



RESTORE Act Meeting

September 19, 2012

10:00 am to 12:00 pm (EDT)

Lowes Don CeSar Hotel – King Charles Room
3400 Gulf Blvd., St. Pete Beach, FL 33706

AGENDA

Gulf Consortium Joint Public Entity Creation/Steps Forward

- **Cover Memo**
- **Gulf Consortium Q&A**
- **Draft Resolution**
- **Interlocal Agreement**

Transition Budget

- **Cover Memo**
- **Approval by FAC Board**

Staff Report on Other Activities/Contacts Made

Proposed Gulf Consortium Meeting Oct 22, 2012 (Location TBD)

Proposed Consortium/Affected Counties Meeting November 28th – Sarasota (in conjunction with FAC Legislative Conference)

EXECUTION COPY

**INTERLOCAL AGREEMENT RELATING TO
ESTABLISHMENT OF THE
GULF CONSORTIUM**

Dated as of September 19, 2012

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS	
SECTION 1.01. DEFINITIONS.	4
ARTICLE II THE CONSORTIUM	
SECTION 2.01. CREATION.	6
SECTION 2.02. PURPOSES.	6
SECTION 2.03. CONSORTIUM MEMBERS.	7
SECTION 2.04. DURATION OF CONSORTIUM.	7
ARTICLE III MEMBERSHIP AND REPRESENTATION	
SECTION 3.01. MEMBERSHIP.	8
SECTION 3.02. REPRESENTATION.	8
SECTION 3.03. ACTION.	9
SECTION 3.04. ELECTION OF OFFICERS.	9
SECTION 3.05. AUTHORITY OF OFFICERS.	9
SECTION 3.06. RESIGNATION OR REMOVAL OF DIRECTOR.	10
SECTION 3.07. MEETINGS.	10
SECTION 3.08. WITHDRAWAL OR DISMISSAL OF CONSORTIUM MEMBERS.	11
SECTION 3.09. EXPENSES.	11
SECTION 3.10. LIABILITY.	11
SECTION 3.11. EXECUTIVE COMMITTEE.	11
SECTION 3.12. PRINCIPAL PLACE OF BUSINESS.	12

ARTICLE IV
POWERS AND DUTIES

SECTION 4.01. POWERS.	13
SECTION 4.02. ANNUAL BUDGET.	16
SECTION 4.03. AD VALOREM TAXATION NOT AUTHORIZED.	16

ARTICLE V
MISCELLANEOUS

SECTION 5.01. DELEGATION OF DUTY.	17
SECTION 5.02. FILING.	17
SECTION 5.03. IMMUNITY.	17
SECTION 5.04. LIMITED LIABILITY.	18
SECTION 5.05. AMENDMENTS.	18
SECTION 5.06. SEVERABILITY.	18
SECTION 5.07. CONTROLLING LAW.	18
SECTION 5.08. EFFECTIVE DATE.	18

**INTERLOCAL AGREEMENT RELATING TO
ESTABLISHMENT OF THE
GULF CONSORTIUM**

THIS INTERLOCAL AGREEMENT, dated as of September 19, 2012 (the "Interlocal Agreement"), is jointly entered into by the counties which are signatory hereto (collectively, the "Consortium Members"), each of which are political subdivisions or other government agencies of the State of Florida and constitute a "public agency" as that term is defined by Part I of Chapter 163, Florida Statutes (the "Interlocal Act"), and such other public agencies as are added as additional Consortium Members as provided in Section 3.01 hereof.

W I T N E S S E T H:

WHEREAS, each of the initial Consortium Members are political subdivisions of the State of Florida and have all powers of self-government pursuant to their home rule powers and express grants of authority provided by general law, including, but not limited to, those powers granted under Chapter 125, Florida Statutes; and

WHEREAS, all Consortium Members are public agencies of the State of Florida, within the meaning of Part I of Chapter 163, Florida Statutes (the "Interlocal Act"); and

WHEREAS, the Consortium Members, as public agencies under the Interlocal Act, may enter into interlocal agreements with each other to jointly exercise any power, privilege or authority which such Consortium Members share in common and which each might exercise separately. The joint exercise of this authority permits the Consortium Members to make the most efficient use of their powers by enabling them to cooperate on the basis of mutual benefit and, pursuant to this authority, to form a governmental entity that will best serve the needs of such Consortium Members and their citizens; and

WHEREAS, the Interlocal Act authorizes the Consortium Members to enter into an interlocal agreement for the purposes of creating a separate legal entity for the purpose of the joint exercise of the common powers of the Consortium Members; and

WHEREAS, the United States Congress approved, and the President signed into law, the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (the "RESTORE Act"), which established potential funding sources for various purposes which will enhance and benefit the Gulf Coast area. Such funding sources are to be derived from administrative and civil penalties from responsible parties in connection with the explosion on and sinking of the mobile offshore drilling unit Deepwater Horizon; and

WHEREAS, the initial Consortium Members are counties which were impacted by the Deepwater Horizon event and the provisions of the RESTORE Act are applicable to it; and

WHEREAS, under the provisions of the RESTORE Act, a Trust Fund (the "Trust Fund") is established through which funding is available for various projects, improvements, development and environmental mitigation within the Gulf Coast regions; and

WHEREAS, the Consortium Members have determined that it is in their best interests to create a legal entity to join together for the purposes of implementing the consortia of local political subdivisions contemplated by the RESTORE Act, for the purposes of the development of the plan for the expenditure of the oil spill restoration impact allocation and to jointly serve the interests of the Consortium Members; and

WHEREAS, the Consortium Members seek to jointly exercise their power to consider and promote proposals to be funded through the Trust Fund and to seek on behalf of the Consortium and its members the funding of eligible projects within their respective areas; and

WHEREAS, the Consortium Members seek to join together to arrive at mutually beneficial projects, programs and improvements which will enhance the ecosystems and economy of the Consortium Members and to collectively fulfill their responsibilities under the RESTORE Act to develop a plan for expenditure of certain funds within the Trust Fund.

NOW, THEREFORE, in consideration of the foregoing, it is mutually agreed by and among the Consortium Members that now or may hereafter execute this Interlocal Agreement, that the "Gulf Consortium," is a legal entity, public body and a unit of local government with all of the privileges, benefits, powers and

terms of the hereinafter defined Act and this Interlocal Agreement, and is hereby created for the purposes described herein.

ARTICLE I

DEFINITIONS

SECTION 1.01. DEFINITIONS. The following definitions shall govern the interpretation of this Interlocal Agreement:

"Act" shall mean, with respect to Consortium Members that are Affected Counties, the "Home Rule" powers and all provisions of general law granting powers and authority to each such Consortium Member, including, but not limited to, Chapter 125, Florida Statutes, the Interlocal Act, and other applicable provisions of law, and to other Consortium Members, all provisions of general law granting powers and authority to such Consortium Member, including the Interlocal Act.

"Affected County" shall mean any of the 23 Florida counties with frontage on the Gulf of Mexico.

"Consortium Members" shall mean the member or members of the Consortium, from time to time, as shall be provided for by this Interlocal Agreement.

"Board" shall mean the governing board of the Consortium, consisting of the Directors appointed hereunder.

"Consortium" shall mean the Gulf Consortium, a legal entity and public body, created pursuant to the provisions of the Interlocal Act and by this Interlocal Agreement.

"Director" shall mean that individual appointed by each Consortium Member in accordance with the provisions hereof to serve as part of the Board.

"Fiscal Year" shall mean the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be determined by the Board.

"Manager" shall mean the individual or entity selected and engaged by the Board to provide administrative functions of the Consortium.

"Interlocal Act" shall mean Part I of Chapter 163, Florida Statutes.

"Interlocal Agreement" shall mean this Interlocal Agreement, including any amendments or supplements hereto, executed and delivered in accordance with the terms hereof.

"Public Agencies" shall mean any "public agency", as that term is defined by the Interlocal Act.

"RESTORE Act" shall have the meaning set forth in the preambles hereof.

"State" shall mean the State of Florida.

Whenever any words are used in this Interlocal Agreement in the masculine gender, they shall be construed as though they were also used in the feminine or neuter gender in all situations where they would so apply, and whenever any words are used in this Interlocal Agreement in the singular form, they shall be construed as though they were also used in the plural form in all situations where they would so apply.

ARTICLE II

THE CONSORTIUM

SECTION 2.01. CREATION. The Consortium Members hereby jointly create and establish the "Gulf Consortium", a legal entity and public body and a unit of local government, with all of the privileges, benefits, powers and terms provided for herein and by the Act.

SECTION 2.02. PURPOSES.

(A) The purpose of this Interlocal Agreement is for the establishment of the Consortium, which will serve as the consortia or establish the consortia of local political subdivisions as contemplated by the RESTORE Act for those counties which are members of the Consortium. The Consortium is intended to assist in or be responsible for, as determined by the Board:

(1) the development of the plan for the expenditure of the Oil Spill Restoration Impact Allocation required by the RESTORE Act;

(2) the preparation and processing of applications or proposals for funding under the competitive program to be processed and administered by the Gulf Coast Ecosystem Restoration Council;

(3) acting as a resource for Consortium Members, to the extent requested by that Member, in the planning, administration and expenditure of that Member's share or portion thereof provided directly to the disproportionately and nondisproportionately impacted counties pursuant to the RESTORE Act upon such terms and conditions agreed to by that Consortium Member and at the sole expense of that Consortium Member; provided, that nothing contained herein is intended to impact the amount or timing of any such distribution provided directly to the disproportionately and nondisproportionately impacted counties;

(4) acting as a resource in the obtaining of additional funding for programs through other available revenue sources, including, but not limited to, those available for the Natural Resource Damage Assessment (NRDA);

(5) acting as an advocate and representing the Consortium Members in the development of federal rules relating to the implementation of the RESTORE Act; and

(6) acting as an advocate for the Consortium Members with executive agencies, the Florida Legislature and the United States government.

(B) It is determined that the creation and organization of the Consortium and the fulfillment of its objectives serves a public purpose, and is in all respects for the benefit of the people of the State, Consortium Members, affected Public Agencies and their citizens.

(C) It is determined that the Consortium is performing an essential governmental function. All property of the Consortium is and shall in all respects be considered to be public property, and the title to such property, to the extent required, shall be held by the Consortium for the benefit of the public. The use of such property shall be considered to serve a public purpose, until disposed of upon such terms as the Consortium may deem appropriate.

SECTION 2.03. CONSORTIUM MEMBERS. The Consortium Members shall consist of those Public Agencies set forth below or joined as provided in Article III.

SECTION 2.04. DURATION OF CONSORTIUM. The Consortium shall be in perpetual existence until the earlier of the following occurs:

(A) all revenue within the Trust Fund created pursuant to the RESTORE Act is expended and the program established by the RESTORE Act is dissolved; or

(B) the Consortium is dissolved by the majority vote of its Board.

ARTICLE III

MEMBERSHIP AND REPRESENTATION

SECTION 3.01. MEMBERSHIP.

(A) Membership in the Consortium shall consist of Public Agencies that approve this Interlocal Agreement pursuant to Article III.

(B) The initial Consortium Members shall on the date hereof consist of those counties approving this Interlocal Agreement prior to October 19, 2012.

(C) To the extent permitted by the Interlocal Act and the RESTORE Act, the Consortium may admit any additional Public Agency to membership upon application of such Public Agency, the approval of this Interlocal Agreement by that Public Agency, and the affirmative vote of the majority of all Directors at a duly called meeting of the Board of the Consortium; provided, that any Affected County shall automatically be admitted to membership upon application thereof. This Interlocal Agreement need not be amended in order to admit any Public Agency as a Member of the Consortium; however, any new Consortium Member which is not an Affected County shall be required to evidence its approval of any conditions imposed on its membership by the existing Directors of the Consortium. Approval of the governing bodies of each existing Consortium Member shall not be required for the purpose of admitting a new Consortium Member.

(D) As a precondition to membership in the Consortium, each Consortium Member shall constitute a Florida municipality, county or such other Public Agency which is permitted by the Interlocal Act to be a member of the Consortium. Such new Consortium Member shall execute, deliver and record a duly authorized counterpart to this Interlocal Agreement, as it exists at the time of its approval.

SECTION 3.02. REPRESENTATION.

(A) Each Consortium Member shall appoint one Director to act as its representative on the Board. Each Director shall be an individual who shall be appointed specifically by name or by position. The Consortium Member shall notify the Manager and the Chairman in writing as to the individual designated as their Director.

(B) Directors may be an elected official, appointed official, employee or other designee of a Consortium Member.

SECTION 3.03. ACTION.

(A) The affairs, actions and duties of the Consortium shall be undertaken at a duly called meeting pursuant to Section 3.07 hereof.

(B) At any meeting of the Consortium at which any official action is to be taken, a majority of all Directors shall constitute a quorum. A majority vote of a quorum of the Directors present at a duly called meeting shall constitute an act of the Consortium, except as otherwise provided herein. Except as may be established by the Board with respect to any new Consortium Member which is not an Affected County, each Director is entitled to cast one vote.

(C) A certificate, resolution or instrument authorized by the Board and signed by the Chairman, Vice-Chairman or such other person of the Consortium as may hereafter be designated and authorized by the Board, shall be evidence of the action of the Consortium and any such certificate, resolution or other instrument so signed shall conclusively be presumed to be authentic. Likewise, all facts and matters stated therein shall conclusively be presumed to be accurate and true.

SECTION 3.04. ELECTION OF OFFICERS. Once a year, and at such other time as may be necessary to fill a vacancy, at a duly called meeting of the Board called for the purpose thereof, the Consortium through its Directors shall elect a Chairman, a Vice-Chairman and a Secretary-Treasurer to conduct the meetings of the Board and to perform such other functions as herein provided. Said Chairman, Vice-Chairman and Secretary-Treasurer shall each serve one (1) year terms unless they resign from the Consortium, are removed by the Member they represent, or such officer is otherwise replaced as a Director of the Board. Officers may, if elected by the Directors, serve longer than a one (1) year term.

SECTION 3.05. AUTHORITY OF OFFICERS.

(A) The Chairman and the Vice-Chairman shall take such actions and have such powers as provided by the Board. The Chairman shall sign all documents on behalf of the Consortium and take such action as may be in furtherance of the purposes of this Interlocal Agreement as may be approved by resolution or action of the Board adopted at a duly called meeting. The Vice-Chairman shall act in the absence or otherwise inability of the Chairman to act.

(B) The Secretary-Treasurer, or his designee, shall keep and maintain all minutes of all meetings of the Board, but such minutes need not be verbatim. Copies of all minutes of the meetings of the Board shall be sent by the Secretary-Treasurer or his designee to all Directors of the Consortium. The Secretary-Treasurer may also attest to the execution of documents. The Secretary-Treasurer shall have such other powers as may be approved by resolution or other action of the Board adopted at a duly called meeting.

SECTION 3.06. RESIGNATION OR REMOVAL OF DIRECTOR.

(A) Any Director may resign from all duties or responsibilities hereunder by giving at least thirty (30) days prior written notice to the Manager and Chairman. Such notice shall state the date said resignation shall take effect and such resignation shall take effect on that date.

(B) Each Consortium Member, in its sole discretion, may remove its designated Director at any time and may appoint a new Director to serve on the Board upon written notice being given to the Manager and Chairman. Each Consortium Member may also designate an alternate or designee to serve in a Director's place in the event the Director is unavailable.

(C) In the event the Director of a Consortium Member shall resign or be removed, such Consortium Member shall appoint a new Director within thirty (30) days.

(D) Any Director who resigns or is removed and who is an officer of the Consortium shall immediately turn over and deliver to the Manager any and all records, books, documents or other property in his possession or under his control which belong to the Authority.

SECTION 3.07. MEETINGS.

(A) The Board shall convene at a meeting duly called by either a majority of the Directors or the Chairman. The Directors may establish regular meeting times and places. Meetings shall be conducted at such locations as may be determined by the majority of the Directors or the Chairman. Notice of a special meeting, unless otherwise waived, shall be furnished to each Director by the Manager not less than seven (7) calendar days prior to the date of such meeting; provided the Chairman or, in his absence or unavailability, the Vice-Chairman, may call a meeting upon twenty-four (24) hours written notice, if such officer

determines an emergency exists. All meetings shall be noticed in accordance with Florida law.

(B) Within thirty (30) calendar days of the creation of the Consortium, the duly appointed Directors shall hold an organizational meeting to elect officers and perform such other duties as are provided for under this Interlocal Agreement.

(C) To the extent allowed, meetings may be held by means of media technology in conformity with the Interlocal Act.

SECTION 3.08. WITHDRAWAL OR DISMISSAL OF CONSORTIUM MEMBERS. Any Consortium Member may withdraw from the Consortium at any time, if the following conditions are satisfied:

(A) there shall be at least two (2) Consortium Members remaining in the Consortium subsequent to withdrawal; and

(B) a certified resolution from the Consortium Member's governing body setting forth its intent to withdraw is presented to the Consortium. Upon satisfaction of the foregoing conditions, such withdrawal shall be effective.

SECTION 3.09. EXPENSES. The Consortium may establish, from time to time, procedures for reimbursement for reasonable expenses incurred by Directors and employees of the Consortium. The Consortium shall also establish a mechanism for assessing or apportioning Consortium expenses to the Consortium Members. The expenditure of all expenses and approval of travel shall be in conformity with the provisions of Florida law governing travel and reimbursement of expenses for public officials.

SECTION 3.10. LIABILITY. No Director, agent, officer, official or employee of the Consortium shall be liable for any action taken pursuant to this Interlocal Agreement in good faith or for any omission, except gross negligence, or for any act of omission or commission by any other Director, agent, officer, official or employee of the Consortium.

SECTION 3.11 EXECUTIVE COMMITTEE. An Executive Committee of the Board shall be established that shall consist of the Chairman, the Vice-Chairman, the Secretary-Treasurer and two other Directors designated by the foregoing three officers. The Executive Committee shall have the power to act on behalf of the Board in items of the activities set forth in Section 4.01(A)(2), (3),

(4), (6), (7), (11), (13), (15), (16), (17), (23) and (24) hereof, and such other powers as may be designated by the Board.

SECTION 3.12 PRINCIPAL PLACE OF BUSINESS. The Consortium's principal place of business, within the meaning of Section 163.01 (11), Florida Statutes, shall initially be Leon County, Florida, subject to modification by action of the Board.

ARTICLE IV

POWERS AND DUTIES

SECTION 4.01. POWERS.

(A) The Consortium shall have all powers to carry out the purposes of this Interlocal Agreement, including the following powers which shall be in addition to and supplementing any other privileges, benefits and powers granted by the Act, or otherwise by the Interlocal Agreement:

(1) To enter into other interlocal agreements or join with any other special purpose or general purpose local governments, public agencies or authorities or create a separate entity as permitted by the Act in the exercise of common powers or to assist the Consortium in fulfilling its purpose under this Interlocal Agreement.

(2) To sue and be sued in the name of the Consortium.

(3) To adopt and use a seal and authorize the use of a facsimile thereof.

(4) To contract with any public or private entity or person upon such terms as the Board deems appropriate.

(5) To acquire, by purchase, gift, devise or otherwise, and to dispose of, real or personal property, or any estate therein, including the power to determine how property will be disposed of upon the dissolution of the Consortium.

(6) To make and execute contracts or other instruments necessary or convenient to the exercise of its powers.

(7) To maintain an office or offices at such place or places as the Board may designate from time to time, and to establish a custodian for the records of the Consortium.

(8) To lease, as lessor or lessee, to or from any person, firm, corporation, association or body, public or private, facilities or property of any nature to carry out any of the purposes authorized by this Interlocal Agreement.

(9) To apply for and accept grants, loans and subsidies from any governmental entity for the funding of projects, improvements or mitigation, and to comply with all requirements and conditions imposed in connection therewith.

(10) To the extent allowed by law and to the extent required to effectuate the purposes hereof, to exercise all privileges, immunities and exemptions accorded municipalities and counties of the State under the provisions of the constitution and laws of the State.

(11) To invest its moneys in such investments as directed by the Board in accordance with State law.

(12) To provide for the establishment of advisory committees or councils to the Board or other interlocal entities under the auspices of the Board.

(13) To fix the time and place or places at which its regular meetings shall be held, and to call and hold special meetings.

(14) To make and adopt rules and procedures, resolutions and take such other actions as are not inconsistent with the Constitution and laws of the State of Florida, the provisions of the Interlocal Act or this Interlocal Agreement that are necessary for the governance and management of the affairs of the Consortium, and further, the powers, obligations and responsibilities vested in the Consortium by this Interlocal Agreement.

(15) To select and engage a Manager, who shall administer the operations of the Consortium, manage the staff of the Consortium, as authorized by the Board, and perform all other administrative duties as directed by the Board.

(16) To employ or hire such attorneys or firm(s) of attorneys as it deems appropriate to provide legal advice and/or other legal services to the Consortium.

(17) To employ or hire engineers, consultants or other specialized professionals as it deems appropriate to further the purposes of the Consortium.

(18) To create any and all necessary offices in addition to Chairman, Vice-Chairman and Secretary-Treasurer; to establish other committees; to establish the powers, duties and compensation of all employees; and to require and fix the

amount of all official bonds necessary for the protection of the funds and property of the Consortium.

(19) To take such action and employ such persons or entities as are necessary to prepare, develop and submit to the Gulf Coast Ecosystem Restoration Council the plan for the Oil Spill Restoration Impact Allocation contemplated by the RESTORE Act setting forth those projects, programs and activities that will improve the ecosystems or economy of the State of Florida.

(20) To prepare, develop and submit applications for funding from the Trust Fund under the competitive program administered by the Gulf Coast Ecosystem Restoration Council on behalf of the Consortium or a Member.

(21) To advise, assist and aid Consortium Members, upon their request, in the planning, administration and expenditure of that Member's share or portion thereof of amounts provided directly to the disproportionately and nondisproportionately impacted Counties pursuant to the RESTORE Act, upon such terms and conditions agreed to by that Member and at the sole expense of that Consortium Member.

(22) To advise, assist and aid the Consortium in obtaining additional funding from other programs for projects, programs or mitigation on behalf of the Consortium or its Members.

(23) To hire or engage staff, attorneys and professionals to act as an advocate and represent the interests of Consortium Members in the Federal rulemaking process.

(24) To hire or engage staff, attorneys and professionals as an advocate and to represent the interests of the Consortium and its Members before Federal and State agencies and the Legislature.

(25) To do all acts and to exercise all of the powers necessary, convenient, incidental, implied or proper in connection with any of the powers, duties or purposes authorized by this Interlocal Agreement or the Act.

(B) In exercising the powers conferred by this Interlocal Agreement, the Board shall act by resolution or other action approved at duly noticed and publicly held meetings in conformance with applicable law.

(C) The provisions of Chapter 120, Florida Statutes, shall not apply to the Consortium.

(D) The Consortium shall be subject to the provisions of the Florida Sunshine Law under Chapter 286, Florida Statutes. All records of the Consortium shall be subject to the Public Records Law.

SECTION 4.02. ANNUAL BUDGET.

(A) Following the creation of the Consortium, the Board shall approve a budget which shall provide for revenues and expenditures during the remainder of the fiscal year in which it was formed. Such interim budget procedures shall be utilized solely for the initial year of creation of the Consortium, after which the budget shall be created pursuant to the remaining provisions of this section.

(B) Prior to October 1 of each year the Board will adopt an annual budget for the Consortium. Such budget shall be prepared within the time periods required for the adoption of a tentative and final budget for county governments under general law. The annual budget shall contain an estimate of receipts by source and an itemized estimation of expenditures anticipated to be incurred to meet the financial needs and obligations of the Consortium. The Manager shall prepare the annual budget.

(C) The adopted budget shall be the operating and fiscal guide for the Consortium for the ensuing Fiscal Year. The Board may from time to time amend the budget at any duly called regular or special meeting.

(D) The Consortium shall provide financial reports in such form and in such manner as prescribed pursuant to this Interlocal Agreement and Chapter 218, Florida Statutes.

SECTION 4.03. AD VALOREM TAXATION NOT AUTHORIZED.

The Consortium shall not have the power to levy and assess an ad valorem tax on any property for any reason.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. DELEGATION OF DUTY. Nothing contained herein shall be deemed to authorize the delegation of any of the constitutional or statutory duties of the State or the Consortium Members or any officers thereof.

SECTION 5.02. FILING. A copy of this Interlocal Agreement shall be filed for record with the Clerk of the Circuit Court of Leon County, Florida, and with the Clerk of the Circuit Court of any other County subsequently determined to be the Consortium's principal place of business.

SECTION 5.03. IMMUNITY.

(A) All of the privileges and immunities from liability and exemptions from laws, ordinances and rules which apply to the activity of officials, officers, agents or employees of the Consortium Members shall apply to the officials, officers, agents or employees of the Consortium when performing their respective functions and duties under the provisions of this Interlocal Agreement.

(B) The Consortium and each Consortium Member shall be entitled to all protections granted to them under Sections 768.28 and 163.01(9)(c), Florida Statutes, other Florida Statutes and the common law governing sovereign immunity. Pursuant to Section 163.01(5)(o), Florida Statutes, Consortium Members may not be held jointly liable for the torts of the officers or employees of the Consortium, or any other tort attributable to the Consortium, and that the Consortium alone shall be liable for any torts attributable to it or for torts of its officers, employees or agents, and then only to the extent of the waiver of sovereign immunity or limitation of liability as specified in Section 768.28, Florida Statutes. Nothing in this Interlocal Agreement shall be deemed to constitute a waiver of sovereign immunity.

(C) The Consortium Members intend that the Consortium shall have all of the privileges and immunities from liability and exemptions from laws, ordinances, rules and common law which apply to the municipalities and counties of the State. Nothing in this Interlocal Agreement is intended to inure to the benefit of any third-party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

SECTION 5.04. LIMITED LIABILITY. No Consortium Member shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the Consortium, the Directors or any other agents, employees, officers or officials of the Consortium, except to the extent otherwise mutually agreed upon by that Member, and neither the Consortium, the Directors or any other agents, employees, officers or officials of the Consortium have any authority or power to otherwise obligate any individual Consortium Member in any manner.

SECTION 5.05. AMENDMENTS. This Interlocal Agreement may be amended in writing at any time by the concurrence of all of the Directors present at a duly called meeting of the Consortium and subsequent ratification by the governing body of each Consortium Member. However, this Interlocal Agreement may not be amended so as to (A) permit any profits of the Consortium to inure to the benefit of any private person, or (B) permit the diversion or application of any of the moneys or other assets of the Consortium for any purposes other than those specified herein.

SECTION 5.06. SEVERABILITY. In the event that any provision of this Interlocal Agreement shall, for any reason, be determined invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the other provisions of this Interlocal Agreement shall remain in full force and effect.

SECTION 5.07. CONTROLLING LAW. This Interlocal Agreement shall be construed and governed by Florida law.

SECTION 5.08. EFFECTIVE DATE. This Interlocal Agreement shall become effective on the later of (A) the dated date hereof, or (B) the date the last initial Consortium Member executes this Interlocal Agreement and the filing requirements of Section 5.02 hereof are satisfied.

**SIGNATURE PAGE TO
INTERLOCAL AGREEMENT RELATING TO ESTABLISHMENT
OF THE GULF CONSORTIUM**

_____ **COUNTY, FLORIDA**

ATTEST:

By: _____
Chairman
Board of County Commissioners

Clerk of Circuit Court, ex officio
Clerk of Board of County
Commissioners

F L O R I D A



**Commission on
Oil Spill Response Coordination**

Second Meeting

September 12, 2012

Emerald Coast Convention Center, Fort Walton Beach, FL

- 9:00 – 9:20 am** Welcome by the Chair, Introductions, and Roll Call
Commissioner George Gainer (Chair), Bay County Board of County Commissioners
- 9:20 – 9:30 am** Administrative Review
- 9:30 – 10:20 am** Planning and Operations Discussion
- 10:20 – 10:40 am** **BREAK**
- 10:40 – 12:00 pm** Command and Control Organization Discussion
- 12:00 – 1:00 pm** **LUNCH**
- 1:00 – 2:30 pm** Resources and Logistics Discussion
- 2:30 – 2:45 pm** **BREAK**
- 2:45 – 3:45 pm** Discussion of Overarching Issues
- 3:45 – 4:00 pm** Announcements
- 4:00 pm** **ADJOURN**

DRAFT List of Initial Recommendations

Regarding the Deepwater Horizon Oil Spill Response in Florida

September 7, 2012

NOTE: This list of DRAFT recommendations was developed by Tetra Tech, based on research and interviews, for consideration by members of the Florida Commission on Oil Spill Response Coordination. The information which follows has not been discussed by the Commission, and is presented for information purposes only. The information is organized by general topic area. Note that a list of acronyms used in this document appears on the last two pages.

Planning & Operations Issues

- Specify additional pre-event requirements for Area Contingency Plans (ACPs), including provisions for plan development, approval, and execution:
 - Identification and prioritization of environmentally sensitive areas
 - Update ACP policy guidance to include:
 - dispersant use (or restriction);
 - protective measures for different types of oil;
 - worst-case discharge scenarios;
 - response personnel qualifications, position assignments, and description of when the ACP or levels of the ACP get implemented
 - Improve state, local (county and city), and public participation in the ACP development process
 - Thorough vetting of ACP components with, and acceptance by, each Gulf coast County in Florida
 - Use of applicable ACP measures modeled from other state ACPs across the US (*positive* application of “lessons learned” – including from DWH)
 - Better application of sound science in area contingency planning, considering water currents, tidal variations and the effects of protective measures used in environmentally and economically sensitive areas
 - Include advantages and limitations of proposed ACP measures to make each entity aware of ramifications and impacts
 - Each potential ACP element should be exercised with a maintenance component to ensure functionality over the long term

- Require FEMA to include federal, state, and local personnel in National Incident Management System/Incident Command System (NIMS/ICS) training.
- Clarify role of “local” governments in NCP – for example, ICP Houma worked directly with Louisiana parishes, but ICP Mobile did not.

Resources & Logistics Issues

- Greater reliance on local government personnel in implementing ACPs and other protective measures
- Require ICP branches to be established in each affected state when oil reaches within 9 nautical miles of state waters.
- Require USCG and the Responsible Party (RP) to be represented and functional within each state EOC when oil reaches within 9 nautical miles of state waters.
- Establish a unified Gulf coast web mapping application compatible across all five Gulf coast states to track data reports (e.g., the Geospatial Assessment Tool for Operations and Response – GATOR)
- Develop standards and processes for expedited collection, processing, correlation, analysis, and distribution of satellite imagery and oil thickness sensors to provide real-time direction of spill response operations.
- Require that response vessels be directed in real-time by controllers in the air, not on water
- Establish real-time requirements for RP to communicate with federal, state and local governments.
- USCG should develop policy guidelines for Vessels of Opportunity (VOO) as part of the RCPs and ACPs, with pre-certification, implementation requirements, sustainability requirements, and execution utilizing a “locals first” procedure

NOAA	National Oceanic and Atmospheric Administration
NRF	National Response Framework
NWS	National Weather Service
OPA	Oil Pollution Act (also OPA90)
OTTED	Governor's Office of Tourism, Trade, and Economic Development
PIO	Public Information Officer
PRFA	Pollution Removal Funding Authorization
RCP	Regional Contingency Plan
RECON	Reconnaissance
RERN	Remote Emergency Response Node
SBA	Small Business Administration
SCAT	Shoreline Cleanup and Assessment Technique
SCO	State Coordinating Officer
SEOC	State Emergency Operations Center
SMT	State Management Team
SERT	State Emergency Response Team
SOGs	Standard Operating Guidelines
SOPs	Standard Operating Procedures
SOSC	State On-Scene Coordinator
SWAN	Simulating WAVes Nearshore
SWO	State Watch Office
Tt	Tetra Tech
UC	Unified Command
USCG	United States Coast Guard
VOO	Vessels of Opportunity

RESOLUTION NO. _____

A RESOLUTION OF [NAME] COUNTY, FLORIDA APPROVING THE FORM OF THE INTERLOCAL AGREEMENT THAT ADMITS THE COUNTY AS A MEMBER OF THE GULF CONSORTIUM; AUTHORIZING THE GULF CONSORTIUM TO ACT ON THE COUNTY'S BEHALF IN THE IMPLEMENTATION OF THE RESTORE ACT IN ACCORDANCE WITH THE INTERLOCAL AGREEMENT; AUTHORIZING EXECUTION OF THE INTERLOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF [NAME] COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. AUTHORITY FOR THE RESOLUTION. This Resolution is adopted pursuant to the provisions of section 125.01 and Part I of Chapter 163, Florida Statutes.

SECTION 2. FINDINGS. [NAME] County, Florida (the "County"), does hereby find and determine that:

(A) The County is a county with frontage on the Gulf of Mexico entitled to membership in the Gulf Consortium, a joint public entity created by interlocal agreement among any or all of the counties along the Gulf Coast of Florida.

(B) The County desires to become a member of the Gulf Consortium.

(C) In order to properly document the admission of the County to membership in the Gulf Consortium, it is necessary and desirable for the County to authorize, execute, and deliver the Interlocal Agreement Relating to Establishment of the Gulf Consortium (the "Interlocal Agreement"), the form of which is attached hereto as Exhibit A.

(D) To maximize the use of County resources and staff, it is in the best interest of the County to authorize the Gulf Consortium to act on its behalf in implementing the RESTORE Act in accordance with the Interlocal Agreement.

SECTION 3. THE APPROVAL OF THE INTERLOCAL AGREEMENT RELATING TO THE RESTORE ACT. The form, terms and provisions of the Interlocal Agreement, submitted to this meeting, attached hereto as Exhibit A is intended to set the terms and conditions for the Gulf Consortium to act on behalf of the County in the implementation of the RESTORE Act upon the County becoming a Member of the Gulf Consortium. The form, terms and provisions of the Interlocal Agreement are hereby approved and the Chairman of the Board of County

Commissioners of the County and Clerk of the County are hereby authorized to execute and deliver said Interlocal Agreement in its name on behalf of the County.

SECTION 4. FILING OF INTERLOCAL AGREEMENT. The County Clerk is hereby directed to file the Interlocal Agreement with the Clerk of the Circuit Court in Leon County, Florida as required by Section 163.01(11), Florida Statutes.

SECTION 5. GENERAL AUTHORITY. The members of the County Commission and the officers, attorneys and other agents or employees of the County are hereby authorized to do all acts and things required of them by this Resolution and the Interlocal Agreement, or desirable or consistent with the requirements hereof or thereof for the full, punctual and complete performance of all the terms, covenants and agreements contained herein or in the Interlocal Agreement, and each member, employee, attorney and officer of the County and the County Clerk is hereby authorized and directed to execute and deliver any and all papers and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated hereunder and under the Interlocal Agreement.

SECTION 6. SEVERABILITY AND INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Interlocal Agreement.

SECTION 7. EFFECTIVE DATE. This Resolution shall become effective immediately upon its adoption.

[NAME] COUNTY, FLORIDA

Chairman

ATTEST:

Clerk of the Circuit Court

Gulf Consortium Formation and Structure Memorandum

To: Florida Association of Counties

From: Mark T. Mustian, Nabors, Giblin, & Nickerson, P.A., FAC Special Counsel

Date: September 14, 2012

The Gulf Consortium can be created by adoption of the attached interlocal agreement among any or all of the 23 “affected counties,” including the 8 disproportionately affected counties and the 15 non-disproportionately affected counties which were impacted by the BP/Deep Water Horizon oil spill event. A separate document describes how the Gulf Consortium can serve the affected counties in the implementation of the RESTORE Act. This memorandum describes the structure of the Gulf Consortium as a joint public entity.

Affected County Membership

- Every county along the Gulf Coast of Florida has the right to join the Gulf Consortium by adopting the interlocal agreement and causing it to be recorded.
- Any member may withdraw from the Consortium at any time.

Non-County Members

- Other public entities, such as cities and the state government, may be admitted to membership if they are approved by the county members of the Gulf Consortium.
- The affected county members can limit the membership rights of non-county members, allowing flexibility to seek out necessary public entity partners, but also to limit their voting rights.

Non-Government Members

- Florida law does not allow a non-government entity to be a member of the Gulf Consortium. The Board may allow non-government entities to serve in an advisory role.

One County/One Vote Governance

- The Consortium is governed by a Board of Directors consisting of one representative appointed by each of the affected counties which join the Consortium.
- Each Director has one vote. A majority of the Directors constitutes a quorum.

Executive Committee

- Five Directors chosen from the Board of Directors serve as the Executive Committee.
- The Chairman, Vice-Chairman and Secretary-Treasurer are elected by the members of the Board at a meeting held once a year. Two other members are selected by the elected Executive Committee members.
- The Executive Committee can take actions on behalf of the board that are specified in the interlocal agreement, including hiring a manager, renting office space, engaging an attorney and federal and state lobbyists, and opening a bank account. Otherwise, the Executive Committee may exercise only the power delegated by the Board.

Consortium Meetings

- Regular meetings can be called by a majority of the Board members or by the Chairman.
- All meetings require public notice as required by law.

Immunity for Directors

- Directors are held harmless from any liability for acts of the Consortium and its officers and employees.
- The Consortium has sovereign immunity.

Annual Budget and Reports

- For the first year, an interim budget is authorized. Thereafter, the agreement calls for an annual budget.
- Financial reports must be provided consistent with chapter 218, Florida Statutes.

Sunshine Law and Public Records

- The Consortium is subject to the law providing for open meetings and public records.
- Chapter 120 relating to rule making does not apply to the Consortium.

Amendments and Effective Date

- The Interlocal Agreement may be amended by concurrence of all the Directors and approval by the governing body of each Consortium Member.
- The Gulf Consortium takes effect after approval by at least two affected counties and the filing of the agreement.

How a Joint Public Entity Can Serve Affected Counties in the Implementation of the RESTORE Act

The Gulf Consortium can be authorized to serve the 23 “affected counties,” including the 8 disproportionately affected counties and the 15 non-disproportionately affected counties in implementing any or all of the following aspects of the RESTORE Act.

WHY a joint entity? – Gulf Consortium

REQUIRED

- In the state of Florida, the RESTORE Act provides that “a consortia of local political subdivisions” will develop the state economic and environmental restoration plan. The consortia shall include at a minimum “a representative of each affected county”.
- The consortium is responsible for the development and implementation of Florida’s plan that will be funded based on a state “impact allocation” formula. It is estimated that Florida will receive 19-20 % of these funds.

COORDINATION

- The RESTORE Act provides for multiple pot: three separate funding pots for economic and environmental restoration and an additional pot emphasizing monitoring and research.
- The projects and programs developed will very likely require the planning and cooperation of multiple jurisdictions.
- The Gulf Consortium can propose and implement large-scale projects and programs to be funded by the Gulf Coast Ecosystem Restoration Council, which is responsible for developing a Master Gulf Coast Regional plan.
- The Gulf Consortium can also help identify projects for the Natural Resource Damage Assessment (NRDA).

TECHNICAL ASSISTANCE

- The Consortium may be authorized to assist any of the 23 affected counties (if they so desire) in the plan development, implementation and administration of the 35 percent of RESTORE Act funds that constitute Florida’s share as a Gulf Coast State and are allocated directly to the 23 counties. These funds are not subject to further appropriation.

FLEXIBILITY

- The Consortium can establish itself in almost any format, including
 - Multiple (Joint Interest or geographic) county groups,
 - Include state entities
 - Include other stakeholders

OVERSIGHT & COMPLIANCE

- Consortium can coordinate the 23 affected counties in the development of the Federal rules to implement the RESTORE Act.
- Consortium can provide a process that will be open and transparent to the public.

HOW do I get one? – Gulf Consortium

Joint Public Entity

- Chapter 163, Florida Statutes, authorizes counties and other public agencies to agree to use their powers jointly through the formation of another governmental entity so that they can efficiently address their mutual needs.
- The idea of a separate legal entity created by two or more counties is much like the concept of a corporation or LLC that any person can create. A corporation has a charter and bylaws, which contain the powers of the corporation. The corporation is subject to laws and regulation that do not necessarily apply to human beings, and vice versa. Separate legal entities are common mechanisms through which counties and cities accomplish mutual goals.
- A list of some of the separate government entities formed by counties and municipalities in Florida is provided in a separate document.

Formation By Resolution

- Counties desiring to join together can form a separate legal entity through the adoption of an identical resolution by each of the participating boards of county commissioners. At a minimum, section 163.01 requires the participation by two counties to create a separate government entity.

Powers

- The powers of the separate government entity are established in the resolutions creating the entity.
- Generally, a separate government entity may be granted “any power, privilege, or authority which . . . [the counties] share in common and which each might exercise separately.” Sec. 163.01(4), Fla. Stat. Sections 163.01(5) and (7) authorizes the separate government entity to exercise broad governmental powers, which can be further specified and limited in the resolution creating the entity. Thereafter, the powers of the separate government entity can be more fully developed and refined in the bylaws adopted by the participating counties.

Organization & Governance Structures

- The bylaws and resolution provide for the governance structure of the separate governmental entity.
- The structure can be created in any manner that will serve the interests of the participating counties, including having more than one governing body, each of which can be given separate responsibilities for different purposes.

Costs

- The start-up and on-going operations can be funded from county contributions or any other source that may be available.
- Under certain circumstances, these up-front and other costs may be recoverable from RESTORE Act funds allocated for administration.

From: Florida Association of Counties

To: Potential Counties of Gulf Consortium

Subj: Transition Budget

FAC is committed to serving Florida's 67 counties through our mission of preserving and protecting home rule through education, advocacy and collaboration. However, there are events that occur, such as the Deepwater Horizon Oil Spill, that call on the Association to work on the primary behalf of a specific region. When that occurs, FAC historically has asked those affected counties to provide financial support to the Association so these regional efforts can be implemented.

When the RESTORE Act was being lobbied in Washington, the eight disproportionately impacted counties contributed funds to support FAC's lobbying efforts. Now that the RESTORE Act has passed and FAC is working to create a consortium to maximize the opportunities for Florida's counties and advance the principle of home rule – securing that these decisions should be made on a local level – FAC is turning to those impacted counties to directly support our efforts.

Therefore, FAC is asking those 23 Gulf Coast counties to reimburse FAC for the investments being made to create the consortium. If and when a consortium is formed, it will develop an independent operating budget and funding structure. Should any funds remain from the transition period, they will be transferred to the consortium.

The Transition Budget is intended to accomplish the following:

- Reimburse FAC for expenses associated with consultants, travel and other administrative costs.
- Continue the lobbying effort with Federal Agencies to ensure Florida counties interests' are considered.
- Continue to provide continuity to members until the Gulf Consortium is formed.

The Transition Budget is **not** a bill for developing the interlocal agreement (ILA) and is **not** a fee for joining the Gulf Consortium.

If approved by a majority of the affected counties, the Transition Budget will be presented to the FAC Executive Committee for approval and invoicing.

Transition Planning Assumptions

- Goal is to have RESTORE Consortium setup and running by October 1, 2012
- Once established, the Consortium will be responsible for implementation of the RESTORE Act
- Until October 1, 2012, or whenever the Consortium is established, FAC will facilitate and coordinate the transition (detail below)

Transition Period (now - October 1, 2012*)

- FAC has hired Doug Darling to assist during this period. John Wayne Smith and Bill Peebles are also available and involved
- Goals of Transition Period
 - Establish framework for Consortium Membership
 - Counties
 - State involvement
 - Other stakeholders
 - Facilitate the planning for establishment of Consortium
 - Budget
 - Proposed expenses
 - Proposed cost sharing
 - Initial policy guidelines
 - Advocacy & lobbyist (State & Federal)
 - Counties
 - State Agencies (DACS/DEP/FWCC/DEO/NRDA/WMD)
 - Visit Florida
 - Enterprise Florida
 - State Stakeholders (Hotels/Restaurants/TDC's/Environmental Groups)
 - Governor's Office
 - Legislative Leadership
 - Commission on Oil Spill Response
 - Federal Agencies
 - U.S. Treasury
 - Other States
 - Preliminary legal analysis
 - Proposed legal establishment
 - Initial incorporation documents
 - Initial By-Laws
 - Communications

- Communications Plan
- FAC Website
- Establish Public Records protocol
- In-coming calls
- Public Meetings
- Proposed Timeline
 - Proposed Consortium Structure, Membership, Legal formation, presented to Executive Committee August 16
 - September
 - Build consensus with Consortium members
 - Resolutions passed in counties
 - Other participants appointed
 - Fully brief Governor's Council Appointee
 - Develop FAC phase-out plan
- Proposed Transition Budget (July 1-Dec 1)
 - \$3,000/month – consultant
 - \$20,000 – legal
 - \$5,000 – FAC Travel
 - \$8,000 – Meeting Expenses
 - Estimate 8 meetings with Counties
 - NRDA Coordination - \$2,000
 - Total Proposed Transition Budget = \$53,000
- Proposed Funding Structure
 - 8 Counties – 75%
 - Original proposed formula
 - 15 Counties – 25%
 - Estimated formula from RESTORE Act

<u>COUNTY</u>	<u>POPULATION</u>	<u>ESTIMATED ALLOCATION</u>	<u>AMOUNT</u>
ESCAMBIA	297,619	27%	\$12,960
SANTA ROSA	151,372	10%	\$4,800
OKALOOSA	180,822	16%	\$7,680

<u>COUNTY</u>	<u>POPULATION</u>	<u>ESTIMATED ALLOCATION</u>	<u>AMOUNT</u>
WALTON	55,043	14%	\$6,720
BAY	168,852	15%	\$7,200
GULF	15,863	6%	\$2,880
FRANKLIN	11,549	8%	\$3,840
WAKULLA	30,776	4%	\$1,920
JEFFERSON	14,761	4%	\$640
TAYLOR	22,570	4%	\$640
DIXIE	16,422	3%	\$480
LEVY	40,801	4%	\$640
CITRUS	141,236	5%	\$800
HERNANDO	172,778	5%	\$800
PASCO	464,697	7%	\$1,120
PINELLAS	916,542	11%	\$1,760
HILLSBOROUGH	1,229,226	13%	\$2,080
MANATEE	322,833	7%	\$1,120
SARASOTA	379,448	7%	\$1,120
CHARLOTTE	159,978	5%	\$800
LEE	618,754	9%	\$1,440
COLLIER	321,520	7%	\$1,120
MONROE	73,090	8%	\$1,280