DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P.O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO
ATTENTION OF

Regulatory Division

September 4, 2012

Mr. Douglas Fry
Administrator
Program Development & Support Section
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, Florida 32399

Dear Mr. Fry:

Enclosed is your original signed copy of the Interagency Operating Agreement signed by U.S. Army Corps of Engineers. It has been a pleasure working with you, your organization, and the water management districts to update and finalize this agreement.

Please contact me at 904-232-1658 if you have any questions regarding this matter.

Sincerely,

Tori White
Deputy, Regulatory Division

Enclosure

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OFFICE OF SUBMERGED LANDS
AND ENVIRONMENTAL RESOURCES

OPERATING AGREEMENT BETWEEN THE JACKSONVILLE DISTRICT OF THE U.S. ARMY CORPS OF ENGINEERS, THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT, THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT, AND THE SUWANNEE RIVER WATER MANAGEMENT DISTRICT CONCERNING REGULATORY PROGRAMS FOR ACTIVITIES IN WETLANDS AND OTHER SURFACE WATERS, INCLUDING WATERS OF THE UNITED STATES

I. PARTIES, PURPOSE AND GOALS

A. The Parties

The Parties to this Agreement are the Jacksonville District of the United States Army Corps of Engineers (Corps), Florida Department of Environmental Protection (Department), Northwest Florida Water Management District (NWFWMD), South Florida Water Management District (SFWMD), St. Johns River Water Management District (SJRWMD), Southwest Florida Water Management District (SWFWMD), and Suwannee River Water Management District (SRWMD) (collectively referred to as "Districts"). Where the Department or a District has delegated responsibilities to a local government in accordance with section 373.441, Florida Statutes (F.S.), this Agreement shall also apply to those local governments that have been delegated such authority as of the effective date of this Agreement.

B. Purpose

The purpose of this Agreement is to coordinate the permitting, compliance and enforcement programs of the Parties concerning regulation of activities that affect waters of the United States (WOUS) under the jurisdiction of the Corps, and wetlands and other surface waters under the jurisdiction of the Department or the Districts within the state of Florida. This Agreement shall apply to Department of the Army permits ("DA Permits") issued by the Corps pursuant to Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899 or Section 103 of the Marine Protection, Research and Sanctuaries Act and to permits issued by the Districts or the Department pursuant to part IV of chapter 373, F.S. ("State permits"). This Agreement describes the interaction between the Parties and is subject to the respective laws and implementing regulations and policies of the Parties.

This Agreement supersedes the Agreement entered on November 30, 1998, entitled "Operating Agreement Between the U.S. Army Corps of Engineers, the Florida Department of Environmental Protection, the South Florida Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, and the Suwannee River Water

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Management District Concerning Regulatory Programs for Activities in Wetlands and Other Surface Waters."

C. **Goals**

It is a goal of the Parties to this Agreement to effectuate efficient, streamlined regulatory programs that govern activities affecting wetlands and other surface waters, including jurisdictional WOUS. Towards this goal, the Parties have established joint application forms and agree, where possible, to coordinate the distribution and review of information received during the permit application review process. Other streamlining measures to be explored and further developed by the Parties include joint field inspections and pre-application meetings, coordinated, complementary enforcement efforts, and the Corps's state programmatic and regional general permits. Additionally, in order to further streamline the permitting process, the agencies agree to continue to jointly review the wetland delineation methodologies of the state and the Corps to identify any differences and explore ways to further resolve or overcome these differences. Further, the Parties may explore methods to integrate the principles of ecosystem management within their existing legal authority in order to achieve more effective environmental protection.

II. WATER QUALITY CERTIFICATION

By letter dated January 15, 1998, to the Secretary of the Department of Environmental Protection, the Governor of the State of Florida, under the authority in 33 U.S.C., Sections 1341 and 1362 (the Clean Water Act), and 40 C.F.R. 121.1(e), designated the Department as the agency responsible for certifying compliance with applicable state water quality standards for federal licenses or permits issued by the Corps under Section 404 of the Clean Water Act, 33 U.S.C. 1344. That letter granted the Department the authority to issue, deny, or waive certification of compliance with water quality standards, the authority to identify categories of activities for which water quality certification is waived, and the authority to establish categories of State permits or other authorizations for which the issuance (or denial) of the permit or authorization constitutes a certification (or denial of certification) that the permitted or authorized activity complies with (or fails to comply with) applicable state water quality standards. By letter dated February 2, 1998, to the Administrator of the Environmental Protection Agency, the Secretary of the Department of Environmental Protection, as delegated by the Governor of the State of Florida, designated certain permits under part IV of chapter 373, F.S., and other authorizations as constituting state certification of compliance with state water quality standards unless the permit or other authorization specifically states otherwise, established categories of activities for which water quality certification is waived, and delegated concurrent authority to issue, deny or waive water quality certifications to a District created under section 373.069, F.S., or to the head of a county, municipality or local government local pollution control program where such county, municipality, or local government pollution control program has received delegation of the permitting authority from the Department or a District under section 373.441, F.S. In accordance with these letters, the Parties agree to the following regarding water quality certification.

A. Grants or Waivers of Water Quality Certification

1. Each of the following will constitute the granting of water quality certification by the Department or Districts, unless a State permit is issued pursuant to the net improvement provisions for water quality provided by section 373.414(1)(b), F.S., or unless otherwise specifically stated in the State permit or authorization.

   (a) Noticed general environmental resource permits and wetland resource general permits under part IV of chapter 373, F.S.

   (b) Standard, general, standard general, individual, or conceptual approval environmental resource permits, and individual wetland resource permits issued under part IV of chapter 373, F.S.

   (c) Management and storage of surface waters permits for agricultural activities or agricultural water management systems issued under part IV of chapter 373, F.S.

   (d) Joint coastal permits issued under section 161.055 and part IV of chapter 373, F.S.

   (e) Individual and conceptual mitigation bank permits issued under part IV of chapter 373, F.S.

   (f) A written final order granting "certification" under one of the following siting acts by the Governor and Cabinet as the Siting Board, the Florida Land and Water Adjudicatory Commission, or by the Department of Environmental Protection, as appropriate:

      (1) The Florida Electric Power Plant Siting Act, sections 403.501- .519, F.S. (2011), as amended;

      (2) The Florida Transmission Line Siting Act, sections 403.501 - .5365, F.S., together with sections 403.537-.539, F.S. (2011), as amended; or

      (3) The Natural Gas Transmission Pipeline Siting Act, sections 403.9401-.9425, F.S. (2011), as amended.

   (g) Consent decrees, orders, or agreements issued by the Department, a District, or a delegated local government under section 373.441, F.S. (hereinafter the term "Department or District" shall also include local governments delegated in accordance with Section 373.441, F.S.), where such consent decree, order, or agreement authorizes activities which would otherwise require a permit under part IV of chapter 373, F.S.

2. Water quality certification will be considered waived for the following:

(a) Activities, other than agricultural activities or agricultural water management systems, exempt by rule or statute from the requirement to obtain an environmental resource permit and a wetland resource permit under part IV of chapter 373, F.S., including activities that fall below permitting thresholds;

(b) Agricultural activities or agricultural water management systems exempt by rule or statute from the requirement to obtain an environmental resource permit and a management and storage of surface waters permit under part IV of chapter 373, F.S., including activities that fall below permitting thresholds;

(c) Activities permitted or authorized, as described in Sections II. A. 1(a) through (g), when the permit or authorization is issued pursuant to the net improvement provisions for water quality provided by paragraph 373.414(1)(b), F.S.;

(d) Activities permitted or authorized in Sections II. A. 1(a) through (g) when the permit or authorization expressly waives water quality certification.

B. Denial of Water Quality Certification

Unless otherwise stated in the denial document, the denial of the State permit or authorization, listed in Section II.A.1. of this Agreement shall constitute denial of the state water quality certification. Where a final Department or District action on an application for a permit listed in Section II.A.1. of this Agreement cannot be made within the time frames specified in Section II.C. of this Agreement and the application otherwise does not meet the criteria for issuance of a permit, the Department or District may deny water quality certification for the activity described in the permit application in order to meet the time clock requirements in Section II.C.

C. Time Frames

Once the Department or the District determines that an application for a permit listed under Section II.A.1. of this Agreement is complete, the Department or District shall have 365 days to act on the certification, or the certification shall be considered waived.

D. Corps Nationwide Permits

For nationwide permits that have received water quality certification by the Department, or where water quality certification has been waived by the Department or District, no individual water quality certification is necessary. For

those Corps nationwide permits that were conditioned upon individual review of the water quality certification by the Department or District, or that have been denied water quality certification by the Department or District, state water quality certification for an individual proposed activity shall be made in accordance with Sections II. A - C.

III. COASTAL ZONE CONSISTENCY CONCURRENCE (CZCC)

In accordance with section 373.428, F.S., final agency action by the Department or District on a permit application submitted under part IV of chapter 373, F.S., that is subject to a consistency review under section 380.23, F.S., shall constitute the state's determination as to whether the activity is consistent with the federally approved Coastal Management Program. The Parties agree to the following procedures regarding coastal zone consistency determinations.

A. Determination of Concurrence

The following will constitute a finding of concurrence with the state's coastal zone management program for the activity authorized thereby:

1. Noticed general environmental resource permits and wetland resource general permits under part IV of chapter 373, F.S.;

2. Standard, general, standard general, individual, or conceptual approval environmental resource permits and individual wetland resource permits issued under part IV of chapter 373, F.S.;

3. Joint coastal permits issued under section 161.055 and part IV of chapter 373, F.S.;

4. Individual and conceptual mitigation bank permits issued under section 161.055 and part IV of chapter 373, F.S.; and

5. Management and storage of surface waters permits for agricultural activities or agricultural water management systems issued under part IV of chapter 373, F.S.

B. Determination of Inconsistency

The denial of a permit listed in Section III. A. of this Agreement shall constitute a finding that the activity is inconsistent with the state's coastal zone management program.

C. Time Frames

The time frame for a coastal zone concurrence begins upon a determination by the Department or the District that an application for a permit listed in Section III.A. of this Agreement is complete. The coastal zone consistency decision must

be made within 180 days after the application is considered complete by the Department or District and in accordance with the procedures in 15 C.F.R. 930 Subpart D. At the end of 180 days, if a determination of coastal zone consistency has not been made, concurrence will be conclusively presumed, unless the applicant and the Department or District have agreed to waive the 180-day time clock pursuant to 15 C.F.R. 930.60(b).

D. Corps Nationwide Permits

For nationwide permits that have been determined to be consistent with the state's coastal zone management program, no individual coastal zone consistency concurrence determination is necessary. For those Corps nationwide permits where consistency with the state coastal zone management program is conditioned upon individual review of the coastal zone management consistency by the state of Florida, or has been denied by Florida, the final consistency concurrence determination for a proposed activity shall be made in accordance with Sections III.A. - C.

E. Exemptions

Pursuant to section 380.23(7), F.S., applications for federally permitted or licensed activities that qualify for an exemption under section 373.406 or 403.813(1), F.S., are not eligible to be reviewed for federal consistency with part IV of chapter 373, F.S. For purposes of this Agreement, the Corps or any designated Federal, State or local agency administering general permits on behalf of the Corps under 33 C.F.R. § 325.2(b)(2) may presume CZCC by operation of Section 380.23(7), F.S., for such exempt activities, provided the activity receives the applicable authorization to use and occupy state-owned submerged lands under chapter 253, F.S., and, as applicable, chapter 258, F.S., and the rules of the Florida Administrative Code adopted thereunder. For purposes of this agreement, the Corps or any designated Federal, State or local agency administering general permits on behalf of the Corps shall not be precluded from acting on the DA permit before the applicable authorization under chapter 253, F.S., and, as applicable, chapter 258, F.S., is obtained or granted, because it is understood such authorization must be obtained prior to persons using or occupying state-owned submerged lands.

IV. PERMIT APPLICATION COORDINATION

A. Joint Application Forms

The Parties have developed comprehensive, integrated joint permit application forms to initiate processing of permit applications required by each of the Parties. For activities that require a DA Permit and an environmental resource permit under part IV of chapter 373, F.S., the "Joint Application for Environmental Resource Permit/Authorization to Use State Lands/Federal Dredge and Fill Permit," the "Application for a Joint Coastal Permit," or the "Joint Application Forms and Instructions for Wetland Resource Alterations (Dredging & Filling) in

the Waters of Florida" will be used. For activities that require a DA Permit and a wetland resource permit under the provisions of Section 373.4145(6) or 373.414(11) - (16), F.S., the "Joint Application For Works in the Waters of Florida" and the "Notice of Intent to Construct Works Pursuant to a Wetland Resource General Permit" will be used.

B. Processing of Applications

Except as provided below for E-permitting, for activities that do not qualify for processing as "green" under the State Programmatic General Permit, once a joint application, a request for permit modification, or a request for verification of exempt status is submitted by an applicant to the Department or District, the responsible agency (in accordance with the division of responsibilities in the Operating Agreements in effect between the Department and Districts) will, forward the following information to the Corps office with responsibility for processing the corresponding DA Permit application. All forwarded materials will include a Department or District application processing number.

1. Forwarding Received Applications:

Within five working days of receipt, the Department or District, as applicable, will forward to the Corps, either by mail or electronically via a mutually agreed upon protocol:

(a) For WRP applications, a copy of the application, all submitted maps, drawings, and any other information accompanying the application or request;

(b) For ERP applications, including mitigation banks, that have one or more of the following items provided or identified, one copy of the Notice of Receipt of the Application (Section C of the Joint Application) with its accompanying maps, drawings and any other information accompanying the application or request:

(1) A completed Corps' Data Entry Sheet;

(2) Any indication in the application that work is occurring, or appears to be occurring, in, on, or over wetlands and other surface waters.

(3) A type of DA Permit or enforcement action is requested or is identified as pending, issued or denied at the location of the activity. The Corps number starts with an "SAJ" and the four digit year (prior to 1990 the number started with a two digit year); the number also may include staff initials.

(4) An indication in the application that a member of the Corps has attended a pre-application meeting.

2. Forwarding of Applications and Material Received During Processing:

   (a) For WRP and ERP applications, including mitigation banks, that meet the criteria of IV.B.1., the Department or District, as applicable, will, within five working days of sending to the applicant, forward one copy of all Requests for Additional Information (RAIs) to the Corps.

   (b) For those applications not copied to the Corps in which either state or federal wetlands within the proposed activity or future phases are discovered during the evaluation, the Department or District, as applicable, will, within five working days of this discovery, forward the Corps one copy of the Notice of Receipt of the Application (Section C of the Joint Application) with its accompanying maps, drawings, and activity descriptions, together with a copy of any RAIs that have been generated.

   (c) A copy of materials subsequently submitted. Individual Corps offices will coordinate with individual Department and District offices to identify the manner in which the Corps wants such documents forwarded to it.

3. Forwarding Modifications and Materials:

   Within five working days of receipt of a modification request, the Department or District, as applicable, will forward to the Corps, either by mail or electronically via a mutually agreed upon protocol, a copy of the request with all attached maps, drawings, and any other information accompanying the request.

4. E-Permitting — For Department or District offices that electronically post applications, RAIs, modifications, and related materials to the Internet, an .ftp site, or another site accessible to the Corps, the Department or District shall first coordinate with the Corps to ensure the electronic posting procedure is compatible with the needs of the Corps. If the Department or the District's electronic posting procedure is not compatible with the Corps's requirements, the Department or District shall continue to mail materials to the Corps.

5. In those cases where the Corps receives a copy of the joint application, an application to modify a permit, a notice to use a noticed general permit, a request to verify qualification for an exemption, or a request to verify that an activity does not require a permit directly from an applicant, the Corps shall retain one copy of the application and all accompanying materials and send all other copies and materials to the appropriate office of the Department or District. The Corps shall include its processing number with this information.

6. The Department or District shall not be obligated to forward documents or materials to the Corps that are confidential under chapter 119, F.S. In such cases the Corps will request the applicant, permittee, or sponsor to provide such information directly to the Corps as needed.

7. In those cases where the Corps has made a "no permit required" (NPR) determination on an application that is under review by the Department or District, the Corps will furnish a copy of the determination to the Department or District. The Corps will include the applicant's name, location, brief project name/description, and, if known, the Department or District application file number. The Department or District will no longer be required to provide information to the Corps subsequent to receiving this notification unless the project is modified to include additional impacts to wetlands or other surface waters.

C. Mitigation Bank and In-lieu Fee Review

1. Interagency Review Team

Interagency review of mitigation bank applications and establishment of in-lieu fee programs is required by 33 C.F.R. § 332.8(b) and serves to facilitate a more efficient and effective review of such applications. The Corps's District Engineer will establish an Interagency Review Team (IRT) to review documentation for the establishment and management of mitigation banks and in-lieu fee programs. He or his designated representative serves as Chair of the IRT. In cases where a mitigation bank or in-lieu fee program involves an activity that is proposed to satisfy state statutory requirements, it may be appropriate for either the Department or District to serve as Co-Chair of the IRT. For purposes of this Agreement, the "administering agency" is defined as a member of either the Department or the applicable District. The IRT may include representatives from tribal, state, and local regulatory and resource agencies when such agencies have authorities or mandates directly affecting, or affected by, the establishment, operation, or use of the mitigation bank or in-lieu fee program. The District Engineer will give full consideration to any comments and advice received within time limits specified at 33 C.F.R. § 332.8. The Department and the Districts will give full consideration to any comments and advice received within the time limits specified in chapter 120, F.S. The District Engineer retains final authority for the approval of the instruments and other documentation required by the Corps. The Department and the Districts retain final authority for the approval of state permits or other documentation required by the state.

2. Team Coordination

An application to the Department or Districts for a mitigation bank shall be coordinated with the Corps in accordance with the Permit Application Coordination section IV. B. of this Agreement. When the Corps receives a mitigation bank or in-lieu-fee prospectus or draft prospectus, copies shall be provided to the Department or applicable District, along with other IRT members. In addition, the IRT shall coordinate, review, and take action on the items required by 33 C.F.R. § 332.8.

D. Distribution of Agency Actions

For applications that meet the criteria of section IV.B.1, IV.B.2, or IV.B.3 above, the Department or District, as applicable, will, within five working days of sending to the applicant/permittee, forward to the Corps a copy of all final permitting actions, including copies of permits, formal or major permit modifications, permit denials, application withdrawals, exemption verification letters, and the cover letter for formal determinations.

The Corps shall forward to the Department or Districts, as appropriate, copies of notices of intent to issue standard permits, final actions on standard permits, and "no permit required" determinations within five working days of taking such actions.

V. MITIGATION FINANCIAL ASSURANCE

A. When the type and amount of the financial assurance obtained or required by the Department or District for compensatory mitigation, including mitigation banks, as part of a permit issued under part IV of chapter 373, F.S., adequately addresses the financial assurance requirements of the Corps, the Corps may determine that additional financial assurance is not necessary for that compensatory mitigation project or mitigation bank.

B. The Corps's concurrence with the Department's or District's financial assurance mechanism shall be subject to the applicant, sponsor, or permittee agreeing to the following requirements:

1. The Corps shall notify the Department or District in all cases where the Corps is relying on the financial assurance mechanism accepted by the Department or District so that the Department or District can coordinate with the Corps prior to modification, amendment, partial release, termination, or revocation of the financial assurance instrument.

2. The financial assurance instrument shall be in place prior to commencement of the permitted activity.

3. Disbursements from these financial assurance instruments can only be made with direction and approval of the Department or District as

applicable after prior notice has been given to the Corps in accordance with 4., below.

4. The Corps permit shall require that the permittee shall provide the Corps written notice at least 120 days in advance of any termination or revocation of any financial assurance instrument by the financial institution, and notice at least 30 days in advance of modifications, amendments, and partial releases.

C. If, at any time, the Corps determines that the type or amount of the financial assurance mechanism being proposed for a State permit under part IV of chapter 373, F.S., is not sufficient to meet the Corps' requirements for a DA Permit or a mitigation banking instrument or in-lieu fee instrument and those requirements are within the scope of such state permit, the Corps may require the applicant, sponsor, or permittee for the DA Permit to request that the Department or District modify the permit under part IV of chapter 373, F.S., as applicable, to require an additional amount or alternative type of financial assurance mechanism to meet the Corps' requirements. In such a case:

1. The financial assurance instrument shall be in place prior to commencing the permitted activity;

2. Prior to any disbursements under the financial assurance instruments, the Department or District shall coordinate with the Corps at least 30 days prior to such disbursement being made, but the final decision on the disbursement shall be made by the Department or District;

3. Notification of such disbursements shall be provided to the Corps within 10 days after the disbursement;

4. The Corps permit shall require that the permittee shall provide the Corps written notice at least 120 days in advance of any termination or revocation of any financial assurance instrument by the financial institution, and notice at least 30 days in advance of modifications, amendments, and partial releases.

Notwithstanding the above, the Department or District is not obligated to accept financial assurance mechanisms that are not required to satisfy the permit requirements under part IV of chapter 373, F.S.

D. If the Corps requires an alternative type or an additional amount of financial assurance to meet Corps mitigation requirements outside of the scope of the State permit, the Department or District is not obligated to be a party to any instrument related to that assurance.

VI. MITIGATION SITE PROTECTION

Long-term protection of a mitigation site or preservation to prevent secondary impacts for a State permit, mitigation bank instrument, or as the result of an enforcement action under part IV of chapter 373, F.S., may be provided through the conveyance of a conservation easement or restrictive covenants in accordance with Section 704.06, F.S., or by transfer of title to the Department or District (hereinafter all referred to as "site protection instrument").

In accordance with 33 C.F.R. § 332.7(a)(1), when such a site protection instrument meets the Corps' requirements for mitigation site protection for the corresponding DA Permit for the same activities, the Corps may agree that the site protection instrument granted to the Department or District provides sufficient site protection, and not require an applicant, sponsor, or permittee to provide an amended, additional, or duplicative mitigation site protection instrument. When the Department or District accepts a site protection instrument in the form of a restrictive covenant or deed restriction, the Corps may determine that an applicant needs to execute a conservation easement.

A. When the Department or District agrees to hold or amend a site protection instrument which provides rights to the Corps, the Department and District agree to accept a site protection instrument containing, or that is amended to contain, the following language, unless alternative language is needed on a case-specific basis:

> "WHEREAS, the U.S. Army Corps of Engineers Permit No. _____ (Corps Permit) authorizes certain activities in the waters of the United States and requires this site protection instrument over the lands identified in Exhibit **XX** as mitigation for such activities;
>
> "Rights of the U.S. Army Corps of Engineers ("Corps"): The Corps, as a third party beneficiary, shall have the right to enforce the terms and conditions of the site protection instrument, including:
>
> "1. The right to take action to preserve and protect the environmental value of the Property;
>
> "2. The right to prevent any activity on the Property that is inconsistent with the purpose of this instrument, and to require the restoration of areas or features of the Property that may be damaged by any inconsistent activity;
>
> "3. The right to enter upon and inspect the Property in a reasonable manner and at reasonable times to determine if Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this instrument;
>
> "4. The right to enforce this instrument by injunction or proceed at law or in equity to enforce the provisions of this instrument and the

covenants set forth herein, to prevent the occurrence of any of the prohibited activities hereinafter set forth, and the right to require Grantor, or its successors and assigns, to restore such areas or features of the Property that may be damaged by unauthorized activities; and

"5. The Grantor, including their successors or assigns, shall provide the Corps at least 60 days advance notice in writing before any action is taken to amend, alter, release, or revoke this instrument. The Grantee shall provide reasonable notice and an opportunity to comment or object to the release or amendment to the U.S. Army Corps of Engineers. The Grantee shall consider any comments or objections from the U.S. Army Corps of Engineers when making the final decision to release or amend such a conservation easement."

B. When the Corps requires additional protection or additional mitigation lands for an activity that has a corresponding State permit, mitigation bank instrument, or enforcement instrument under part IV of chapter 373, F.S., and the Department or the District is willing to accept the additional or amended site protection instrument, the instrument shall include the following additional provision:

"The Grantor, including their successors or assigns, shall provide the Corps at least 60 days advance notice in writing before any action is taken to amend, alter, release, or revoke this instrument. The Grantee shall provide reasonable notice and an opportunity to comment or object to the release or amendment to the U.S. Army Corps of Engineers. The Corps, as third party beneficiary, must approve any amendment, alteration, release or revocation of this instrument, and must approve any proposed structures, work, or activities on the Property that require approval by the Grantee."

C. When the Department or District does not agree or is unable to modify the permit, mitigation bank instrument, or enforcement instrument under part IV of chapter 373, F.S., or any existing site protection instrument to include the additional mitigation land needed to meet the Corps's requirements, the Department or District may agree to accept a separate mitigation site protection instrument over the additional land. If the Department or District agrees to accept a separate mitigation site protection instrument over the additional land, the Department or District agree that the instrument shall be accepted with the following additional provision:

"The Grantor, including their successors or assigns, shall provide the Corps at least 60 days advance notice in writing before any action is taken to amend, alter, release, or revoke this instrument. The Grantee shall provide reasonable notice and an opportunity to comment or object to the release or amendment to the U.S. Army Corps of Engineers. The Corps, as third party beneficiary, must approve any amendment, alteration, release or revocation of this instrument, and must approve any proposed

structures, work, or activities on the Property that require approval by the Grantee."

D. In any case where the Department or District agrees to hold or amend a site protection instrument which provides rights to the Corps, as described above, the Corps shall notify the applicable Department or District office within 10 days of any discovery of a violation of the terms and conditions of the site protection instrument, and shall coordinate with the applicable Department or District office prior to requiring restoration of areas or features of the Property that were damaged by unauthorized activities so that any restoration activities receive applicable authorization required under part IV of chapter 373, F.S.

E. In the event a site protection instrument has already been recorded on behalf of the Department or District for the same activity that will be authorized under a corresponding DA Permit or mitigation bank or in-lieu fee instrument that does not include the "Rights of the Corps" language in VII.A., above, the Corps may require the applicant, permittee, or sponsor to request that the Department or District modify their respective permit, mitigation bank instrument or enforcement instrument with its associated site protection instrument to include that language.

F. The Department and the District do not agree to accept a site protection instrument on behalf of the Corps when there is no corresponding permit under part IV of chapter 373, F.S., for the activity that is subject to a DA permit.

G. In all cases, the Corps shall not request an applicant, permittee, or sponsor to record any site protection instrument granted to the Department or District without first coordinating with and obtaining a letter of concurrence from the applicable office of the Department or District; however, final approval of this request may be required from the District Governing Board. Failure to obtain such written concurrence shall result in any such recorded site protection instrument being considered an invalid conveyance of the interest to the Department or District.

H. In any case when the Corps requires the applicant, permittee, or sponsor to obtain an additional site protection instrument, the Corps agrees to take responsibility for all negotiations with the applicant, permittee, or sponsor associated with processing and preparation of the site protection instrument required by the Corps, including review of the title work. The Corps also shall take responsibility for all steps required to have the site protection instrument recorded, including any subsequent amendments or releases of any site protection instrument previously recorded on behalf of the Department or District, and for sending an original copy of the recorded site protection instrument, and any modifications and releases thereto, to the applicable Department or District office that serves the area in which the site protection instrument is recorded. The Corps also agrees to monitor for compliance and pursue needed enforcement, including litigation, to enforce the terms and conditions of the site protection instrument obtained over any lands that were not required to be

protected under the permit, mitigation bank instrument, or enforcement instrument under part IV of chapter 373, F.S.

I. The Parties agree to coordinate in the event compliance monitoring of the protected lands identifies the need for enforcement.

VII. COMPLIANCE AND ENFORCEMENT

Upon discovery of an unauthorized or non-compliant activity in WOUS, wetlands, or other surface waters, the Party discovering the activity will notify the appropriate Party to this Agreement regarding the unauthorized or non-compliant activity. The Parties may coordinate their enforcement activities when appropriate in order to maximize limited agency resources and encourage compliance. Regardless of any coordination that may occur, each Party will maintain independent enforcement authority and discretion.

VIII. INTERAGENCY MEETINGS

A. Permitting Meetings

Subject to fiscal or travel restrictions, each Party agrees to host interagency permitting meetings on a rotating basis. The time and place of all the meetings will be addressed at the beginning of each calendar year. Because interagency meetings between the Parties and other agencies can serve as a good forum to aid communication, exchange information, conduct pre-application meetings, or to resolve outstanding permitting issues, each Party will endeavor to have a representative attend all interagency meetings.

B. Enforcement Meetings

Subject to fiscal or travel restrictions, representatives of the Parties' enforcement staff shall endeavor to meet at least annually. If possible, the meeting should take place at Enforcement Workshops hosted by the Department or District, but local meetings in areas of operation are also appropriate and encouraged. The meeting should address issues related to implementation of section VII of this Agreement.

C. Cross Training

The Parties agree to provide opportunities, when possible, for cross-training. This may take the form of: providing spaces in formally scheduled training courses; providing training sessions at each others' training events; providing personnel and opportunities for cross-training through developmental assignments; sharing interpretations of agency rules and procedures; and performing joint formal and informal training on other subjects of mutual interest.

IX. ELECTRONIC COORDINATION

To the extent practicable, the Parties agree to use electronic media for the transfer of data to facilitate information exchange. The Parties agree to participate in future efforts to enhance electronic communication necessary to achieve their regulatory missions.

X. DELEGATED PROGRAMS

Where the Department or Districts delegate to a local government all or a portion of the permitting or enforcement authority under part IV of chapter 373, F.S., the delegation agreement shall include a provision that the local government shall be subject to all the terms and conditions of this Agreement, although the Corps, with the concurrence of the delegating agency, may allow deviations from these terms and conditions.

XI. EFFECTIVE DATE

This Agreement shall take effect upon execution by all the Parties. In witness whereof, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives on the latest day and year provided below.

XII. TERMINATION

Any Party who wishes to terminate this Agreement with or without cause shall provide 60 days prior written notice to the other Parties. The notice submitted by the Corps shall be signed by the District Engineer of the Jacksonville District. The notice submitted by a District shall be signed by the Chair of the Governing Board. The notice submitted by the Department shall be signed by the Secretary. By mutual agreement of all Parties, the 60 day notice period may be reduced. Within 30 days of a notice of intent to terminate this Agreement, all Parties shall make good faith efforts to preserve the Agreement by attempting to resolve any basis for the termination. This Agreement also may be terminated by future agreements between the Parties that ~~which~~ expressly supersede this Agreement.

Herschel T. Vinyard Jr.
Secretary
Florida Department of
Environmental Protection

9/4/12
Date

Lad Daniels
Chair, Governing Board
St. Johns River Water
Management District

4/10/12
Date

Joe Collins
Chair, Governing Board
South Florida Water
Management District

4/12/2012
Date

Donald J. Quincey, Jr.
Chair, Governing Board
Suwannee River Water
Management District

8-14-12
Date

Hugh M. Gramling
Vice Chair, Governing Board
Southwest Florida Water
Management District

5/22/12
Date

Alan M. Dodd
Colonel, U. S. Army
District Commander

9-4-12
Date

George Roberts
Chair, Governing Board
Northwest Florida Water
Management District

4/30/12
Date