E. If at any time the Government determines that additional funds are required to cover any such costs, as applicable, the Non-Federal Sponsor shall provide those funds within 30 calendar days from receipt of written notice from the Government. If the Government determines that funds provided by the Non-Federal Sponsor exceed the amount required for the Government to complete such work, the Government shall refund any remaining unobligated amount.

ARTICLE IV - TERMINATION OR SUSPENSION

A. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Government may suspend or terminate Design unless the Assistant Secretary of the Army (Civil Works) determines that continuation of the Design 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. If the Government determines at any time that the Federal funds made available for the Design are not sufficient to complete such work, the Government shall so notify the Non-Federal Sponsor in writing within 30 calendar days, and upon exhaustion of such funds, the Government shall suspend Design until there are sufficient Federal funds appropriated by the Congress and funds provided by the Non-Federal Sponsor to allow Design to resume.

C. In the event of termination, the parties shall conclude their activities relating to the Design and conduct an accounting in accordance with Article III.E. To provide for this eventuality, the Government may reserve a percentage of available funds as a contingency to pay costs of termination, including any costs of resolution of contract claims and contract modifications.

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

ARTICLE V - HOLD AND SAVE

The Non-Federal Sponsor shall hold and save the Government free from all damages arising from the Design, except for damages due to the fault or negligence of the Government or its contractors.

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 the parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE VII - 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 Design. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government's costs of audits for the Design shall not be included in design costs.

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 Non-Federal Sponsor's request, 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 Non-Federal Sponsor shall pay the costs of non-Federal audits without reimbursement or credit by the Government.

ARTICLE VIII - RELATIONSHIP OF PARTIES

In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other. Neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights a party may have to seek relief or redress against that contractor.

ARTICLE IX - NOTICES

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

If to the Non-Federal Sponsor:
Chair
St. Johns County Board of County Commissioners
500 San Sebastian View
St. Augustine, Florida 32084

If to the Government:
District Commander
U.S. Army Corps of Engineers, Jacksonville District
P.O. Box 4970
Jacksonville, FL 32232-0019

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

ARTICLE X - CONFIDENTIALITY

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

ARTICLE XI - 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.

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

DEPARTMENT OF THE ARMY

BY: _____
Brandon L. Bowman
Colonel, U.S. Army
District Commander

DATE: _____

ST. JOHNS COUNTY, FLORIDA

BY: _____
Chair
Board of County Commissioners

DATE: _____

CERTIFICATE OF AUTHORITY

I, Lex Taylor, do hereby certify that I am the principal legal officer for the St. Johns County, Florida, that the St. Johns County, Florida is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the St. Johns County, Florida in connection with the St. Johns County, Florida Ponte Vedra Beach Coastal Storm Risk Management Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement, as required by Section 221 of Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and that the person who executed this Agreement on behalf of the St. Johns County, Florida acted within his statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this _____ day of _____ 20___.

_____

Lex Taylor
Deputy County Attorney
St. Johns County, Florida

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.

_____

Chair of the Board of County Commissioners
St. Johns County, Florida

DATE: _____