

**INDIAN RIVER COUNTY, FLORIDA
MEMORANDUM**

TO: Jason E. Brown, County Administrator

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

FROM: Eric Charest, Natural Resources Manager

SUBJECT: Sector 3 (IRC-1925) and Sector 7 (IRC-1926) Beach and Dune Restoration Project easement status update

DATE: June 15, 2020

DESCRIPTION AND CONDITIONS

On January 9, 2018, the Indian River County Board of County Commissioners (BCC) approved contracts with APTIM Environmental & Infrastructure, Inc. (APTIM) and Coastal Technology Corporation (Coastal Tech) for professional coastal engineering and biological support services related to the management and nourishment of the Sector 3 (Wabasso Beach) and Sector 7 (Porpoise Point) beach project areas (RFQ#2018006 and RFQ#2018007) respectively. Since that date, both organizations have been working on the design and permitting aspects on their respective projects.

The Sector 3 and Sector 7 Beach and Dune Restoration projects will add beach compatible sand along the dune and berm, resulting in a wider beach. Most sand will be placed seaward of the Mean High Water Line (MHWL), but a portion of the sand may be placed on the beach landward of the MHWL and seaward of the dune line, which is private property. In order to proceed with the sand fill project on these sections of private property, the County requires a beach management and assessment easement from property owners of beachfront parcels in the project areas. The easement is a standard requirement whenever a public agency places sand on a private beach as part of a beach restoration project. Without the signed easement, some sand will still be deposited seaward of the MHWL, but will not be placed on the private section of beach and will be sloped downward to the edge of the property at the MHWL resulting in less viable nesting habitat for sea turtles and a hole within the project. Granting of the easement allows the County to match the property's topography with the rest of the beach fill design as envisioned in the engineering plans and allow the integrity of the project to persist throughout the project area. Granting of the easement also provides the maximum storm protection benefits to each of these properties. It is important to collect each of the necessary easements to ensure the integrity of the project and maximum storm protection along our beaches and to also ensure federal cost share funds for each of these projects.

Concurrent with the design and permitting work being done by APTIM and Coastal Tech for their respective beach projects, the BCC approved Work Order No. 9 with Morgan and Eklund, Inc. (M&E) on January 22, 2019 for professional Land Surveying services to prepare and/or update legal descriptions and sketches for the approximate 270 parcels adjoining the Sectors 3 and 7 Erosion Control Line/Mean High Water line. These description and sketches are required

in order for the County to seek the easements that will allow nourishment projects to place sand fill on private property.

- SECTOR 3 BEACH AND DUNE RESTORATION PROJECT AREA

On March 5, 2019, the County entered into Work Order No. 2018006-5 with APTIM for that firm to coordinate obtaining construction easements for the affected property owners within the Sector 3 Beach and Dune Restoration project area using the documents supplied by the County through the M & E Work Order No. 9. The APTIM Work Order anticipated a second mailing and follow-up on the construction easements requests would be required due to an anticipated 50% unresponsive rate on the initial mailing.

APTIM coordinated with County staff and reviewed easement descriptions supplied by M&E from March until June 2019. The initial mailing of the Sector 3 construction easement requests performed by APTIM occurred between July 2019 and December 2019.

Responses were received by the County and verified for proper execution and recorded where possible. In instances of improper execution, County staff attempted to reach out to the property owner and explain the issue and seek re-execution. As of June 11, 2020, County staff have received and recorded 39 properly executed easement agreements for the Sector 3 project area, with an additional 28 easements that are in process of recording/review. An additional 24 parcels are made up of County, State or Federal owned Public Lands in which a letter of authorization for sand placement is anticipated. The properties allowing sand placement represent 48.4% of the targeted responses. Three (3) properties within the Sector 3 project area have denied the easement request, and will therefore not be receiving sand.

SECTOR 3			
Properties	188		
Granted Easements	39		
Indian River County Properties	10		
Federal or State owned Public Lands	14		
Intent to Grant Easement (in process)	28	Easements pending or Acquired (%)	48.40%
Denied Easement - No Sand	3		
Pending Responses	94		

As of June 11, 2020

For those remaining 94 parcels in which easement agreements have not yet been received, County staff have performed a secondary mailing (February through May 2020), utilizing certified mail through the United States Postal Service in an attempt to obtain confirmation that the intended recipient receives the easement agreement package. Staff have fielded inquiries regarding the easement agreements and have clearly answered any and all questions.

A third round of mailings for the Sector 3 parcels that we have not received any response from is currently underway by staff. Staff will also be following up with any additional forms of communication available to reach out to the parcel owners regarding the easement agreements.

- SECTOR 7 BEACH AND DUNE RESTORATION PROJECT AREA

Work Order 2018007-2 was entered into with Coastal Tech on January 22, 2019 in order for Coastal Tech to acquire executed construction easements within the Sector 7 Beach and Dune Restoration project area that will allow the placement of sand fill on private property. Coastal Tech was furnished legal descriptions and sketches for the required easements by the County through work performed by Morgan and Eklund, Inc. The Coastal Tech Work Order anticipated a second mailing and follow-up would be required to obtain the required easements due to an estimated 70% unresponsive rate anticipated from the initial mailing.

Coastal Tech coordinated with County staff and reviewed 82 easement descriptions supplied by M&E, with the initial mailing by Coastal Tech of the 82 Sector 7 construction easement requests taking place in May of 2019. Return addresses for the easement requests were directed to the County offices where each received easement was validated and recorded, or further processed for additional information/correction. Twenty-seven (27) properties received a second mailing performed by Coastal Tech in late July/early August 2019.

Responses were received by the County and verified for proper execution and recorded where possible. In instances of improper execution, County staff attempted to reach out to the property owner and explain the issue and seek re-execution. As of June 11, 2020, County staff have received and recorded 23 properly executed easement agreements for the Sector 7 project area. Ten (10) additional easements are in various stages of recording/review. The 33 agreements represent 40.2% of the targeted responses.

SECTOR 7			
Properties	82		
Granted Easements	23		
Intent to Grant Easement (in process)	10	Easements pending or Acquired (%)	40.2%
Denied Easement - No Sand	0		
Pending Responses	49		

As of June 11, 2020

For those remaining 49 parcels in which easement agreements have not yet been received, County staff have performed a secondary mailing (February through May 2020), utilizing certified mail through the United States Postal Service in an attempt to obtain confirmation that the intended recipient receives the easement agreement package. Staff have fielded inquiries regarding the easement agreements and have clearly answered any and all questions.

A third round of mailings for the Sector 7 parcels that we have not received any response from is currently underway by staff. Staff will also be following up with any additional forms of communication available to reach out to the parcel owners regarding the easement agreements.

- **OBTAINING EASEMENTS TO SECURE FUNDING**

Partial funding for the Sectors 3 and 7 Beach and Dune Restoration Projects is made available through FEMA funding as shown in the table below. FEMA funding requires that projects be completed within 18 months of Project Worksheet issuance. As the Sector 3 and Sector 7 Beach and Dune Restoration Projects are very large and complex, extensions to FEMA funding has been requested previously in order to retain funding availability. The granting of extensions typically requires demonstration of project constructability by the County to FEMA, however the constructability of the project(s) is contingent upon the County obtaining enough easements from the property owners within the limits of the project(s) to justify the protection benefit to the shoreline of such a project. Requesting extensions does run the risk of FEMA not granting the extension, and thus the County losing potential funding sources. Additionally, FDEP Local Governmental Funding Requests (LGFR) grants are also made available for these projects, and these Grants also come with deadlines for project completion, or risk the loss of funds if an extension is not granted. FDEP LGFR 17IR2 requires project completion by 4/30/2021, and grant 19IR2 expires on 11/30/2021.

	SECTOR 3	SECTOR 7
Hurricane Matthew	\$5,320,233.45	\$2,725,070.46
Hurricane Irma	\$2,904,746.00	\$1,022,367.00
Hurricane Dorian	\$2,669,027.00	\$2,451,767.00
FDEP Grants	17IR2 \$125,000.00	19IR2 \$307,538.00

FUNDING

The estimated cost for the Sector 3 Beach and Dune Restoration Project is anticipated to be \$14,800,000 while Sector 7 is estimated at \$9,900,000. Funding for these projects will be programmed into the upcoming FY 20/21 budget request. However, if sufficient easements are not obtained, construction will not commence and budgeted funding will be revised.

RECOMMENDATION

Staff is requesting direction from the BCC on establishing a percentage of easements necessary to move forward with the Sector 3 and/or Sector 7 Beach and Dune Restoration project(s). Staff is recommending an easement agreement percentage of 90% or greater in each respective sector in order to proceed with the Beach and Dune Restoration Project(s).

ATTACHMENTS

APPROVED AGENDA ITEM FOR JUNE 23, 2020