

RESOLUTION NO. 246 - 2012

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, APPROVING THE FORM OF THE INTERLOCAL AGREEMENT THAT ADMITS MONROE COUNTY AS A MEMBER OF THE GULF CONSORTIUM; AUTHORIZING THE GULF CONSORTIUM TO ACT ON BEHALF OF MONROE COUNTY IN THE IMPLEMENTATION OF THE RESTORE ACT IN ACCORDANCE WITH THE INTERLOCAL AGREEMENT; AUTHORIZING EXECUTION OF THE INTERLOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the United States Congress passed the "Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012," known as the RESTORE Act, to establish a trust fund for deposits of 80% of administrative and civil penalties exacted from parties responsible for the Deepwater Horizon oil spill for distribution of the funds among the affected states; and

**WHEREAS**, the RESTORE Act requires a plan for funding expenditures within the State of Florida to be developed by a "consortia of local political subdivisions;" and

**WHEREAS**, it has been established that there are 8 disproportionately and 15 non-disproportionately affected counties in Florida, with Monroe as one of the 15 non-disproportionately affected counties; and

**WHEREAS**, it is proposed by representatives of the 23 counties with leadership and assistance from the Florida Association of Counties that an interlocal agreement (ILA) establish the statutorily required consortium and set the main operating parameters of the consortium, allowing administrative and operating details to be determined by the consortium once established; and

**WHEREAS**, it is anticipated that any of the 23 counties choosing not to be a member of the consortium will be treated in an advisory capacity only in the development of a state-wide plan; and

**WHEREAS**, there is a funding formula which allocates some funding for the non-disproportionately affected 15 counties based on established factors such as population and sales tax collections, and thirty percent of the funding being subject to the consortium's competitive rules and evaluations of the proposed projects; and

**WHEREAS**, it is deemed to be in the best interests of the residents, taxpayers, and all local governments that Monroe County be a voting member of the consortium in the development of the competitive guidelines and the evaluations; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Monroe County, Florida, that:

**SECTION 1. AUTHORITY FOR THIS RESOLUTION.** This resolution is adopted pursuant to the provisions of Section 125.01 and Part I of Chapter 163, Florida Statutes.

**SECTION 2. FINDINGS:** Monroe County, Florida (the "County") does hereby find and determine that:

- (A) Monroe 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) Monroe County desires to become a member of the Gulf Consortium.
- (C) In order to properly document the admission of Monroe County to membership in the Gulf Consortium, it is necessary and desirable for Monroe 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 Monroe County resources and staff, it is in the best interest of Monroe 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 Monroe County in the implementation of the RESTORE Act upon Monroe County becoming a Member of the Gulf Consortium. The form, terms and provisions of the Interlocal Agreement are hereby approved and the Mayor of the Board of County Commissioners of Monroe County and the Clerk of Monroe County are hereby authorized to execute and deliver said Interlocal Agreement in its name on behalf of Monroe County.

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

**SECTION 5. GENERAL AUTHORITY.** The members of the Board of County Commissioners of Monroe County, Florida and the officers, attorneys and other agents or employees of Monroe 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 Monroe County and the Monroe 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.

**PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida at a regular meeting on said Board on the 21st day of September, A.D., 2012.

Mayor David Rice	<u>Yes</u>
Mayor Pro Tem Kim Wigington	<u>Yes</u>
Commissioner Heather Carruthers	<u>Yes</u>
Commissioner Sylvia Murphy	<u>Yes</u>
Commissioner George Neugent	<u>Yes</u>



ATTEST: Danny L. Kolhage, CLERK

BY: *Danny L. Kolhage*  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By: *D. Rice*  
Mayor

FILED FOR RECORD  
2012 SEP 28 PM 1:09  
DANNY L. KOLHAGE  
CLERK  
MONROE COUNTY, FLORIDA

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:  
*[Signature]*  
ROBERT B. SHILLINGER, JR.  
CHIEF ASSISTANT COUNTY ATTORNEY  
Date: 9-29-12

EXECUTION COPY

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

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**Dated as of September 19, 2012**



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**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.

**WITNESSETH:**

**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**

**MONROE COUNTY, FLORIDA**

**BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA**

(SEAL)

**ATTEST: Danny L. Kolhage, CLERK**

**BY:** *Garnela Hancock*  
**Deputy Clerk**

**By:** *W. King*  
**Mayor**

**MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:**  
*[Signature]*  
**ROBERT B. SHILLINGER, JR.**  
**CHIEF ASSISTANT COUNTY ATTORNEY**  
Date: 7-20-12



**BOARD OF COUNTY COMMISSIONERS**

Mayor David Rice, District 4  
Mayor Pro Tem Kim Wigington, District 1  
Heather Carruthers, District 3  
George Neugent, District 2  
Sylvia Murphy, District 5

*Office of the County Attorney*  
1111 12<sup>th</sup> Street, Suite #408  
Post Office Box 1026  
Key West, FL 33041-1026  
(305) 292-3470



October 1, 2012

Ms. Sarah Bleakley for:  
Mark Mustian, Esq.  
Nabors, Giblin & Nickerson, P.A.  
1500 Mahan Drive, Suite 200  
Tallahassee, FL 32308

Certified #7011 3500 0001 6254 4887

Re: Resolution No. 246-2012 approving Exhibit A. Interlocal Agreement  
Monroe County, Florida (Gulf Consortium -RESTORE Act)

Dear Ms. Bleakley:

Per Mr. Mustian's email today, enclosed please find two (2) certified copies of Monroe County's *Resolution No. 246-2012* approving *Exhibit A. Interlocal Agreement* as approved by the Board of County Commissioners of Monroe County, Florida on September 12, 2012 for filing with the Clerk of the Circuit Court in Leon County, FL on behalf of Monroe County, FL pursuant to Section 4. of the resolution. The additional certified copy is for your records/distribution as needed. Thank you so much for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathy Peters'.

Kathy Peters for:  
ROBERT B. SHILLINGER, JR.  
Chief Assistant County Attorney

RBSJrkmp:

Enclosure: Two (2) certified copies of *Resolution No. 246-2012*  
approving *Exhibit A. Interlocal Agreement*, Monroe County, FL

cc: Danny L. Kolhage, Clerk of the Court, Monroe County, FL Re: BOCC 9/21/12 – Item P-7  
Virgina Saunders Delegal, General Counsel, FAC w/ Enclosure: Certified copy of  
*Resolution No. 246-2012* approving *Interlocal Agreement*, Monroe County, FL