
CULTURAL RESOURCES APPENDIX

**COLLIER COUNTY COASTAL STORM
RISK MANAGEMENT FEASIBILITY
STUDY**

COLLIER COUNTY, FLORIDA

APPENDIX H

JULY 2020



**U.S. Army Corps
of Engineers
Norfolk District**



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1011

November 20, 2018

Jason Aldridge
Deputy State Historic Preservation Officer
Florida Division of Historic Resources
R.A. Gray Building
500 S. Bronough Street
Tallahassee, FL 32399-0250

Re: Public NEPA Scoping Meeting and Request for NEPA Scoping Comments: Collier County Coastal Storm Risk Management Feasibility (CRSM) Study

Dear Mr. Aldridge,

While we will be sending further correspondence and information to the Florida Division of Historic Resources, we are including you in this invitation. This scoping letter is being promulgated by the U.S. Army Corps of Engineers (Corps) in compliance with public coordination requirements of the National Environmental Policy Act of 1969 (NEPA). The purpose of this correspondence is to formally initiate the scoping process as defined by 40 CFR 1501.7 for the Collier County Coastal Storm Risk Management (CSRSM) Feasibility Study. The Corps is the lead federal agency for this study and Collier County is the nonfederal sponsor. The study authority is Public Law 84-71, June 15, 1955 which authorizes an examination and survey of the coastal and tidal areas of the eastern and southern United States, with particular reference to areas where severe damages have occurred from hurricane winds and tides. The purpose of the project is to reduce potential damages caused by coastal storms and improve human safety and coastal resiliency in Collier County

The purpose of the scoping period is to commence the public process for the generation of a NEPA document to assess the effects of the alternatives associated with the Collier County CSRSM Feasibility Study. The NEPA document that will be prepared will be an Environmental Assessment for this study. Scoping will aid in determining the scope of the analysis and any potentially significant issues, including those involving cultural properties protected by Section 106 of the National Historic Preservation Act. This process will also help identify alternatives and information needed to evaluate alternatives.

At this time we are seeking NEPA scoping comments regarding the study, and a public scoping meeting is scheduled December 6, 2018 from 6 p.m. to 8 p.m. at the Collier County Administrative Bldg., 3299 Tamiami Trail East Bldg. F, 5th Floor Conference Room, Naples, FL 34112. The format of the meeting will be an open-house that will include informational poster boards. The public can attend any time during the meeting hours.

The study area covers the entire county, however the focus is on coastal flooding problems. A map of the approximate study area and project overview is provided in Attachment 1. . Potential measures being considered include but are not limited to the following: structural alternatives and non-structural alternatives (such as increase dune height, increase dune width, increase berm height, increase berm width, seawall behind beach, pump stations, breakwaters rip rap/ revetments, ring levee, elevate structures, hurricane evacuation, retreat based on elevation, revised building code for minimal elevations, buyouts, comprehensive evacuation plan, revised hurricane response plan, and revised emergency preparedness plan), and Natural

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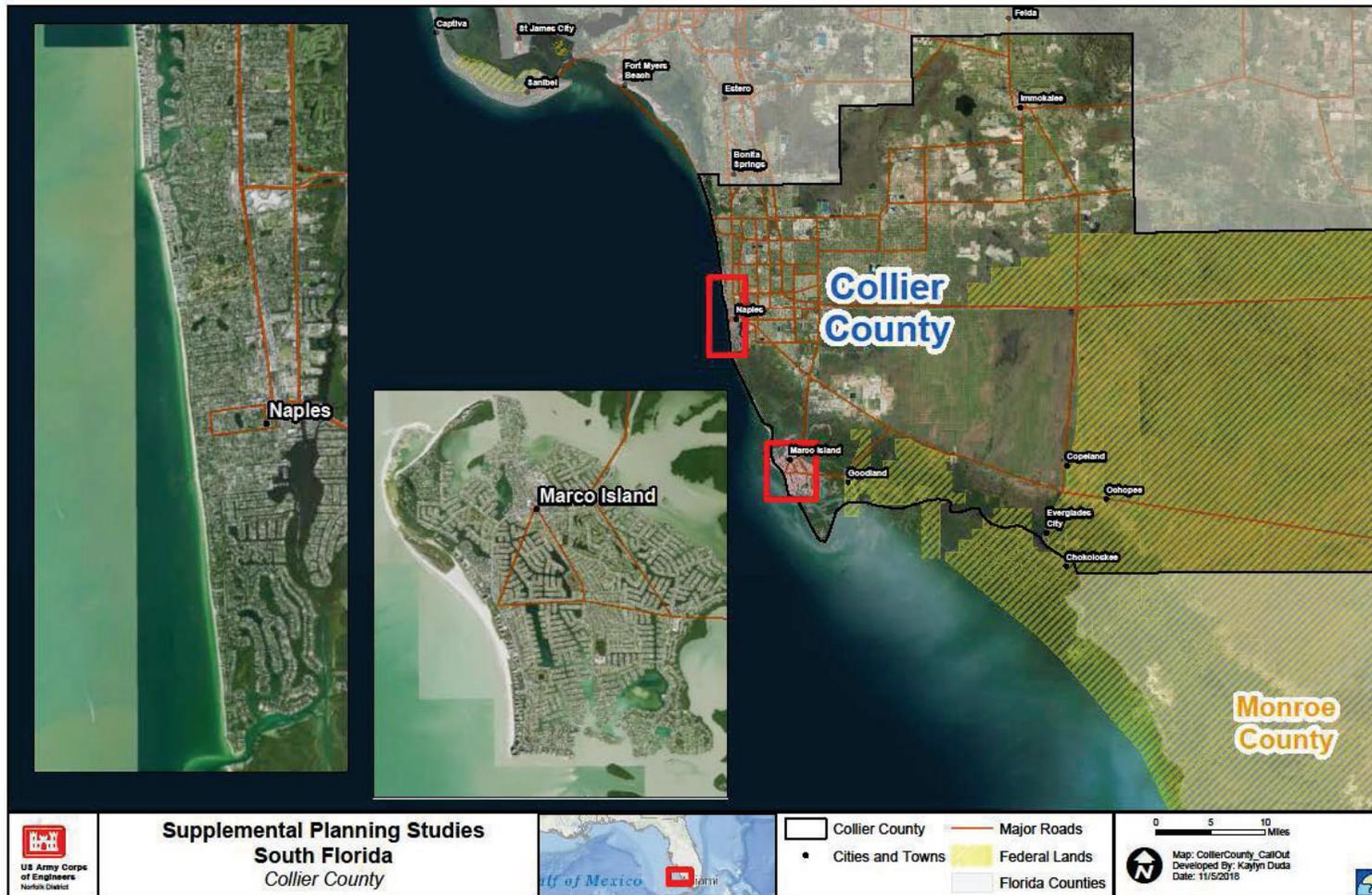
We welcome the Florida Division of Historic Resources's views, questions, comments, concerns and suggestions. Written scoping comments for the Collier County CSRМ Feasibility Study are to be provided no later than January 10, 2019. Written comments or inquiries regarding the Collier County CSRМ Feasibility Study should be addressed to John Haynes at the address above, by email at John.H.Haynes@usace.army.mil, or by telephone at 757-201-7008. Thank you in advance for your participation.

Sincerely,

HAYNES.JOHN.H
.JR.1271781624

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HAYNES.JOHN.H.JR.1271781624
DN: c=US, o=U.S. Government, ou=DoD,
ou=PKI, ou=USA,
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Date: 2018.11.20 17:01:21 -05'00'

John H. Haynes, Jr. RPA
U.S. Army Corps of Engineers, Norfolk District
Archaeologist & Tribal Liaison
Environmental Analysis Section
Planning and Policy Branch



Attachment 1: Map of the Approximate Study Area



**DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1011**

November 20, 2018

Billy Cypress
Chairman
Miccosukee Tribe of Indians
Tiamami Station
P.O. Box 440021
Miami, FL, 33144

Re: Public NEPA Scoping Meeting and Request for NEPA Scoping Comments: Collier County Coastal Storm Risk Management Feasibility (CRSM) Study

Dear Chairman Cypress,

This scoping letter is being promulgated by the U.S. Army Corps of Engineers (Corps) in compliance with public coordination requirements of the National Environmental Policy Act of 1969 (NEPA). The purpose of this correspondence is to formally initiate the scoping process as defined by 40 CFR 1501.7 for the Collier County Coastal Storm Risk Management (CRSM) Feasibility Study. The Corps is the lead federal agency for this study and Collier County is the nonfederal sponsor. The study authority is Public Law 84-71, June 15, 1955 which authorizes an examination and survey of the coastal and tidal areas of the eastern and southern United States, with particular reference to areas where severe damages have occurred from hurricane winds and tides. The purpose of the project is to reduce potential damages caused by coastal storms and improve human safety and coastal resiliency in Collier County

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and Nature-Based Features (such as mangrove plantings, reefs, vegetative dune plantings, and living shorelines).

We welcome the Miccosukee Tribe of Indians' views, questions, comments, concerns and suggestions on a government to government basis. Written scoping comments for the Collier County CSRМ Feasibility Study are to be provided no later than January 10, 2019. Written comments or inquiries regarding the Collier County CSRМ Feasibility Study should be addressed to John Haynes at the address above, by email at John.H.Haynes@usace.army.mil, or by telephone at 757-201-7008. Thank you in advance for your participation.

Sincerely,

HAYNES.JOHN.H
JR.1271781624

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John H. Haynes, Jr. RPA
U.S. Army Corps of Engineers, Norfolk District
Archaeologist & Tribal Liaison
Environmental Analysis Section
Planning and Policy Branch



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1011

November 20, 2018

Gregory Chilcoat
Chief
The Seminole Nation of Oklahoma
P.O. Box 1498
Wewoka, OK, 74884

Re: Public NEPA Scoping Meeting and Request for NEPA Scoping Comments: Collier County Coastal Storm Risk Management Feasibility (CRSM) Study

Dear Chief Chilcoat,

This scoping letter is being promulgated by the U.S. Army Corps of Engineers (Corps) in compliance with public coordination requirements of the National Environmental Policy Act of 1969 (NEPA). The purpose of this correspondence is to formally initiate the scoping process as defined by 40 CFR 1501.7 for the Collier County Coastal Storm Risk Management (CRSM) Feasibility Study. The Corps is the lead federal agency for this study and Collier County is the nonfederal sponsor. The study authority is Public Law 84-71, June 15, 1955 which authorizes an examination and survey of the coastal and tidal areas of the eastern and southern United States, with particular reference to areas where severe damages have occurred from hurricane winds and tides. The purpose of the project is to reduce potential damages caused by coastal storms and improve human safety and coastal resiliency in Collier County.

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We welcome the The Seminole Nation of Oklahoma's views, questions, comments, concerns and suggestions on a government to government basis. Written scoping comments for the Collier County CSRМ Feasibility Study are to be provided no later than January 10, 2019. Written comments or inquiries regarding the Collier County CSRМ Feasibility Study should be addressed to John Haynes at the address above, by email at John.H.Haynes@usace.army.mil, or by telephone at 757-201-7008. Thank you in advance for your participation.

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John H. Haynes, Jr. RPA
U.S. Army Corps of Engineers, Norfolk District
Archaeologist & Tribal Liaison
Environmental Analysis Section
Planning and Policy Branch



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1011

November 20, 2018

Marcellus Osceola Jr.
Chairman
Seminole Tribe of Florida
6300 Stirling Road
Hollywood, FL, 33024

Re: Public NEPA Scoping Meeting and Request for NEPA Scoping Comments: Collier County Coastal Storm Risk Management Feasibility (CRSM) Study

Dear Chairman Osceola,

This scoping letter is being promulgated by the U.S. Army Corps of Engineers (Corps) in compliance with public coordination requirements of the National Environmental Policy Act of 1969 (NEPA). The purpose of this correspondence is to formally initiate the scoping process as defined by 40 CFR 1501.7 for the Collier County Coastal Storm Risk Management (CRSM) Feasibility Study. The Corps is the lead federal agency for this study and Collier County is the nonfederal sponsor. The study authority is Public Law 84-71, June 15, 1955 which authorizes an examination and survey of the coastal and tidal areas of the eastern and southern United States, with particular reference to areas where severe damages have occurred from hurricane winds and tides. The purpose of the project is to reduce potential damages caused by coastal storms and improve human safety and coastal resiliency in Collier County

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We welcome the Seminole Tribe of Florida's views, questions, comments, concerns and suggestions on a government to government basis. Written scoping comments for the Collier County CSRМ Feasibility Study are to be provided no later than January 10, 2019. Written comments or inquiries regarding the Collier County CSRМ Feasibility Study should be addressed to John Haynes at the address above, by email at John.H.Haynes@usace.army.mil, or by telephone at 757-201-7008. Thank you in advance for your participation.

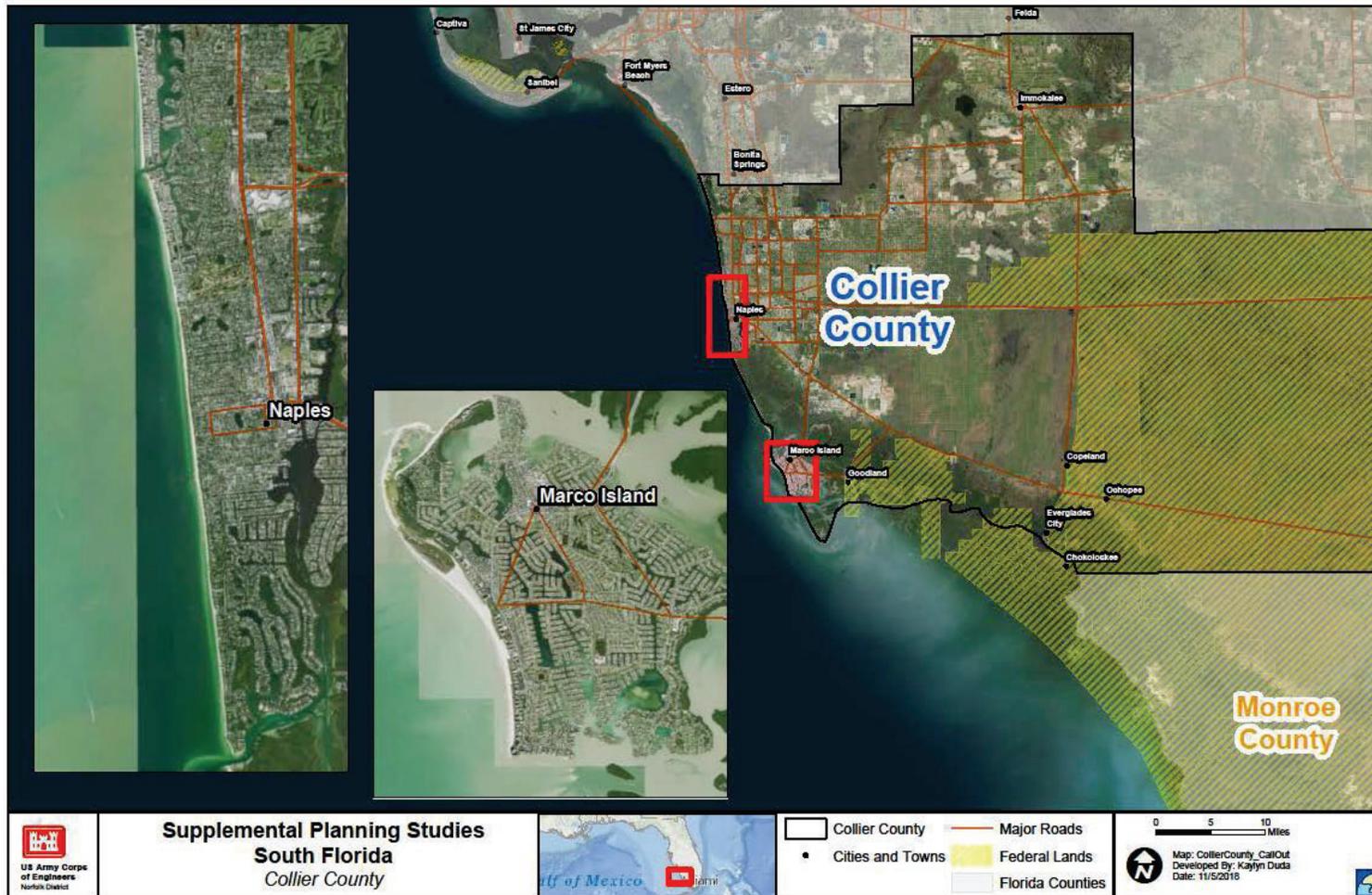
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HAYNES.JOHN.H.

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John H. Haynes, Jr. RPA
U.S. Army Corps of Engineers, Norfolk District
Archaeologist & Tribal Liaison
Environmental Analysis Section
Planning and Policy Branch



Attachment 1: Map of the Approximate Study Area



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

Mr. John H. Haynes, Jr. RPA
Archaeologist & Tribal Liaison
U.S. Army Corps of Engineers, Norfolk District
803 Front Street
Norfolk, VA 32510-1011

January 7, 2019

RE: DHR Project File No.:2018-6170, Received by DHR: November 28, 2018
Public NEPA Scoping Meeting and Request for NEPA Scoping Comments: Collier County
Coastal Storm Risk Management Feasibility (CRSM) Study

Mr. Haynes:

Thank you for notifying our office of the above mentioned study. It is our understanding that the purpose of this study will be to examine the specified area and provide recommendations for measures to reduce potential damages caused by coastal storms and improve human safety and coastal resiliency. The Corps notes that additional information as well as further consultation with our office will follow as project planning continues.

Our office has few specific comments at this time since there is limited information about possible recommended measures. However, we do look forward to working with the Corps to address how recommended measures may affect historic properties. While some recommended measures may cause adverse effects to historic properties, these measures may also help to mitigate coastal storm damage risk to historic properties. In particular, the Corps letter mentions the possibility of revising several local documents, including the building code, buyouts, comprehensive evaluation plan, revised hurricane response plan and revised emergency preparedness plan. Early discussion and planning for the different needs of historic properties may help to avoid or minimize potential adverse effects without compromising the overall goal of improving human safety and coastal resiliency.

Since there are numerous historic properties within Collier County, including the study area, it is important the Corps address a current inventory of historic properties for the area of potential effect. Our office can assist in this effort by sharing information available in the Florida Master Site File. Some recommended measures may require cultural resources assessment surveys to ensure historic properties are adequately identified and evaluated in those areas. Addressing changes in hydrology and water levels resulting from recommended measures will also be important in evaluating possible adverse effects to historic properties, especially for any archaeological sites which may be unnaturally inundated by those measures.

As mentioned above, our office looks forward to working with the Corps as planning for the feasibility study continues. Once more specific measures are identified, our office will provide additional comments

Division of Historical Resources
R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399
850.245.6300 • 850.245.6436 (Fax) FLHeritage.com

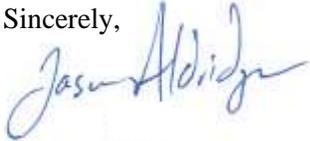


Mr. Haynes
DHR Project File No.: 2018-6170
January 7, 2019
Page 2

and recommendations.

If you have any questions, please contact me by email at Jason.Aldridge@dos.myflorida.com, or by telephone at 850-245-6344.

Sincerely,

A handwritten signature in blue ink that reads "Jason Aldridge". The signature is written in a cursive style with a large initial "J".

Jason Aldridge
Deputy State Historic Preservation Officer
for Compliance and Review

From: [Bradley Mueller](#)
To: [Schulte, David M CIV CENAO CENAD \(US\)](#)
Cc: [Haynes, John H Jr CIV USARMY CENAO \(USA\)](#); [David Echeverry](#); [Victoria Menchaca](#)
Subject: [Non-DoD Source] NEPA Scoping Comments - Collier County, Florida, Hurricane and Storm Damage Reduction Feasibility Study
Date: Monday, August 19, 2019 2:30:51 PM
Attachments: [image004.png](#)

August 19, 2019

Mr. David Schulte

Department of the Army,

U.S. Army Corps of Engineers Norfolk District

803 Front Street

Norfolk, Virginia 23510

Subject: NEPA Scoping Comments - Collier County, Florida, Hurricane and Storm Damage Reduction Feasibility Study

THPO Compliance Tracking Number: 0031594

Dear Mr. Schulte,

In response to the July 18, 2019 Federal Register notice regarding the Collier County, Florida, Hurricane and Storm Damage Reduction Feasibility Study, the Seminole Tribe of Florida through its Tribal Historic Preservation Office (STOF-THPO), Compliance Section would like to notify you of its desire to engage in consultation with the USACE pursuant to Section 106 of the National Historic Preservation Act and all other applicable laws, regulations, and agreements. We recognize that you are early in the process of preparing a feasibility study, but we are available anytime for a kick-off briefing. Thank you and feel free to contact us with any questions or concerns.

Respectfully,

Bradley M. Mueller, MA, Compliance Specialist

STOF-THPO, Compliance Review Section

30290 Josie Billie Hwy, PMB 1004

Clewiston, FL 33440

Office: 863-983-6549 ext 12245

Fax: 863-902-1117

Email: bradleymueller@semtribe.com <<mailto:bradleymueller@semtribe.com>>

Web: www.stofthpo.com

PROGRAMMATIC AGREEMENT AMONG THE UNITED STATES ARMY CORPS OF ENGINEERS, THE FLORIDA STATE HISTORIC PRESERVATION OFFICE, AND COLLIER COUNTY REGARDING THE COLLIER COUNTY, FLORIDA COASTAL STORM RISK MANAGEMENT PROJECT COLLIER COUNTY, FLORIDA

WHEREAS, the U.S. Army Corps of Engineers (Corps) and Collier County (County) have proposed to design and implement measures to reduce damages caused by flooding during coastal storms, an undertaking known as the Collier County, Florida Coastal Storm Risk Management Project (Project);

WHEREAS, The Corps has drafted a feasibility report and Environmental Impact Statement (EIS) for the Project wherein the Recommended Plan includes structural measures, such as surge barriers, tide gates, floodwalls, beach fill (dune and berms), and non-structural measures, such as building elevation, water proofing, and building acquisition/demolitions, all of which may result in effects on properties listed in or eligible for listing in the National Register of Historic Places (NRHP) includes the construction of a beach fill (dunes and berms), structural and non-structural solutions, and infrastructure upgrades;

WHEREAS, the Corps and the County have consulted with the Florida State Historic Preservation Office (SHPO) pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) (Section 106) and regulations implementing the National Environmental Policy Act;

WHEREAS, the Corps, in consultation with the SHPO, has established the Project's direct Area of Potential Effects (APE) as the areas where structural measures are implemented and non-structural measures are applied to historic properties as defined in 36 CFR §800.16(l) (as shown in Attachment A) and the visual APE as the area within which there may be historic properties within the view shed of both structural and non-structural measures;

WHEREAS, the Corps has determined that the Project constitutes an undertaking, as defined in 36 C.F.R. § 800.16(y), and therefore, is subject to Section 106 of the National Historic Preservation Act (NHPA) of 1966 (Section 106 of the NHPA), 54 U.S.C. § 306108;

WHEREAS, the Corps has determined that use of this agreement is a component of the NEPA process as defined by 40 CFR § 1508.21;

WHEREAS, due to the scope of the Project, the inability to gain access to private property at this stage, and the timing and budgetary constraints imposed by Section 1001 of the Water Resources Reform and Development Act of 2014 (Public Law 113-121), the Corps cannot conduct the necessary surveys to identify and evaluate cultural resources and determine effects of the Project prior to completing the appropriate National Environmental Policy Act (NEPA) documentation (EIS);

WHEREAS, the preliminary APE will be refined in the Preconstruction, Engineering and Design

(PED) phase of the Project which, along with Project construction, may be implemented in phases as funding and construction authority is provided

WHEREAS, as a result, efforts to identify and evaluate historic properties and the determination of effects from Project features and related consultation may be conducted over a period of multiple years when a design for each Project phase and/or feature is known;

WHEREAS, the Project will be constructed on property that is currently owned, or for which appropriate real estate interests will be acquired, by the County prior to construction;

WHEREAS, the entire project will be transferred to the County upon completion of all structural components;

WHEREAS, the Corps determined that the Project does not occur on or have the potential to affect historic properties on tribal lands;

WHEREAS, the Corps has determined that the Project has the potential to affect properties eligible for listing in the National Register of Historic Places (NRHP) and has consulted with the Florida State Historic Preservation Officer (SHPO), the Seminole Tribe of Florida, the Seminole Nation of Oklahoma, the Miccosukee Tribe of Indians of Florida, and the Thlopthlocco Tribal Town pursuant to Section 106 of the NHPA;

WHEREAS, cultural resource surveys have not been conducted within the Project's direct APE, as shown in Attachment A, and no recorded sites listed in or eligible for listing in the NRHP are within the Project's direct APE;

WHEREAS the Corps, in consultation with the SHPO and other Consulting Parties, has determined that the Project has the potential to cause adverse effects to cultural resources, which may be eligible for listing in the NRHP;

WHEREAS, the Corps and the County have consulted with the SHPO and the parties have agreed that, after construction of the Project, subsequent operations and maintenance undertakings associated with it would be considered separate undertakings with regard to Section 106;

WHEREAS, 36 CFR § 800.14(b)(1)[ii] allows federal agencies to fulfill their obligations under Section 106 through the development and implementation of programmatic agreements when effects on historic properties cannot be determined prior to approval of an undertaking;

WHEREAS, in accordance with 36 CFR § 800.2(c)(4), the Corps has invited the County to consult on and sign this Agreement as a Signatory Party;

WHEREAS, the Corps, with the concurrence of SHPO, has decided to comply with Section 106 of the NHPA for the undertaking, including all Project phases and/or features through the execution and implementation of this Agreement, following 36 C.F.R. § 800.14(b);

WHEREAS, in accordance with 36 CFR § 800.14(b), the Corps has notified the Advisory Council on Historic Preservation (ACHP) of its intention to develop this programmatic agreement (Agreement), pursuant to 36 CFR § 800.14(b)(1)(ii) (letter dated), and the ACHP has declined/elected to participate in the consultation (letter dated);

WHEREAS, in accordance with 36 CFR § 800.14(b)(2)(i), the Corps has invited the Miccosukee Tribe of Indians to consult on and sign this Agreement as Concurring Parties and the Miccosukee Tribe of Indians has accepted/has declined to participate/have not responded;

WHEREAS, in accordance with 36 CFR § 800.14(b)(2)(i), the Corps has invited the Seminole Tribe of Florida to consult on and sign this Agreement as Concurring Parties and the Seminole Tribe of Florida has accepted/has declined to participate/have not responded;

WHEREAS, in accordance with 36 CFR § 800.14(b)(2)(i), the Corps has invited the Seminole Tribe of Oklahoma to consult on and sign this Agreement as Concurring Parties and the Seminole Tribe of Oklahoma has accepted/has declined to participate/have not responded;

WHEREAS, in accordance with 36 CFR § 800.14(b)(2)(i), the Corps has invited the Thlopthlocco Tribe to consult on and sign this Agreement as Concurring Parties and the Thlopthlocco Tribe has accepted/has declined to participate/have not responded;

WHEREAS, in accordance with 36 CFR § 800.2(c)(5), the Corps has invited the Miami-Dade County Historic Preservation Commission to participate and they have accepted/have declined to participate/have not responded;

WHEREAS, in accordance with 36 CFR § 800.2(d) & 40 CFR § 1503, the Corps has solicited public comment on the Project through a public scoping meeting (held in on), a public meeting on the final array of alternatives (held in on), and a public meeting after publication of the draft Environmental Impact Statement (held in on);

NOW, THEREFORE, the Corps, the County, and the SHPO (Signatories) agree that the Project shall be implemented in accordance with the following stipulations in order to take into account the effects of the Project on historic properties.

STIPULATIONS

The Corps shall ensure that the following measures are carried out:

I. TIME FRAMES AND REVIEW PROCEDURES

For all final documents and deliverables produced in compliance with this Agreement, the Corps shall provide a hard copy of documents via mail to the Consulting Parties for review. If Consulting Parties agree, draft documents may be sent electronically for formal review and for communications amongst themselves for activities in support of this Agreement. Any written comments provided by the Consulting Parties within 30 calendar days from the date of receipt

shall be considered in the revision of the document or deliverable. The Corps shall document and report the written comments received for the document or deliverable and how comments were addressed. The Corps shall provide a revised final document or deliverable to the Consulting Parties. The Consulting Parties shall have 30 calendar days to respond. Failure of the Consulting Parties to respond within 30 calendar days of receipt of any document or deliverable shall not preclude the Corps from moving to the next step in this Agreement. A copy of the final document shall be provided to the Consulting Parties subject to the limitations in Stipulation VII (Confidentiality).

II. AREA OF POTENTIAL EFFECTS

A. Determination of the Preliminary Area of Potential Effects. The preliminary APE for the Project was determined by the Corps in consultation with the Consulting Parties. During the Collier County, Florida Coastal Storm Risk Management Study, the Corps screened multiple alternatives to select the least-costly plan that reasonably maximized environmental benefits for the Project. The preliminary APE is comprised of the Recommended Plan Project features and includes surge barriers, tide gates, floodwalls, and beach fill (dune and berm), as well as buildings identified for nonstructural measures as depicted on maps in Attachment A to this Agreement. Design and construction of the Project will occur in phases in which various components of the Project shall be funded for development separately. The Corps shall continue to refine and consult on the development of each phase of the Project, and consult on the APE for each Project feature during PED.

B. The Corps has determined that the Recommended Plan will potentially have an adverse effect on historic properties.

C. If the Corps revises the APE or an individual component of the APE, the Corps shall consult with the Consulting Parties on that revision in accordance with Stipulation I (Timeframes and Review Procedures). The Corps shall determine the potential for Project activities to affect historic properties in a revised APE in consultation with the Consulting Parties pursuant to 36 C.F.R. §§ 800.3 - 800.5. The Corps will inform the Consulting Parties of the final APE regardless of changes for each Project feature or component. If the Corps determines that changes to the APE will result in adverse direct, indirect, or cumulative effects to historic properties, the Corps shall consult on this finding of effect in accordance with Stipulation I (Timeframes and Review Procedures). Revisions to the APE will not necessitate amendments to this Agreement.

III. TREATMENT OF HISTORIC PROPERTIES

A. IDENTIFICATION AND EVALUATION

The Corps shall complete additional identification and evaluation of historic properties as early as practical, following Project authorization and funding, to assist in the avoidance and minimization of historic properties well in advance of Project construction. The Project archaeologist will begin consultation with the Consulting Parties regarding PED timeframes, cultural resources surveys, and proposed construction schedules within six (6) months of receiving funding at the Jacksonville District level. If the Project is funded by Project feature or

in phases, the Corps will inform the Consulting Parties and consult on the manner in which the Corps proposes to order the identification and evaluation of historic properties and make subsequent determination of effects for each Project phase or feature.

1. Identification of historic properties. An inventory of properties within the final APE, agreed to under Stipulation II, consistent with the Secretary of Interior's (SOI's) Standards and Guidelines for Archeology and Historic Preservation (48 F.R. 44716–44740) will be initiated for each Project phase or feature as construction details become available. The Corps shall submit research designs for proposed surveys including areas excluded from survey due to previous ground disturbance to Consulting Parties for review and comment consistent with Stipulation I (Timeframes and Review Procedures).

a. All cultural resources surveys and associated reporting will comply with all applicable guidelines and requirements specified in Florida Division of Historical Resources' (DHR's) Module Three, Guidelines for Use by Historic Preservation Professional. Survey recordation shall include features, isolates, and re-recordation of previously recorded sites, as necessary. The survey shall ensure that historic properties such as historical structures and buildings, historical engineering features, landscapes, viewsheds, and traditional cultural properties (TCPs), are recorded, in addition to archaeological sites. Recordation of historic structures, buildings, objects, and sites shall be prepared using the Florida SHPO Site File forms.

b. Cultural resources surveys will include those locations without substantial ground disturbance that have not been previously surveyed for historic properties. The Corps shall document and consult on areas of ground disturbance excluded from surveys during Consulting Party review of the survey research design.

c. The Corps shall submit identification and evaluation reports to Consulting Parties for review and comment consistent with Stipulation I (Timeframes and Review Procedures).

2. Determinations of Eligibility. The Corps shall determine NHRP eligibility based on identification and evaluation efforts, and consult with Consulting Parties regarding these determinations. Should any Consulting Party(s) disagree in writing to the Corps' findings of NRHP eligibility and/or findings of effect within a final document or deliverable, the Corps will immediately notify the Consulting Parties of the objection and proceed to consult with the objecting Party for a period of time, not to exceed 30 calendar days, to resolve the objection. Should the objecting Party(s) and the Corps be unable to agree on the issues to which the Consulting Party(s) has objected, the Corps shall proceed in accordance with Stipulation VIII (Dispute Resolution); or

a. Through mutual agreement of the Signatories, elect to consult further with the objecting Party(s) until the objection is resolved, or dispute resolution is exercised through the process set forth in Stipulation VIII (Dispute Resolution);

b. Treat the property as eligible for the National Register; or

c. Obtain a formal determination of eligibility from the Keeper of the National Register. The Keeper's determination will be final in accordance with 36 C.F.R. § 63.4.

B. DETERMINATION OF EFFECTS

The Corps may implement the Project in a phased approach as funding is appropriated and construction authority is provided, and, as a result, multiple identification surveys, historic property evaluations, and determinations of effects may result for each Project phase and/or feature. The Corps reserves the right to make separate determinations of effect for each Project phase and/or feature. The Corps will inform Consulting Parties during identification and evaluation efforts if separate determinations of effect are necessary. As necessary, the Corps will hold face-to-face consultations and provide technical expertise to assist Consulting Party review in the results of the cultural resource investigations, modifications to the APE, determination of effects, engineering details, and hydrological impacts of the Project or Project phase. If the Corps determines that changes to the APE will result in adverse direct, indirect, or cumulative effects to historic properties, the Corps shall consult on this finding of effect in accordance with Stipulation II.C.

1. Findings of No Historic Properties Affected.

a. Basis for Finding. The Corps shall make findings of "no historic properties affected" for each Project phase or construction feature under the following circumstances:

- i. If no historic properties are present in the APE; or
- ii. The Project phase or feature shall avoid effects to historic properties (including cumulative effects).

b. The Corps shall notify Consulting Parties of each finding and provide supporting documentation in accordance with 36 C.F.R. § 800.11(d). Unless a Consulting Party objects to a finding within 30 days, the Section 106 of the NHPA review of the specific Project phase or feature will have concluded.

c. If a Consulting Party objects within 30 days to a finding of "no historic properties affected," the Corps shall consult with the objecting Party to resolve the disagreement.

i. If the objection is resolved, the Corps either may proceed with the specific Project phase or feature in accordance with the resolution or reconsider effects on the historic property by applying the criteria of adverse effect pursuant to 36 C.F.R. § 800.5(a)(1).

ii. If the Corps is unable to resolve the disagreement, it will forward the finding and supporting documentation to ACHP and request that ACHP review the Corps' finding in accordance with the process described in Section VIII (Dispute Resolution). The Corps shall prepare a summary of its decision that contains the rationale for the decision and evidence of consideration of the ACHP's opinion, and provide this to the Consulting Parties. If the Corps' final determination is to reaffirm its "no historic properties affected" finding, the Section 106 review of the specific Project phase or feature will have concluded. If the Corps revises its finding, then it shall proceed to Stipulation III.B.2 or Stipulation III.B.3 (below).

2. Findings of No Adverse Effect.

If the Corps determines that a specific Project phase or feature will have an effect on historic properties but that that effect does not meet the adverse effect criteria, the Corps shall propose a finding of “no adverse effect” and consult with Consulting Parties in accordance with 36 C.F.R. § 800.5(b) and following steps a-c below.

- a. The Corps shall notify all Consulting Parties of its finding(s); describe any Project specific conditions and/or modifications required to the Project phase or feature to avoid or minimize effects to historic properties; and provide supporting documentation pursuant to 36 C.F.R. §800.11(e).
- b. Unless a Consulting Party objects within 30 days, the Corps will proceed with its “no adverse effect” determination and conclude the Section 106 of the NHPA review.
- c. If a Consulting Party objects within 30 days to a finding of “no adverse effect,” the Corps will consult with the objecting Party to resolve the disagreement.
 - i. If the objection is resolved, the Corps shall proceed with the Project phase or feature in accordance with the resolution; or
 - ii. If the objection cannot be resolved, the Corps shall request that ACHP review the findings in accordance with 36 C.F.R. § 800.5(c)(3)(i)-(ii) and submit the required supporting documentation. The Corps shall, pursuant to 36 C.F.R. § 800.5(c)(3)(ii)(B), prepare a summary of its decision that contains the rationale for the decision and evidence of consideration of the ACHP’s opinion, and provide this to the Consulting Parties. If the Corps’ final determination is to reaffirm its “no adverse effect” finding, the Section 106 of the NHPA review of the specific Project phase or feature will have concluded. If the Corps will revise its finding then it shall proceed to Stipulation III.B.3 below.

3.Avoidance and Minimization of Adverse Effects. Avoidance of adverse effects to historic properties is the preferred treatment approach. The Corps will consider redesign of elements of the Project phase or feature in order to avoid and/or minimize historic properties and Project effects that may be adverse. If the Corps determines that the Project phase or feature cannot be modified to avoid or minimize adverse effects, the Corps will make a determination of “adverse effect”.

4.Determination of Adverse Effects. If the Corps determines that a specific Project phase or feature may adversely affect a historic property, it shall notify the Consulting Parties of the determination, document why the effect cannot be avoided, outline the alternatives considered to avoid and to minimize adverse effects, and consult to resolve the effects as outlined in Section III.C Historic Properties Treatment Plan.

C.HISTORIC PROPERTIES TREATMENT PLAN

If the Corps determines that Project activities will result in adverse effects to historic properties, the Corps, in coordination with the Consulting Parties, shall develop a Historic Properties Treatment Plan (HPTP) to resolve adverse effects resulting from the Project or a specific Project phase or feature. If necessary, a HPTP will also provide recommendations for the management of historic properties that are identified during this Project and which are located within long-term routine operations and maintenance areas for the Project. A HPTP would be developed after the Corps notifies the Consulting Parties of a determination of “adverse effect” for a particular Project feature or phase, but before construction of the feature or phase. With written acknowledgement by the signatories, a

HPTP would be appended to this Agreement without amending the Agreement. The use of a HPTP to resolve adverse effects resulting from the Project shall not require the execution of an individual Memorandum of Agreement or Programmatic Agreement.

A HPTP shall identify the historic properties including any TCPs, located within the APE. A HPTP shall only apply to historic properties that have been evaluated for eligibility for inclusion in the NRHP. A HPTP shall outline the minimization and mitigation measures necessary to resolve the adverse effects to historic properties. Proposed mitigation measures may include, but are not limited to, historic markers, interpretive brochures, data recovery, and publications, and other forms of creative mitigation depending on their criterion for eligibility. Development of appropriate measures shall include consideration of historic property types and provisions for avoidance or protection of historic properties where possible. The HPTP shall include a general schedule of work for each Project phase or feature, and provide a schedule of key Project milestones, and decision points at which to discuss opportunities for Project modification(s) with Consulting Parties.

A HPTP shall define the process and conditions under which archaeological site monitoring is appropriate. A HPTP will outline the curation process and storage criteria for all artifacts and data recovered from historic properties listed in this document. A HPTP will detail the means and methods of public outreach and dissemination of the results of data recoveries excavations to the general public. Where possible, and when agreed upon by Consulting Parties, the Corps shall avoid excavation of known burial locations and utilize creative or non-traditional means to mitigate adverse impacts to burial sites if they cannot be avoided. A HPTP will confirm the process for managing discovery of human remains per the *Burial Resource Agreement between the Jacksonville District, U.S. Army Corps of Engineers, and the Seminole Tribe of Florida Regarding Proposed Actions that May Adversely Affect American Indian Burial Resources* (See Attachment C) and/or the procedures outlined in Florida Statute Chapter 872 (2018), as appropriate.

1. Review. The Corps shall submit a draft HPTP to the Consulting Parties for review and comment pursuant to Stipulation I (Timeframes and Review Procedures). Following SHPO concurrence with the HPTP, all Consulting Parties will be provided with final HPTPs which will be appended to this Agreement and implemented in a manner consistent with the procedures outlined in this Agreement.
2. Reporting. Reports and other data pertaining to the treatment of effects to historic properties will be distributed to Consulting Parties and other members of the public, consistent with Stipulation VII (Confidentiality) of this Agreement, unless a Consulting Party indicated through consultation that they do not want to receive a report or data. Reports will be consistent with the procedures outlined in the guidelines and requirements specified in Florida DHR's Module Three, *Guidelines for Use by Historic Preservation Professional*.
3. Amendments/Addendums/Revisions. If a historic property that is not covered by an existing HPTP is discovered within the APE subsequent to the initial inventory effort, or if there are previously unanticipated effects to a historic property, or if the Consulting Parties agree that a modification to the HPTP is necessary, the Corps shall prepare an addendum to the HPTP. If necessary, the Corps shall then submit the addendum to the Consulting Parties and follow the provisions of Stipulation I (Timeframes and Review

- Procedures). The HPTP may cover multiple discoveries for the same property type.
4. Data Recovery. When data recovery is proposed, the Corps, in consultation with the Consulting Parties, shall ensure that specific Research Designs are developed consistent with the SOI's *Standards and Guidelines for Archaeology and Historic Preservation*, follow guidelines and requirements specified in Florida DHR's Module Three, *Guidelines for Use by Historic Preservation Professional*, and the ACHP's "Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites" (ACHP, May 18, 1999).
 5. Final Report Documenting Implementation of the HPTP. Within one year after the completion of all construction for the Project, the Corps shall submit to the Consulting Parties a Final Report documenting the results of all work prepared under the HPTP, and the information learned from each of the historic properties. The Corps may extend this period through written consent of the Consulting Parties. The submittal of the Final Report shall be in accordance with Stipulation I and VII (Timeframes and Review Procedures and Confidentiality).

IV. QUALIFICATIONS

- A. Professional Qualifications. All key personnel for technical work and specialized analysis (i.e. Principal Investigator, Project Manager, Bioarchaeologist/Osteologist, and Field Director) required for historic preservation activities implemented pursuant to this Agreement shall be carried out by or under the direct supervision of a person or persons meeting, or exceeding the SOI's *Historic Preservation Professional Qualification Standards* as specified in 36 C.F.R. Part 61 for archeology or history, as appropriate (48 F.R. 44739). In addition, at least one individual supervising in the field will have a graduate degree in archaeology, anthropology, or a closely related field or equivalent, and substantive experience in conducting archaeological research and fieldwork in the state of Florida. This individual will have at least one year of experience or specialized training in the type of activities the individual will supervise. Bioarchaeologist/Osteologist means a person who possesses a postgraduate degree in human skeletal biology, human forensic osteology, or other related area of physical anthropology and who has a minimum of 1 year of laboratory experience in human skeletal analysis and reconstruction. "Technical work" here means all efforts to inventory, evaluate, and perform subsequent treatment such as data recovery excavation or recordation of potential historic properties that is required under this Agreement. This stipulation shall not be construed to limit peer review, guidance, or editing of documents by SHPO and associated Project consultants.
- B. Historic Preservation Standards. Historic preservation activities carried out pursuant to this Agreement shall meet the SOI's *Standards and Guidelines for Archaeology and Historic Preservation* (48 F.R. 44716-44740, September 29, 1983), as well as standards and guidelines for historic preservation activities established by the Florida SHPO. The Corps shall ensure that all reports prepared pursuant to this Agreement will be provided to the Consulting Parties, and are distributed in accordance with Stipulation VII (Confidentiality), and meet published standards of the Florida SHPO, specifically, Module Three, *Guidelines for Use by Historic Preservation Professional*.

V. TREATMENT OF HUMAN REMAINS

Human remains and grave goods encountered during any Project phase or component that are located on non-federal lands will be treated in accordance with the requirements in the *Agreement Between the Jacksonville District, U.S. Army Corps of Engineers, and the Seminole Tribe of Florida Regarding Proposed Actions that May Adversely Affect American Indian Burial Resources* (See Attachment C) and/or procedures outlined in Florida Statute Chapter 872 (2018), as appropriate. No portion of this Project will be constructed on Federal lands. If it is subsequently determined that the Project will occur on Federal lands, then applicable Federal laws will apply

VI. PUBLIC COORDINATION AND PUBLIC NOTICE

The interested public will be invited to provide input during the implementation of this Agreement. The Corps shall carry this out through letters of notification, public meetings, environmental assessment/environmental impact statements, site visits and/or other appropriate methods. The Corps shall ensure that any comments received from members of the public are taken under consideration and incorporated where appropriate. Review periods shall be consistent with Stipulation I (Timeframes and Review Procedures). In seeking input from the interested public, locations of historic properties will be handled in accordance with Stipulation VII (Confidentiality). In cases where the release of location information may cause harm to the historic property, this information will be withheld from the public in accordance with Section 304 of the NHPA (54 U.S.C. § 307103).

VII. CONFIDENTIALITY

Signatories to this Agreement acknowledge that historic properties are subject to the provisions of Section 304 of the NHPA (54 U.S.C. § 307103) and 36 C.F.R. § 800.11(c), relating to the disclosure of information about the location, character or ownership of a historic property, and will ensure that any disclosure of information under this Agreement is consistent with the terms of this Agreement and with Section 304 of the NHPA, 36 C.F.R. § 800.11(c), and the Freedom of Information Act (5 U.S.C. § 552), as amended. Confidentiality regarding the specific nature and location of the archaeological sites and any other cultural resources discussed in this Agreement shall be maintained to the extent allowable by law. Dissemination of such information shall be limited to appropriate personnel within the Corps (including their contractors), the Signatories, Consulting Parties and those parties involved in planning, reviewing, and implementing this Agreement. When information is provided to the Corps by SHPO or others who wish to control the dissemination of that information more than described above, the Corps will make a good faith effort to do so, to the extent permissible by federal law.

VIII. DISPUTE RESOLUTION

- A. Should any Signatory to this Agreement object in writing to any action proposed or carried out pursuant to this Agreement, the Corps will immediately notify the Consulting Parties

of the objection and proceed to consult with the objecting Party for a period of time, not to exceed 30 calendar days, to resolve the objection. If the objection is resolved through consultation, the Corps may authorize the disputed action to proceed in accordance with the terms of such resolution. If the Corps determines that such objection cannot be resolved, the Corps will:

1. Forward all documentation relevant to the dispute, including the Corps' proposed resolution, to the ACHP. The ACHP shall provide the Corps with its advice on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Corps shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the Consulting Parties, and provide them with a copy of the written response. The Corps will then proceed according to its final agency decision.
2. If the ACHP does not provide its advice regarding the dispute within the 30 day time period, the Corps may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Corps shall prepare a written response that takes into account any timely comments regarding the dispute from the Consulting Parties to the Agreement, and provide them and the ACHP with a copy of such written response.
3. The Corps' responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

- B. Objection by the Public. At any time during implementation of the measures stipulated in this Agreement, should an objection pertaining to the Agreement be raised by a member of the public, the Corps shall notify the Consulting Parties and take the objection under consideration, consulting with the objecting Party and, should the objecting Party request, any of the Consulting Parties to this Agreement, for no longer than 15 calendar days. The Corps shall consider the objection, and in reaching its decision, will consider all comments provided by the other Consulting Parties. Within 15 calendar days following closure of the comment period, the Corps will render a decision regarding the objection and respond to the objecting Party. The Corps will promptly provide written notification of its decision to the other Consulting Parties, including a copy of the response to the objecting Party. The Corps' decision regarding resolution of the objection will be final. Following issuance of its final decision, the Corps may authorize the action that was the subject of the dispute to proceed in accordance with the terms of that decision. The Corps' responsibility to carry out all other actions under this Agreement shall remain unchanged.

IX. NOTICES

All notices, demands, requests, consents, approvals or communications from all parties to this Agreement to other parties to this Agreement shall be either personally delivered, sent by United States Mail, or electronic mail, and all Parties shall be considered in receipt of the materials five (5) calendar days after deposit in the United States mail or on the day after being sent by electronic mail.

If Consulting Parties agree in advance, in writing or by electronic mail, facsimiles, copies, or electronic versions of signed documents may be used as if they bore original

signatures.

If Consulting Parties agree, electronic documents and/or electronic communications may be used for formal communication amongst themselves for activities in support of Stipulation I (Time Frames and Review Procedures).

X. AMENDMENTS, TERMINATION, AND DURATION

- A. Amendment. Any Signatory Party to this Agreement may propose that the Agreement be amended, whereupon the Corps shall consult with the Signatories to consider such amendment. This Agreement may be amended when such an amendment is agreed to in writing by all Signatories. The amendment will be effective on the date it is signed by all Signatories.

All appendices to this Agreement, and other instruments prepared pursuant to this Agreement including, but not limited to, the maps of the APE, may be revised or updated by the Corps through consultation consistent with Stipulation I (Timeframes and Review Procedures) and agreement in writing of the Signatories without requiring amendment of this Agreement, unless the Signatories through such consultation decide otherwise. In accordance with Stipulation VI (Public Coordination and Public Notice), the Signatories and interested members of the public, will receive amendments to the Project's APE as appropriate, and copies of any amendment(s) to the Agreement.

- B. Termination. Any Signatory to this Agreement may terminate this Agreement. If any Signatory proposes termination of this Agreement, the Signatory proposing termination shall notify the other Signatories in writing, explain the reasons for proposing termination, and consult with the other Signatories to seek alternatives to termination.
1. The Corps shall consult with the Signatories for a period not to exceed 30 calendar days to resolve the termination request.
 2. Should such consultation result in an agreement on an alternative to termination, the Signatories shall proceed in accordance with that agreement and amend the Agreement as required.
 3. Should such consultation fail, the Signatory proposing termination may terminate this Agreement by promptly notifying the other Signatories in writing.
 4. Beginning with the date of termination, the Corps shall ensure that until and unless a new agreement is executed for the actions covered by this Agreement, such Project phase and/or feature shall be reviewed individually in accordance with 36 C.F.R. § 800.4-800.7.

Duration. Unless terminated prior, this Agreement shall remain in effect until such time as the legal requirements for Section 106 are completed or until the end of the fifteen (15) year period beginning on the date the Agreement is signed by all Signatories, whichever is earlier. Six (6) months prior to the end of such fifteen (15) year period, the USACE shall consult with the other Signatories and Consulting Parties to reconsider the terms of the Agreement and, if necessary, amend it in accordance with Stipulation X.A. above.

XI. MONITORING AND REPORTING

Each year following the execution of this Agreement until it expires or is terminated, the Corps shall provide all parties to this Agreement and the ACHP a summary memorandum detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the Corps' efforts to carry out the terms of this Agreement.

XII. EFFECTIVE DATE

This Agreement shall take effect on the date that it has been fully executed by the Corps, the SHPO, and the ACHP.

XIII. EXECUTION

Execution and the implementation of its terms of this Agreement by the Corps, the SHPO, and the ACHP evidence that the Corps has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES TO THE PROGRAMMATIC AGREEMENT AMONG THE UNITED STATES ARMY CORPS OF ENGINEERS, THE FLORIDA STATE HISTORIC PRESERVATION OFFICE, AND COLLIER COUNTY REGARDING THE COLLIER COUNTY, FLORIDA COASTAL STORM RISK MANAGEMENT PROJECT, COLLIER COUNTY, FLORIDA:

U.S. ARMY CORPS OF ENGINEERS, JACKSONVILLE DISTRICT

BY: _____

DATE: _____

Andrew D. Kelly, Jr.
Colonel, U.S. Army
District Commander

SIGNATORIES TO THE PROGRAMMATIC AGREEMENT AMONG THE UNITED STATES ARMY CORPS OF ENGINEERS, THE FLORIDA STATE HISTORIC PRESERVATION OFFICE, AND MIAMI-DADE COUNTY REGARDING THE MIAMI-DADE BACK BAYS COASTAL STORM RISK MANAGEMENT PROJECT, DADE COUNTY, FLORIDA:

FLORIDA STATE HISTORIC PRESERVATION OFFICE

BY: _____

DATE: _____

Timothy A. Parsons,
State Historic Preservation Officer

INVITED SIGNATORY:

Collier County

By: _____ Date: _____
County Manager

CONCURRING PARTIES:

ATTACHMENT A
AREAS OF POTENTIAL EFFECT AND NRHP PROPERTIES