

From: [Gabriel, Jason](#)
To: johnreich@yahoo.com
Cc: [Hogencamp, Kevin](#); [Gabriel, Jason](#)
Subject: Beach Re-nourishment & COAB
Date: Wednesday, October 18, 2023 1:01:21 PM

John –

Below is my review of the documents you provided on this beach re-nourishment issue for COAB.

You provided me with the following documents (portions thereof as noted below) to review (together, the “Documents”):

- (1) Beach Management Funding Assistance Program Fixed Capital Outlay Local Government Funding Request – Fiscal Year 23-24, pages 1 – 8, and page 12, of a 42 page document, dated March 2023;
- (2) Agreement No: 15DU1, Amendment No. 1, FDEP & COJ, dated February 2, 2015;
- (3) Strategic Beach Management Plan: Northeast Atlantic Coast Region, Office of Resilience and Coastal Protection, FDEP, pages 1 – 18 of a 45 page document, dated May 2023; and
- (4) State of Florida, FDEP Standard Grant Agreement (Agreement Number 19DU1) 7-1-18 through 7-1-2021.

Accordingly, the below is based on a review of those specific Documents (or portions thereof) provided and referenced, and the analysis could be altered by other relevant, applicable documents.

The FDEP is charged under Ch 161, FS with developing and implementing a comprehensive statewide beach management plan in coordination with local sponsors, such as the City of Jacksonville (COJ) in our case, and the U.S. Army Corps of Engineers (ACOE). This includes the Strategic Beach Management Plan (referenced above), Long Range Budget Plan and an annual inventory of each erosion control project activities from year to year.

These projects must have clearly identifiable beach management benefits consistent with the strategic plan to be eligible for certain state cost-sharing funding assistance. Those benefits include access and parking for the public.

Here, the “Duval County Shore Protection Project” (the “Project”) with COJ acting as Local Sponsor on behalf of all the beaches is eligible for Federal, State and Local funding (with a determination that 93.78% of the Project is eligible for state cost-sharing in the last project description set forth in Document 1 referenced above).

While the City of Atlantic Beach is not an express signatory to the Documents provided and referenced above, it is a party subsumed into the Agreements by a pattern of acts over the years that have integrated it, along with the other 2 beaches in Jacksonville, within the Local Sponsorship of COJ for purposes of the beaches re-nourishment program along the entire Duval County/COJ shoreline.

As described in the grant agreement between COJ & FDEP (Document 2 referenced above) FDEP agrees to reimburse COJ, the local sponsor of the Project, a portion of the non-federal project cost. The FDEP cost-share amount is predicated on COJ maintaining a certain number and quality of access points and total parking spaces. In support of this agreement, COJ submitted the report *Public Beach Access & Parking Along Duval County Shore Protection Project*, Olsen & Associates, June 2014. This report followed FDEP guidelines to identify eligible parking spaces that could be utilized to determine the state cost-share portion of the non-federal project cost.

Any alteration to the parking spaces and public access points to the beach could alter the cost-sharing allocation.

It's also important to point out that COJ entered into a cooperative agreement with the ACOE on July 7, 1994 which extended federal participation in the construction of the Duval County Shore Protection Project, which includes the periodic beach re-nourishment of the entire Duval County ocean shoreline between the St. Johns River entrance and the Duval—St. Johns County line, for a 50 year period ending in 2028. Based on this, the COJ in turn entered into a grant agreement with the FDEP on December 6, 2000, as amended thereafter for provision of state funding.

COJ, operating as Duval County for purposes of the entire county shoreline – that is within the 3 municipalities – is designated by law as the Local Sponsor. The “Local Sponsor” by law – see FAC 62B-36 – is defined as any state, county, municipality, township, or special district created pursuant to part II, chapter 161, F.S., having *authority and responsibility* for preserving and protecting the coastal system, and any state, county, municipality, township, and inlet and navigational districts having authority and responsibility for management of an inlet. The local sponsor is responsible for the balance of the non-state cost share.

The City of Atlantic Beach has acknowledged and adopted this *COJ as Local Sponsorship* set-up both by virtue of its own past practices over the decades and by its own adopted text. *See Resolution No. 95-10 adopted on March 13, 1995* which cites the July 7, 1994 agreement between COJ (or Duval County) as Local Sponsor, and the US ACOE. Also see the following provisions of the City of Atlantic Beach’s 2030 Comprehensive Plan.

- Policy D.1.4.2 in the Conservation and Coastal Management Element states: “The City shall maintain all beach parking existing as of the date of this Plan, and reduction in the number of public parking spaces available at beach accesses shall not be permitted unless such eliminated spaces are replaced in equal numbers and within similar proximity to the beach.”
- Additionally, Policy E.1.1.8 in the Recreation and Open Space Element states: “The City shall continue to allow parking along public rights-of-way for the purpose of providing parking for beach access, provided such parking does not interfere with pedestrian or vehicular safety and does not excessively result in damage to public or private property.”

In conclusion, both the State and the Federal agreements require certain public access and parking as a condition to receiving state and federal funds, and while the City of Atlantic Beach is not a technical signatory to the Documents referenced above, because of their historic compliance in said beach re-nourishment management plan, past acts, officials acts such as its adoption of the noted comprehensive plan policies and the totality of the circumstances, any change to the COAB’s beach-access parking could alter the cost-sharing arrangement that the COJ has with the State. Whether the City of Atlantic Beach would want to do so is a policy-decision that would have to take into account its status (and its portion of the beach shoreline) in the overall Project and the resultant effect on the beach re-nourishment program and the cost-sharing plan.

I can be at a future STOP meeting if you like to discuss further (and also to understand further the context of the City’s goals with respect to this whole matter) however I am out of state tomorrow through the end of the week. Please let me know of any questions or concerns.

Thank you,

--Jason G.

Jason R. Gabriel

Partner



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From: Gabriel, Jason
Sent: Friday, September 22, 2023 11:05 AM
To: 'john Reich' <johnmreich@yahoo.com>
Subject: RE: Beach Renourishment letter

Hi John – Thank you for the below. I'll review and put in my own words and circulate.

Thank you,

-Jason G.

From: john Reich [<mailto:johnmreich@yahoo.com>]
Sent: Friday, September 22, 2023 8:23 AM
To: Gabriel, Jason <jgabriel@coab.us>
Subject: Beach Renourishment letter

Good morning,
on those documents and in sum his response to my questions are: As we discussed a couple of days ago, I passed on the following to the STOP committee last night:

"I provided Jason Gabriel, the AB City Attorney, with the Duval County Shore Protection Project and the signed agreement between the Corps of Engineers, FDEP, and the City of Jacksonville Shore renourishment project documents. I asked him to answer a few questions based

- 1. Atlantic Beach did not sign the agreement and has no liability or funding for beach replenishment.*
- 2. The signed agreement provides for cost-sharing based on the 2014 parking survey between COJ and FDEP.*
- 3. The cost-sharing arrangement is between COJ and FDEP, beach renourishment funding happens regardless of what Atlantic Beach does with parking.*
- 4. Atlantic Beach is a sovereign city and can establish parking plans within the city as the Commission sees fit."*

If this is a good summary of our discussion, then I would appreciate you documenting this finding for the STOP Committee and the Commission before the next Commission meeting. I talked to the Mayor last night and he is also interested in you providing your analysis in writing.

As I said, the City needs to put this issue to bed so we can move forward with good ideas for the community. Thanks again for your help. John

John M. Reich,
(678) 877-9942

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