PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE CITY OF NORFOLK, VIRGINIA
FOR
WILLOUGHBY SPIT AND VICINITY, NORFOLK, VIRIGINA
HURRICANE AND STORM DAMAGE REDUCTION PROJECT

THIS AGREEMENT is entered into this 28th day of January, 2015, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Norfolk District (hereinafter the "District Engineer") and the City of Norfolk, Virginia (hereinafter the "Non-Federal Sponsor"), represented by the City Manager.

WITNESSETH, THAT:

WHEREAS, construction of the Willoughby Spit and Vicinity, Norfolk, Virginia Hurricane and Storm Damage Reduction Project (hereinafter the "Project", as defined in Article I.A.) was authorized by Section 501 of the Water Resources Development Act of 1986, Public Law 99-662;

WHEREAS, Sections 103 and 101(c) of the Water Resources Development Act of 1986, Public Law 99-662, as amended, (33 U.S.C. 2213; 33 U.S.C. 2211) specify the cost-sharing requirements applicable to the Project;

WHEREAS, in accordance with Section 101(c) of the Water Resources Development Act of 1986, the East Ocean View Segment 3b of the Project impacted by erosion from the Little Creek Federal Navigation project will be constructed at 100 percent Federal expense except that the Non-Federal Sponsor shall provide, at no cost to the Government, all real property interests and relocations required for Segment 3b;

WHEREAS, under the Construction heading, Chapter 4, Title X, Division A of the Disaster Relief Appropriations Act of 2013, Public Law 113-2 (127 Stat. 24 – 25) enacted January 29, 2013 (hereinafter "DRAA 13"), the Secretary of the Army is directed to finance the non-Federal cash contribution for certain projects using DRAA 13 funds in accordance with the provisions of Section 103(k) of the Water Resources Development Act of 1986, Public Law 99-662; and the interest rate for such payments shall be determined in accordance with Section 106 of WRDA 1986;

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

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

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

NOW, THEREFORE, the parties agree as follows:

ARTICLE I - DEFINITIONS

A. The term "Project" means the hurricane and storm damage reduction project for Willoughby Spit and Vicinity, Norfolk, Virginia which provides for a 60-foot wide beach berm at an elevation of +3.5 feet NAVD 88 extending along the 7.3 mile Chesapeake Bay shoreline in the City of Norfolk , as generally described in the Willoughby Spit and Vicinity, Norfolk, Virginia Feasibility Study, dated January 1983, and approved by the Chief of Engineers on April 17, 1984, and as modified by the Willoughby Spit and Vicinity, Norfolk, Virginia Hurricane Sandy Limited Reevaluation Report, dated February 2014, and approved by the Division Engineer for North Atlantic Division on March 4, 2014 (hereinafter the "Decision Document").

B. The term "periodic renourishment" means the cost shared placement of suitable beach berm and dune material after the construction of the Project at appropriate intervals during the 50 year period of Federal participation that begins on the date of initiation of construction of the Project, as generally described in the Decision Document.

C. The term "construction costs" means all costs incurred by the Government and Non-Federal Sponsor in accordance with the terms of this Agreement that are directly related to construction of the Project. The term includes, but is not necessarily limited to: preconstruction engineering and design costs pursuant to the terms of the May 31, 2005 Design Agreement; the Government's engineering and design costs during construction; the Non-Federal Sponsor's creditable costs and the Government's costs of investigations to identify the existence and extent of hazardous substances; the costs of historic preservation activities except for data recovery for archaeological remains; the Government's supervision and administration costs; the Government's costs of monitoring; the Government's costs of participation in the Project Coordination Team; the Non-Federal Sponsor's creditable costs for providing real property interests and performing relocations; and the Government's costs of audit. The term does not include any costs for periodic renourishment; for operation, maintenance, repair, rehabilitation, or replacement; any costs of dispute resolution; any costs for betterments; any costs for additional work; or the Non-Federal Sponsor's cost of negotiating this Agreement.

D. The term "periodic renourishment costs" means all costs incurred by the Government and Non-Federal Sponsor for each cycle of periodic renourishment in accordance with the terms of this Agreement that are directly related to periodic

renourishment of the Project. The term includes, but is not necessarily limited to: the Government's engineering, design, and material placement and related costs; the Non-Federal Sponsor's and the Government's costs of investigations to identify the existence and extent of hazardous substances; the costs of historic preservation activities except for data recovery for archaeological remains; the Government's supervision and administration costs; the Government's costs of monitoring; the Government's costs of participation in the Project Coordination Team; the Non-Federal Sponsor's creditable costs of additional real property interests and relocations; and the Government's costs of audit. The term does not include any costs for operation, maintenance, repair, rehabilitation, or replacement; any costs of dispute resolution; or the Non-Federal Sponsor's cost of negotiating this Agreement.

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

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

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

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

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

J. The term "payment period" means a period of 30 years beginning upon the date specified in the written notice provided by the District Engineer pursuant to Article VII.B.1.

K. The term "principal amount" means that portion of the non-Federal cash contribution of the construction costs for which payment is deferred pursuant to Article VII.B., plus interest during construction determined in accordance with Article VII.B.3.b.

ARTICLE II - OBLIGATIONS OF THE PARTIES

A. In accordance with Federal laws, regulations, and policies, the Government shall undertake construction of the Project using DRAA 13 funds. In the event that there are insufficient DRAA 13 funds to complete construction of the Project, such completion shall be subject to receiving Federal funds appropriated by the Congress and funds provided by the Non-Federal Sponsor.

1. The Non-Federal Sponsor shall contribute 35 percent of the construction costs allocated by the Government to hurricane and storm damage reduction, which excludes the East Ocean View Segment 3b as defined in the Decision Document; and 100 percent of construction costs, if any, allocated by the Government to beach improvements with exclusively private benefits. In accordance with the provisions of Article III and IV, the Non-Federal Sponsor shall provide the real property interests, relocations, and investigations for hazardous substances required for construction, operation, and maintenance of the Project. After considering the contributions provided by the Non-Federal Sponsor pursuant to the May 31, 2005 Design Agreement and the estimated amount of credit the Government expects to afford to the Non-Federal Sponsor for such real property interests, relocations, and investigations for hazardous substances, the Government shall determine the estimated cash contribution required for the Non-Federal Sponsor to meet its share of construction costs allocated to hurricane and storm damage reduction. To the extent there are sufficient DRAA 13 funds, the Government, in accordance with the provisions of Article VII.B., shall defer payment of the cash contributions that the Non-Federal Sponsor would have otherwise been required to provide during construction of the Project in order to meet its cost share. In addition, the Non-Federal Sponsor, in accordance with Article VII.D., shall provide the full amount of the funds required to cover the construction costs allocated to beach improvements with exclusively private benefits.

2. When the District Engineer determines that the construction of the Project, or a functional portion thereof, is complete, the District Engineer shall so notify the Non-Federal Sponsor in writing and the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the Project or such functional portion thereof. The Government shall furnish the Non-Federal Sponsor with an Operation, Maintenance, Repair, Rehabilitation, and Replacement Manual (hereinafter the "OMRR&R Manual") and copies of all as-built drawings for the completed work.

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

1. The Non-Federal Sponsor shall contribute 35 percent of the periodic renourishment costs allocated by the Government to hurricane and storm damage reduction for each cycle of periodic renourishment, which excludes the East Ocean View

Segment 3b; and 100 percent of the periodic renourishment costs, if any, allocated by the Government to beach improvements with exclusively private benefits. In accordance with Article III, the Non-Federal Sponsor shall provide any additional real property interests and perform any additional relocations required for a cycle of periodic renourishment. In accordance with Article IV, the Non-Federal Sponsor shall perform any additional investigations for hazardous substances required for a cycle of periodic renourishment. In accordance with Article VII.C., the Non-Federal Sponsor shall provide funds required to meet its cost share for such cycle of periodic renourishment. In addition, the Non-Federal Sponsor, in accordance with Article VII.D., shall provide the full amount of the funds required to cover the periodic renourishment costs allocated to beach improvements with exclusively private benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

O. In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all the requirements of applicable Federal laws and implementing regulations, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended (42 U.S.C. 2000d), and Department of Defense Directive 5500.11

issued pursuant thereto; the Age Discrimination Act of 1975 (42 U.S.C. 6102); and the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Army Regulation 600-7 issued pursuant thereto.

P. The Non-Federal Sponsor, at no cost to the Government, shall continue to operate and maintain the existing groin field and dune system constructed by the Non-Federal Sponsor, and the existing storm warning system and the temporary evacuation programs.

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

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

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

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

C. Not later than 30 calendar days after the Government provides to the Non-Federal Sponsor written descriptions and maps of the real property interests and relocations required for construction, operation, and maintenance of the Project, the Non-

Federal Sponsor may request in writing that the Government acquire all or specified portions of such real property interests that are owned by private interests, or perform the necessary relocations. If the Government agrees to such a request, the Non-Federal Sponsor, in accordance with Article VII.D., must provide funds sufficient to cover the costs of the acquisitions or relocations in advance of the Government performing the work. The Government shall acquire the real property interests and perform the relocations applying Federal laws, policies, and procedures. The Government shall acquire real property interests in the name of the Non-Federal Sponsor except, if acquired by eminent domain, the Government shall convey all of its right, title and interest to the Non-Federal Sponsor by quitclaim deed or deeds. The Non-Federal Sponsor shall accept delivery of such deed or deeds. The Government's providing real property interests or performing relocations on behalf of the Non-Federal Sponsor does not alter the Non-Federal Sponsor's responsibility under Article IV for the costs of any clean up and response related thereto.

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

ARTICLE IV - HAZARDOUS SUBSTANCES

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

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

C. If hazardous substances regulated under CERCLA are found to exist in, on, or under any required real property interests, the parties shall consider any liability that

might arise under CERCLA and determine whether to initiate construction, or if already initiated whether to continue construction, suspend construction, or terminate construction.

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

2. In the event the parties cannot reach agreement on how to proceed or the Non-Federal Sponsor fails to provide any funds necessary to pay for cleanup and response costs or to otherwise discharge the Non-Federal Sponsor's responsibilities under this Article upon direction by the Government, the Government may suspend or terminate construction but may undertake any actions it determines necessary to avoid a release of such hazardous substances.

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

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

ARTICLE V - CREDIT FOR REAL PROPERTY INTERESTS, RELOCATIONS, AND INVESTIGATIONS FOR HAZARDOUS SUBSTANCES

A. The Government shall include in construction costs, and credit towards the Non-Federal Sponsor's share of such costs, costs incurred after January 29, 2013 to acquire real property interests from private owners for construction, operation, and maintenance of the Project; to perform relocations for construction, operation, and maintenance of the Project; and to perform any investigation for hazardous substances for construction, operation, and maintenance of the Project. No later than 6 months after it provides the Government with authorization for entry onto those real property interests, or completes an investigation for hazardous substances, the Non-Federal Sponsor shall provide the Government with documentation sufficient to enable the Government to determine the amount of credit to be afforded in accordance with Article V.C.

B. The Government shall include in periodic renourishment costs, and credit towards the Non-Federal Sponsor's share of such costs, the costs of any additional real

property interests that the Non-Federal Sponsor must acquire from private owners for periodic renourishment; the costs of any additional relocations for periodic renourishment; and the costs to perform any additional investigation for hazardous substances for periodic renourishment. No later than 6 months after it provides the Government with authorization for entry onto those additional real property interests, or completes an investigation for hazardous substances, the Non-Federal Sponsor shall provide the Government with documentation sufficient to enable the Government to determine the amount of credit to be afforded in accordance with Article V.C.

C. The Government and the Non-Federal Sponsor agree that the amount of costs eligible for credit that are allocated by the Government to construction costs or periodic renourishment costs shall be determined in accordance with the following procedures, requirements, and conditions. Such costs shall be subject to audit in accordance with Article XII.C. to determine reasonableness, allocability, and allowability of costs.

1. Real Property Interests.

a. General Procedure. The Non-Federal Sponsor shall obtain, for each real property interest acquired from a private owner after January 29, 2013, an appraisal of the fair market value of such interest on the date of acquisition that is prepared by a qualified appraiser who is acceptable to the parties. The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government. In the case of interests in lands subject to shore erosion, appraisals must consider special benefits in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions (2000) (hereinafter "Uniform Standards").

(1) For each real property interest, the Non-Federal Sponsor shall submit an appraisal to the Government for review and approval no later than 60 calendar days after the Non-Federal Sponsor provides the Government with an authorization for entry for such interest. If after coordination and consultation with the Government, the Non-Federal Sponsor is unable to provide an appraisal that is acceptable to the Government, the Government shall obtain an appraisal to determine the fair market value of the real property interest for crediting purposes.

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

b. Eminent Domain Procedure. For real property interests acquired by eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor shall notify the Government in writing of its intent

to institute such proceedings and submit the appraisals of the specific real property interests to be acquired for review and approval by the Government.

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

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

(3) For interests in lands subject to shore erosion acquired by eminent domain proceedings, fair market value for crediting purposes shall be the lesser of the amount of the court award for the real property interests taken (or the amount of any stipulated settlement, if applicable), or the amount determined by a Government-approved appraisal that considers special benefits in accordance with the Uniform Standards.

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

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

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

d. Incidental Costs. The Government shall include in construction costs or periodic renourishment costs, as applicable, and credit towards the Non-Federal Sponsor's share of such costs, the incidental costs, documented to the satisfaction of the

Government, that the Non-Federal Sponsor incurred after January 29, 2013 in acquiring from private owners any real property interests required pursuant to Article III for construction, operation, maintenance, and periodic renourishment of the Project. Such incidental costs shall include closing and title costs, appraisal costs, survey costs, attorney's fees, plat maps, mapping costs, actual amounts expended for payment of any relocation assistance benefits provided in accordance with Article III.C., and other payments by the Non-Federal Sponsor for items that are generally recognized as compensable, and required to be paid, by applicable state law due to the acquisition of a real property interest pursuant to Article III.

2. Relocations. The Government shall include in construction costs or periodic renourishment costs, as applicable, and credit towards the Non-Federal Sponsor's share of such costs, the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred after January 29, 2013 in the performance of any relocations directly related to construction, operation, maintenance, and periodic renourishment of the Project.

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

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

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

d. Any credit afforded under the terms of this Agreement for the costs of relocations for construction, operation, maintenance, and periodic renourishment of the Project is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)). Notwithstanding any other provision of this Agreement, credit may be withheld, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

3. Investigations in accordance with Article IV. The Government shall include in construction costs or periodic renourishment costs, as applicable, and credit towards the Non-Federal Sponsor's share of such costs, the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred after January 29, 2013 in the performance of any investigations for hazardous substances that may exist in, on, or under real property interests directly related to construction, operation, maintenance, and periodic renourishment of the Project.

D. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall not be entitled to credit for costs incurred by the Non-Federal Sponsor:

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

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

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

4. to provide real property interests or relocations that the Government determines are needed for the East Ocean View Segment 3b.

ARTICLE VI - PROJECT COORDINATION TEAM

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

ARTICLE VII - METHOD OF PAYMENT

A. As of the effective date of this Agreement, the construction costs are projected to be $18,400,000, with the Government's share of such costs projected to be $12,900,000, the Non-Federal Sponsor's share of such costs projected to be $5,500,000, and the Non-Federal Sponsor's deferred payment of funds, excluding interest during construction, is projected to be $5,500,000; the periodic renourishment costs are projected to be $7,500,000, with the Government's share of such costs projected to be $5,300,000, and the Non-Federal Sponsor's share of such costs projected to be

$2,200,000; the costs for betterments are projected to be $0; and the costs for additional work are projected to be $0. These amounts are estimates only that are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

B. Deferred Payment of Cash Contributions for Construction of the Project.

1. Upon determination by the District Engineer that (1) construction of the Project is complete; or (2) construction of the Project is terminated pursuant to Article VIII, the District Engineer shall immediately issue a written notification to the Non-Federal Sponsor specifying which of the above events occurred and the day, month, and year of such occurrence.

2. Immediately after the date of the District Engineer's written notice pursuant to paragraph B.1. of this Article, the Government shall conduct a final accounting of the construction costs. If outstanding relevant claims and appeals or eminent domain proceedings prevent a final accounting of the construction costs from being conducted in a timely manner, the Government shall conduct an interim accounting and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals and eminent domain proceedings are resolved, the Government shall complete the final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. The interim or final accounting, as applicable, shall determine the construction costs. In addition, for each set of costs, the interim or final accounting, as applicable, shall determine each party's required share thereof, and each party's total contributions thereto as of the date of such accounting.

3. The Government shall maintain records of Federal obligations each month during construction of the Project, and shall determine for each month a monthly amount equal to the non-Federal share of Federal obligations. Each monthly amount shall be assumed to have taken place at the mid-point of that month. Any additional non-Federal cash contributions required for preconstruction engineering and design conducted pursuant to the May 31, 2005 Design Agreement to meet the non-Federal cost share of construction costs shall be included in the first monthly amount.

a. In the event the Non-Federal Sponsor elects to make a payment during construction of the Project or the Government determines at any time that it does not have sufficient funds to allow the Non-Federal Sponsor to defer its cash contributions pursuant to the provisions of paragraph B. of this Article, the Non-Federal Sponsor shall provide such cash payment during construction of the Project, as determined by the Government, by delivering a check payable to "FAO, USAED, Norfolk (E4)" to the District Engineer, or by providing an Electronic Funds Transfer of such required cash contributions in accordance with procedures established by the Government. Interest shall be charged on the amount of each Federal obligation made in lieu of the non-Federal cash contribution for the period between the month of the applicable Federal obligation and the month of the payment by the Non-Federal Sponsor. In computing the

interest charges applied to the amount of each Federal obligation, the Government shall use an interest rate determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods of maturity equal to the length of time in months between the month of that Federal obligation and the month of that payment by the Non-Federal Sponsor, plus a premium of one-eighth of one percentage point for transaction costs.

b. During the construction of the Project, the Government shall charge interest on each monthly amount that is not paid in accordance with paragraph B.3.a. of this Article. The interest rate shall be determined in accordance with paragraph B.5. of this Article. Interest shall be compounded annually on each anniversary of that monthly amount until the date of the District Engineer's written notice pursuant to paragraph B.1. of this Article. In the event that such notice is less than twelve months after the month of that monthly amount, or the month of the last such anniversary, if any, additional interest shall be charged for that number of months, and the additional interest shall be equal to the sum of the monthly amount plus compound interest as of any such previous anniversary, multiplied by the interest rate, multiplied by that number of months, divided by twelve.

c. During construction of the Project, the Government shall provide in writing to the Non-Federal Sponsor on a quarterly basis an accounting of all such monthly amounts incurred to date and the estimated interest applied to each monthly amount through that quarter.

4. Not later than 30 calendar days after the date of the District Engineer's written notice pursuant to paragraph B.1. of this Article, the Government shall: (1) complete the final or interim accounting, as applicable, in accordance with paragraph B.2. of this Article; (2) calculate all monthly amounts, the compound interest applied during construction of the Project to all monthly amounts, the principal amount, and the annual installments for payment of the principal amount, which shall be substantially equal; and (3) provide the Non-Federal Sponsor with written notification of the results of such accounting and such calculations. To calculate the annual installments, the Government shall amortize the principal amount over the payment period, beginning on the date of date of the District Engineer's written notice pursuant to paragraph B.1. of this Article using the interest rate determined in accordance with paragraph B.5. of this Article. If the determination of the principal amount and annual installments was based on an interim accounting, not later than 30 calendar days after completion of the final accounting, the Government shall: (1) recalculate all monthly amounts, the compound interest applied during construction of the Project to all monthly amounts, the principal amount, and the annual installments for payment of the principal amount, which shall be substantially equal; and (2) provide the Non-Federal Sponsor with written notification of the results of such final accounting and such recalculations. Any difference between the principal amount and the recalculated principal amount shall be amortized over the remaining portion of the payment period as of the date of such notification, using the interest rate determined in accordance with paragraph B.5. of this Article.

5. In accordance with Section 106 of WRDA 1986, the interest rate to be used in computing the interest during construction of the Project under paragraph B.3.b. of this Article and in calculating or recalculating the annual installments in accordance with paragraph B.4. of this Article shall be determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the payment period during the month preceding the Government fiscal year in which the first Federal construction contract for the Project is awarded, plus a premium of one-eighth of one percentage point for transaction costs.

6. Until the end of the payment period, the Government, not later than 30 calendar days prior to each five year anniversary of the date of the District Engineer's written notice pursuant to paragraph B.1. of this Article, shall complete a recalculation of the annual installments by amortizing the remaining balance of the principal amount over the remaining portion of the payment period and shall provide the Non-Federal Sponsor with such recalculated annual installments. The interest rate to be used in such recalculations shall be determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the payment period during the month that represents each five year anniversary of the month preceding the Government fiscal year in which the first Federal construction contract is awarded, plus a premium of one-eighth of one percentage point for transaction costs.

7. The Non-Federal Sponsor shall pay the first annual installment, as determined in accordance with paragraph B.4. of this Article, within 30 calendar days after the date the Government provides written notification to the Non-Federal Sponsor in accordance with paragraph B.4. of this Article, by delivering a check payable to "FAO, USAED, Norfolk (E4)" to the District Engineer or providing an Electronic Funds Transfer in accordance with procedures established by the Government. Thereafter, until the end of the payment period, the Non-Federal Sponsor shall pay an annual installment, as determined in accordance with paragraph B.4. or paragraph B.6. of this Article, as applicable, on each anniversary of the date of date of the District Engineer's written notice pursuant to paragraph B.1. of this Article, by delivering a check payable to "FAO, USAED, Norfolk (E4)" to the District Engineer or providing an Electronic Funds Transfer in accordance with procedures established by the Government.

8. Notwithstanding paragraph B.7. of this Article, the Non-Federal Sponsor, in its sole discretion, may prepay the principal amount, in whole or in part, at any time without penalty. In addition, there shall be no additional interest charges on any portion of the principal amount that is prepaid within 30 calendar days after the Government provides written notification to the Non-Federal Sponsor in accordance with paragraph B.4. of this Article. In the event of such prepayment, the Government, not later than 30 calendar days after receipt of the prepayment, shall recalculate the annual installments by amortizing the outstanding portion of the principal amount over the remaining portion of the payment period as of the date of such recalculation, using the interest rate used most recently under paragraph B.4. or paragraph B.6. of this Article,

and shall provide written notification to the Non-Federal Sponsor of the recalculated annual installments. The Non-Federal Sponsor shall pay the recalculated annual installments, if any, in accordance with paragraph B.7. of this Article.

9. Not later than 30 calendar days after the payment period has elapsed, the Government shall: (1) conduct an accounting and determine the total payments that the Non-Federal Sponsor has made in accordance with this Agreement; and (2) provide the Non-Federal Sponsor with written notification of the results of such accounting. In the event the non-interest component of total payments is less than the principal amount, the Non-Federal Sponsor, not later than 30 calendar days after receipt of the written notification from the Government, shall provide to the Government the amount of the shortage, by delivering a check payable to "FAO, USAED, Norfolk (E4)" to the District Engineer or providing an Electronic Funds Transfer in accordance with procedures established by the Government. In the event the non-interest component of the total payments exceeds the principal amount, the Government shall seek such appropriations as are necessary to refund the amount of the excess to the Non-Federal Sponsor.

10. Any delinquent payment owed by the Non-Federal Sponsor shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

11. Nothing herein shall constitute, nor be deemed to constitute, an obligation of future appropriations by the Congress. Further, nothing in this Agreement shall commit the Government to obligate funds beyond the amount of available appropriations.

C. Payment of Funds for Periodic Renourishment.

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

2. After considering the estimated amount of credit for additional real property interests, relocations, and investigations for hazardous substances, the Government shall determine the estimated total amount of funds required from the Non-Federal Sponsor for the current cycle of periodic renourishment. No later than 60

calendar days prior to the beginning of a fiscal year in which the Government will be incurring costs of periodic renourishment, the Government shall notify the Non-Federal Sponsor in writing of the amount of funds required from the Non-Federal Sponsor during that fiscal year. No later than 30 calendar days prior to the beginning of that fiscal year, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government by delivering a check payable to "FAO, USAED, Norfolk (E4)" to the District Engineer, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

3. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary to cover the non-Federal proportionate share of costs as those costs are incurred. If the Government determines at any time that additional funds will be needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's required share of periodic renourishment costs, the Government shall notify the Non-Federal Sponsor in writing of the amount of additional funds required. Within 60 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph C.2. of this Article.

4. Upon conclusion of each cycle of periodic renourishment and resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall conduct a final accounting for such cycle and furnish the Non-Federal Sponsor with the written results of such final accounting. Should the final accounting determine that additional funds are required from the Non-Federal Sponsor, the Non-Federal Sponsor, within 60 calendar days of receipt of written notice from the Government, shall provide the Government with the full amount of such additional required funds by delivering a check payable to "FAO, USAED, Norfolk (E4)" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government. Should the final accounting determine that the Non-Federal Sponsor has provided funds in excess of its required amount, the Government shall refund the excess amount, subject to the availability of funds.

D. Payment of Costs for Beach Improvements with Exclusively Private Benefits, and Real Property Interests, Relocations, Betterments, and Additional Work Provided On Behalf of the Non-Federal Sponsor.

1. No later than 30 calendar days of receiving written notice of the amount of funds required to cover any such costs, as applicable, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government by delivering a check payable to "FAO, USAED, Norfolk (E4)" to the District Engineer, or by providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government. If at any time the Government determines that additional funds are required to cover any such costs, as applicable, the Non-Federal Sponsor shall

provide those funds within 30 calendar days from receipt of written notice from the Government.

ARTICLE VIII - TERMINATION OR SUSPENSION

A. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Government may suspend or terminate construction or periodic renourishment of the Project unless the Assistant Secretary of the Army (Civil Works) determines that continuation of such work is in the interest of the United States or is necessary in order to satisfy agreements with other non-Federal interests.

B. If the Government determines at any time that the DRAA 13 funds made available for construction of the Project are not sufficient to complete such work, the Government shall so notify the Non-Federal Sponsor in writing, and upon exhaustion of such funds, the Government shall suspend construction until there are sufficient Federal funds appropriated by the Congress and cash contributions provided by the Non-Federal Sponsor to allow construction to resume.

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

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

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

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

A. The Non-Federal Sponsor, at no cost to the Government, shall operate, maintain, repair, rehabilitate, and replace the Project. The Non-Federal Sponsor shall conduct its operation, maintenance, repair, rehabilitation, and replacement responsibilities in a manner compatible with the authorized purpose of the Project and in accordance with

applicable Federal and State laws and specific directions prescribed by the Government in the OMRR&R Manual and any subsequent amendments thereto. Nothing in this paragraph is intended to affect eligibility under Public Law 84-99 (33 U.S.C. 701n).

B. The Government may enter, at reasonable times and in a reasonable manner, upon real property interests that the Non-Federal Sponsor now or hereafter owns or controls to inspect the Project, and, if necessary, to undertake any work necessary to the functioning of the Project for its authorized purpose. If the Government determines that the Non-Federal Sponsor is failing to perform its obligations under this Agreement and the Non-Federal Sponsor does not correct such failures within a reasonable time after notification by the Government, the Government may undertake any operation, maintenance, repair, rehabilitation, or replacement of the Project. No operation, maintenance, repair, rehabilitation, or replacement by the Government shall relieve the Non-Federal Sponsor of its obligations under this Agreement or preclude the Government from pursuing any other remedy at law or equity to ensure faithful performance of this Agreement.

ARTICLE X - HOLD AND SAVE

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

ARTICLE XI - DISPUTE RESOLUTION

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

ARTICLE XII - MAINTENANCE OF RECORDS AND AUDIT

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

B. The Non-Federal Sponsor is responsible for complying with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507). To the extent permitted under applicable Federal laws and regulations, the Government shall provide to the Non-Federal Sponsor and independent auditors any information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of non-Federal audits shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

C. Pursuant to 31 U.S.C. 7503, the Government may conduct audits in addition to any audit that the Non-Federal Sponsor is required to conduct under the Single Audit Act Amendments of 1996. The Government's costs of audits for construction of the Project and any cycle of periodic renourishment shall be included in construction costs or periodic renourishment costs, as applicable.

ARTICLE XIII - RELATIONSHIP OF PARTIES

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

ARTICLE XIV - NOTICES

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

If to the Non-Federal Sponsor:
City Manager
City of Norfolk, Virginia
810 Union Street
1101 City Hall Building
Norfolk, Virginia 23510

If to the Government:
District Engineer
U.S. Army Engineer District, Norfolk
803 Front Street
Norfolk, Virginia 23510

B. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed. A party may change the recipient or address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

ARTICLE XV - CONFIDENTIALITY

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

ARTICLE XVI - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

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

ARTICLE XVII - OBLIGATIONS OF FUTURE APPROPRIATIONS

The Non-Federal Sponsor intends to fulfill fully its obligations under this Agreement. Nothing herein shall constitute, nor be deemed to constitute, an obligation of future appropriations by the City Council of the City of Norfolk, Virginia, where creating such an obligation would be inconsistent with State law, including, but not limited to Article 10, §7 of the Constitution of Virginia and Section 2.2-1819 of the Code of Virginia

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

DEPARTMENT OF THE ARMY

BY: _____
PAUL B. OLSEN
Colonel, U.S. Army
District Engineer

DATE: 1/28/15

CITY OF NORFOLK, VIRGINIA

BY: _____
MARCUS D. JONES
City Manager
City of Norfolk, Virginia

DATE: 1/26/15

Approved as to form and correctness:

_____
Cynthia B. Hall
Deputy City Attorney

CERTIFICATE OF AUTHORITY

I, Bernard A. Pishko, do hereby certify that I am the principal legal officer of the City of Norfolk, Virginia, that the City of Norfolk, Virginia is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the City of Norfolk, Virginia in connection with the Willoughby Spit and Vicinity, Norfolk, Virginia Hurricane and Storm Damage Reduction Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement, as required by Section 221 of Flood Control Act of 1970, Public Law 91-611, as amended (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Agreement on behalf of the City of Norfolk, Virginia have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this 21st day of January 2015

BERNARD A. PISHKO
City Attorney
City of Norfolk, Virginia

Approved as to form and correctness:

Cynthia B. Hall, Deputy City Attorney

CERTIFICATION REGARDING LOBBYING

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

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

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 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.

MARCUS D. JONES
City Manager
City of Norfolk, Virginia

DATE: 1/26/15

Approved as to form and correctness:

Cynthia B. Hall, Deputy City Attorney