

**INDIAN RIVER COUNTY, FLORIDA  
MEMORANDUM**

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**TO:** Jason E. Brown, County Administrator

**THROUGH:** Richard B. Szyrka, P.E., Public Works Director

**FROM:** Eric Charest, Natural Resources Manager

**SUBJECT:** Sector 7 Beach and Dune Restoration Project Easement Status  
and Project Recommendations

**DATE:** February 21, 2022

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**DESCRIPTION AND CONDITIONS**

Since 2018, County staff and project consultants have been actively working at designing, monitoring and permitting the Sector 7 Beach and Dune Restoration Project, as well as obtaining the easements necessary for the project to be deemed viable, cost effective, and constructible. Staff had previously presented information to the Board of County Commissioners (BCC) regarding the need for high percentages of signed easements for a successful project. At the July 14, 2020 regularly scheduled County Commission meeting, the BCC concurred with staff that a 90% or greater number of signed easements would be targeted as the goal in order for the Sector 7 Beach and Dune Restoration Project to move forward with construction.

On July 26, 2020, the County advertised the Sector 7 Beach and Dune Restoration project for competitive bid solicitation. Two (2) bids were received meeting the qualification of the project, but at the time of award on September 22, 2020, it was determined that since only 50% of the targeted easements had been obtained that the project would be delayed for 1 year. This delay pushed on-beach construction to the November 2021 to April 2022 construction season. Staff was directed to use this delay to continue pursuing easement agreements with those property owners not currently recognized as having a recorded easement allowing for construction. Additionally, staff was directed to reach out to those agencies providing funds to assist the County in covering the cost of the project (FEMA and the Florida Department of Environmental Protection) to inform them of the delay and seek extensions to the funding.

County staff, on July 6, 2021, brought before the BCC an update on the Sector 7 Beach and Dune Restoration project. This update showed an increase in the number of easements obtained by staff within the project area during the initial delay. This update showed the number of recorded easements jumping up from 41 (50%) back on September 22, 2020 up to 51 (62%) on July 6, 2021. As large-scale beach and dune nourishment projects require extensive pre- and post-construction monitoring, the timing of this presentation coincided with a deadline for required pre-construction activities to begin.

At that July 6, 2021 BCC meeting, Staff presented the BCC with four (4) options for the Sector 7 Beach and Dune Restoration Project. After lengthy discussion, the BCC, in agreement with the recommended approach from the Beach and Shores Preservation Advisory Committee (BSPAC), directed staff to delay the Sector 7 Beach and Dune Restoration Project another year, with construction now slated for the November 2022 through April 2023 construction season. Additionally, staff was directed to work with the funding agencies to secure another extension to the funding offered.

The purpose of this current Sector 7 Beach and Dune Restoration Project update is to provide the BCC with the current status of the easements within Sector 7 and to request guidance on the project. In order for on-beach construction to start this upcoming season (November 2022 through April 2023), pre-construction monitoring must commence in upcoming spring/summer timeframe. This pre-construction monitoring is estimated to cost in excess of \$250,000.00. In addition to pre-construction monitoring, modifications to the permitted fill templates will be required in advance of any beach nourishment activities, along with bidding and award consultant services. Many of these monitoring and design/permitting/bidding efforts are a duplication of tasks completed two years ago in advance of the expected 2020/2021 construction season which was put on hold due to the lack of easements obtained.

Below is a summary of the Sector 7 Beach and Dune Restoration Project easements (as of 02/21/2022):

Properties	#	%	Targeted %
Granted Easements	54	66%	90%
Signed Easements Under Review/ Recording (In-Process)	1	1%	
Denied Easement – No Sand	15	18%	
Pending Responses	12	15%	

The County has continued to pursue obtaining the required easements by individually targeting the property owners that had yet to reply to repeated easement agreement requests, and by approaching new owners of properties previously responding with a denied easement. Additionally, local homeowner groups, spurred on by the desire to have their associations benefit from the placement of sand providing storm protective measures, reached out to those same property owners in an attempt to garnish an easement for the project, or gain an understanding as to the reasons for their non-participation. However, because denied easements currently account for 18% of the total easements, the targeted approval rate of 90% is currently unattainable. Assuming all pending responses grant easements, the highest approval rate that could be obtained is 82% which does not constitute a viable project.

It is important to note that prior to the Sector 7 Beach and Dune Restoration project being put on hold multiple times, the County has spent more than \$600,000 on the design, permitting and pre-construction monitoring that is required of a project of this magnitude. In addition, countless staff hours have been spent trying to obtain the easements necessary for a successful project.

County staff had also arranged to rent property in the immediate vicinity of the Sector 7 project area for the anticipated 2020/2021 Sector 7 construction project to be used as a means for ingress and egress for nourishment related activities on the beach (approved by BCC on 7/14/2020). This property has since been sold and the agreement is no longer in place. The closest public access to the Sector 7 project area is approximately 1.8 miles to the south (Round Island Beach Park) which may require that off-road dumps travel seaward of the mean high-water line from Round Island to the project area in order to deliver sand.

The County is currently faced with the need to begin an additional round of pre-construction monitoring in order to assess current field conditions prior to the 2022/2023 construction window. As the current number of recorded easements falls short of the Board directed 90% value, Staff is seeking direction from the BCC on next steps.

**FUNDING**

Funding for the Sector 7 Beach and Dune Restoration Project was included in the FY 20/21 budget in the amount of \$9,900,000.00. An increase to this amount up to \$11,000,000.00 had been requested in the FY 21/22 budget year reflecting projected market adjustments. That amount is expected to increase to over \$12,000,000.00 based on market conditions for the upcoming FY 22/23 construction year.

Should staff be directed to request another extension to available funding, and should the agencies grant the extension, partial funding for the Sector 7 Beach and Dune Restoration Project may be made available through FEMA funding as shown in the table below. Additionally, insurance proceeds and FDEP Local Governmental Funding Requests (LGFR) grants are also made available for this project.

SECTOR 7	
FEMA Hurricane Matthew	\$1,725,896.18
FEMA Hurricane Irma	\$382,033.74
FEMA Hurricane Dorian	\$2,145,296.13
FDEP Grants	19IR2 \$307,538.00
Insurance Proceeds	\$1,372,843.91
Total Funding	\$5,933,607.96

If a sufficient number of easements are not obtained, constructability of the project may still not be viable and the construction commencement date of November 1, 2022 may not be possible.

**AVAILABLE OPTIONS**

As the current percentage of executed easements for the Sector 7 Beach and Dune Restoration Project is below the targeted amount of 90%, with the current executed easements representing 66% of the necessary project easements, staff is seeking guidance from the BCC as to how to proceed with the Sector 7 Beach and Dune Restoration Project knowing that required pre-construction monitoring related expenses in the amount of \$250,000.00 are anticipated to be incurred over the spring/summer, well in advance of any on-beach related construction activity beginning on or after November 1, 2022.

The following options are available:

- Option 1: While seeking the remaining easements necessary for a viable project, perform pre-construction monitoring in accordance with permit conditions and adjust permit templates accordingly. Prepare bid documents and advertise in July, with a bid opening in September. Prior to award of bid, come back to the BCC to reassess the number of easements obtained in order to determine constructability of the project. It is estimated that this approach could cost in excess of \$250,000.00 and still may not yield a constructible project based on lack of easements. However, at this time the County has no viable access to the Sector 7 beach which will make the project expensive.
  
- Option 2: Determine the project to not be constructible in the FY 2022/2023 construction window and do not pursue pre-construction monitoring at this time. As the permits for the Sector 7 Beach and Dune Restoration Project are valid for 15 years, staff can once again seek extensions on the funding currently available (FDEP LGFR Grant and FEMA funds) and potentially pursue construction in the 2023/2024 construction window. However, as the

project seems to be at an impasse based on lack of sufficient stakeholder support, the funding agencies may claim that no additional extensions are warranted. Additionally, staff will continue to try and solve the beach access issue as the County has no viable access to the Sector 7 beach.

Option 3: Determine the project to not be constructible at all based on lack of sufficient stakeholder support in signing the easements and beach access not being available. This approach would require that both FEMA funding and the FDEP Grant funds be surrendered by the County, and any future projects that may be sought would be subject to being funded solely by the County should no additional funding sources be found.

### **RECOMMENDATION**

Staff recommends Option 3 to the Board. The easement issue is at an impasse and while staff continues to reach out to property owners to obtain easements, there is very little chance that the County will obtain enough easements to make the project viable. Additionally, staff has been unable to locate property that could be used for construction access to the Sector 7 beach, thereby substantially increasing the cost for the project even if easements are obtained.

### **APPROVED AGENDA ITEM FOR MARCH 8, 2022**