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MEMORANDUM OF AGREEMENT

BETWEEN THE

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

AND THE

U.S. ENVIRONMENTAL PROTECTION AGENCY

NOS Agreement Code: MOA-2011-005/8213

I. PARTIES AND PURPOSE

A. This Agreement is between the U.S. Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA), and the U.S. Environmental Protection Agency (EPA). Within NOAA's National Ocean Service (NOS), the Office of Ocean and Coastal Resource Management (OCRM), the National Centers for Coastal Ocean Science (NCCOS), and the Coastal Services Center (CSC) will participate in this Agreement, as will the National Sea Grant College Program (NSGCP), which is part of NOAA's Office of Oceanic and Atmospheric Research (OAR). NOAA CSC and NOAA OCRM will coordinate NOAA's activities in support of this Agreement. Within EPA, the Oceans and Coastal Protection Division in the Office of Wetlands, Oceans, and Watersheds (OWOW) and the Office of Sustainable Communities (OSC) in the Office of Policy will be partners to this Agreement. EPA OWOW will coordinate EPA's activities in support of this Agreement.

B. The purpose of this Agreement is to strengthen cooperation and communication and enhance our efforts and capabilities in a coordinated and focused manner, including the sharing of resources, tools and information, to assist regional government entities, States, Tribes, territories and local governments in becoming sustainable and resilient coastal and waterfront communities, protecting healthy coastal ecosystems, restoring degraded coastal ecosystems and adapting to climate change. This Agreement serves as the framework for future collaboration between NOAA and EPA to maximize skills, knowledge and effectiveness on targeted projects and activities.

II. BACKGROUND

A. Regional governance entities, as well as States, Tribes, and local governments, have considerable authority for local land use and for natural resource management and decision making. The Federal government partners with all those entities, helping to build their capacity to maintain strong economies, protect and restore coastal ecosystems, and develop sustainable, resilient communities prepared to adapt to climate change. The Federal government provides those partners with financial assistance, as well as with technical assistance that includes scientific information and relevant educational tools, techniques and materials.

B. Populations and built environments in coastal watersheds are growing rapidly. In 2010, for example, 52 percent of the U.S. population lived in the nation's 673 coastal counties, and by 2015 that percentage is expected to increase by 5 percent. Population growth and development put fragile coastal regions at particular risk, and coastal communities are increasingly challenged to balance their actions to sustain natural resources with actions that sustain economic growth.

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C. It is expected that climate change will further threaten the health and wellbeing of coastal ecosystems and communities. Climate change impacts are expected to cause changes in coastal ecosystem biodiversity, structure, and function; threaten areas that are particularly vulnerable to erosion and land loss with inundation from rising seas; alter the frequency and volume of precipitation; and cause more intense storm events. To help prevent or mitigate those impacts, coastal community residents, businesses and public-sector agencies must enhance their capacity to assess climate change vulnerabilities and improve the resilience of coastal communities faced with those projected impacts.

D. NOAA and EPA agree that integrating efforts and coordinating partnerships across all levels of government are necessary to address these challenges. The Interagency Climate Change Adaptation Task Force (ICCATF) recommends and the National Ocean Policy (NOP) mandates better coordination and support for Federal, State, territorial, Tribal, local and regional management of oceans and coasts, including the Great Lakes. Issued as Executive Order 13547, "Stewardship of the Ocean, Our Coasts, and the Great Lakes," the NOP was signed by the President in July 2010. It directs executive agencies to implement coordination and support across government entities under the guidance of a National Ocean Council. The ICCATF and NOP also call for Federal agencies to increase their interagency coordination efforts to (1) help coastal communities become more sustainable and resilient; (2) protect healthy coastal ecosystems and the marine environment; and (3) restore degraded coastal ecosystems to health.

E. Under its mission to protect human health and the environment, EPA advances protection of America's waters, sustainable development and adaptation to climate change. EPA also promotes environmental stewardship and shared responsibility across all parts of society to implement environmental protection actions. Agency watershed management programs are among those that help strengthen the capacity of regional, State, Tribal, and local entities to effectively protect and restore coastal watersheds. Those programs provide the most current scientific information, as well as innovative tools and techniques, to regional, State, tribal, and local entities to help them anticipate and be prepared to address challenges to coastal waters, natural ecosystems and communities.

1. EPA OWOW/OCPD promotes estuarine management to protect and restore water quality and living resources of our marine and fresh waters. This watershed management approach is based on the premise that water quality and ecosystem problems are best solved at the watershed level and that local communities and citizens play an integral role in achievement of Clean Water Act goals for estuarine and coastal waters and watersheds. This work also takes into account climate change impacts and adaptation strategies for estuarine ecosystems and coastal communities. OCPD's National Estuary Program comprises 28 estuaries nationwide; these programs address watershed and estuarine issues, are science-based and are connected to communities and other stakeholders. OCPD also works to ensure marine ecosystem protection by controlling point-source vessel discharges, managing dredged material and ocean dumping, monitoring ocean and coastal waters,

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and managing other marine issues for EPA, such as marine debris, invasive species and the marine transportation system.

2. EPA OSC in the Office of Policy works with States and communities to find ways to help them implement development practices that protect public health and the environment, expand economic opportunity and create and enhance places that people care about. OSC promotes development approaches that have clear environmental benefits, including improved air and water quality, increased wetlands preservation, more cleanup and reuse of brownfield sites, and increased preservation of natural areas. OSC achieves these goals by conducting applied research, developing and providing tools and technical assistance for states and localities, conducting outreach, and working through collaborative interagency efforts such as the Partnership for Sustainable Communities among the US Department of Housing and Urban Development (HUD), the Department of Transportation (DOT), and EPA.

3. EPA Regional Offices are responsible for execution of EPA programs in States, Tribes, and territories that fall within their respective regions. The Regional Offices cooperate with Federal, State, interstate and local agencies, as well as with industry, academic institutions, and other private groups, to ensure that regional needs are addressed and that Federal environmental laws are upheld. The EPA Regional Offices implement a range of regulatory and nonregulatory environmental programs that support development of sustainable and resilient coastal and waterfront communities; monitor and protect coastal ecosystems; provide grants for protection of coral reefs, wetlands and estuaries; promote water-quality protection through the use of tools, including biological assessments and biocriteria; and take enforcement actions.

F. Through its mission of science, service and stewardship, NOAA advances the understanding of and ability to anticipate changes in the Earth's environment by improving society's ability to make scientifically informed decisions and by conserving and managing ocean and coastal resources. NOAA provides significant management and technical support to state, regional, and local decision makers to enhance their capacity to balance development with natural resource protection, to improve resilience to coastal hazards and climate change, and to further ecosystem-based management. NOAA does this through effective partnerships, extension, significant coordination, research, training, policy guidance and a wide variety of funding mechanisms.

1. NOAA OCRM provides national leadership, strategic direction and direct support to state and territory coastal programs and estuarine research reserves. OCRM works in partnership with state governments, communities, tribes and other federal agencies to manage and protect coastal and ocean resources; use place-based protected areas for research and education; develop a scientifically based, comprehensive national system of marine protected areas; and support sound science and management to protect, sustain and restore coral reef ecosystems.

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2. NOAA CSC brings new ideas, information and data, technology, technical assistance and training to State and local decision makers in two main focus areas: coastal hazards and climate change adaptation, and competing uses of coastal resources. Priorities are driven and focused by the needs of coastal managers, represent societal goals for sustainable coastal communities and economies, and reflect an informed society anticipating and responding to a changing climate and its impacts.

3. NOAA Sea Grant is a network of 32 university-based programs that work with coastal communities in support of coastal resource use and conservation. The National Sea Grant College Program (NSGCP) engages this network of the nation's top universities in conducting scientific research, education, training and extension projects designed to foster science-based decisions about the use and conservation of our aquatic resources. The research and outreach programs of the NSGCP promote better understanding, conservation and use of America's coastal resources.

4. NOAA NCCOS provides cutting-edge research, scientific information, and tools that help balance ecological, social, and economic goals. Partnerships with scientists and managers from around the nation are central to their success in providing high-quality science and services. In response to established legislation and NOAA priorities, and in concert with their scientific expertise and capabilities, they focus on four research areas to deliver high-quality, timely, and relevant science and services to NOAA and their partners: harmful algal blooms, coastal contamination impacts, climate change impacts and science to support coastal and marine spatial planning.

G. EPA and NOAA demonstration projects, policy and legal assistance, tool development and information transfer are all increasingly sought by State and local government entities. This Agreement will help NOAA and EPA meet this demand while enhancing the capacity of both agencies to carry out their missions. Combining NOAA and EPA efforts and capabilities in a coordinated and focused manner will ensure the best and most effective use of Federal resources. Whenever and wherever possible and appropriate, other Federal agencies will be encouraged to join NOAA and EPA in focused, collaborative efforts to ensure the best and most effective use of Federal resources. Similarly, whenever and wherever appropriate, other offices within NOAA and EPA will be encouraged to join efforts on specific projects.

III. AUTHORITIES

A. The legal authorities for EPA to enter into this Agreement are as follows:

1. The Clean Air Act (42 USC § 7401 et seq.), Clean Water Act (33 USC § 1251 et seq.), Safe Drinking Water Act (42 USC § 300f et seq.), and the Solid Waste Disposal Act (42 USC § 6901 et seq.) to include the goals of improving air, water quality and ecosystems whose degradation is often linked to impacts of human uses, including unsustainable growth and development activities.

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2. Section 104(k) of the Comprehensive Environment Response, Compensation and Liability Act of 1980 (CERCLA) (42 USC § 9601 et seq.), as amended, to include assisting coastal communities in assessing and remediating brownfield sites.

3. The National Environmental Policy Act (NEPA) (42 U.S.C. § 4321), which requires that Federal agencies cooperate in efforts to protect the environment. as well as in other environmental pollution and protection laws and Presidential Executive Orders.

4. The Marine Protection, Research, and Sanctuaries Act (MPRSA), also known as the Ocean Dumping Act, prohibits ocean dumping of material that would unreasonably degrade or endanger human health or the marine environment. In the case of dredged material, the decision to issue a permit is made by the U.S. Army Corps of Engineers using EPA's environmental criteria and is subject to EPA's concurrence. EPA is the permitting agency for all other materials. EPA is also responsible for designating recommended ocean dumping sites for all types of materials

B. The legal and programmatic authorities for NOAA to enter into this Agreement are as follows:

1. The Coastal Zone Management Act of 1972 (CZMA) (16 USC § 1451 et seq.), including amendments authorizing the Secretary of Commerce, through the National Ocean Service, to direct the development, implementation, evaluation and funding of State coastal zone management programs, national estuarine reserves and related activities under the CZMA, including conducting technical assistance and management-related research.

2. The National Sea Grant Act (33 USC § 1121 et seq.) provides funding for research, which is the scientific basis for a network of Sea Grant Extension Agents who assist coastal communities with issues such as comprehensive land and water use planning.

3. The National Environmental Policy Act (NEPA) (42 USC § 4321 et seq.), which requires that Federal agencies cooperate in efforts to protect the environment. as well as in other environmental pollution and protection laws and Presidential Executive Orders.

4. Coral Reef Conservation Act (CRCA) (16 U.S.C § 6401 et seq.) which authorizes NOAA to implement a national program to conserve coral reef ecosystems within the U.S. jurisdictions and waters with shallow-water coral reefs.

5. The Marine Protection Research and Sanctuaries Act (33 U.S.C. §1442), which authorizes the Secretary of Commerce to initiate a comprehensive and continuing program of research with respect to the possible long-range effects of pollution, overfishing, and human-induced changes of ocean ecosystems.

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6. Executive Order 13158 of May 26, 2000, which calls for the development of a scientifically-based, comprehensive National System of Marine Protected Areas (MPAs) representing diverse U.S. marine ecosystems and the Nation's natural and cultural resources, and directs the establishment of a National MPA Center within NOAA to carry out, in cooperation with the Department of the Interior, the system's development and implementation.

IV. TERMS AND CONDITIONS

A. This Agreement establishes the general parameters of the relationship between NOAA and EPA, subject to the availability of appropriated funds.

1. NOAA and EPA agree to:
   a. Develop an annual work plan detailing specific projects and activities that will be undertaken under this Agreement.

   b. Develop an internal progress report half way through the agreement period summarizing work accomplished under this Agreement to date.

   c. Develop an internal final report at the end of the agreement period summarizing work accomplished under this Agreement.

   d. Promote the principles of ecosystem protection and restoration, sustainability and resilience for estuarine and coastal communities and resources.

   e. Enhance the capacity of State and local governments and communities to advance the principles listed above through EPA-NOAA partnerships on training, planning, research, education and outreach activities.

   f. Acknowledge the distinct authorities, mandates and organizational missions of each agency, identify areas of mutual interest, develop partnerships and collaborate to effectively utilize expert capacities of each agency. Collaborative efforts would include those that engage diverse audiences and inform the agencies' decision making, including evaluation of environmental programs and their impacts.

   g. Demonstrate results at the State and local levels by various means, including the development and application of tools, development of new policies and practices, and assistance on site-specific projects.

   h. Build on existing Federal interagency partnerships such as the HUD-DOT-EPA Partnership for Sustainable Communities.

B. This Agreement is not a fiscal or funds obligation document. This Agreement defines in general terms the basis on which the Parties will cooperate and, as such,

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may at some time involve the transfer of funds from one Party to another. Any activities or projects involving reimbursement or contribution of funds between the Parties to this Agreement will be handled in accordance with applicable laws, regulations and procedures. Such activities will be documented in separate Support Agreements (SAs) that clearly describe specific projects between the Parties and reference this underlying Agreement.

V. PUBLICATION AND RELEASE OF INFORMATION

A. Both Parties will review any materials created to inform the public about this Agreement and will not issue press releases or other public statements about the Agreement without mutual agreement.

B. The Parties agree that the sharing of credit is mutually beneficial and will assure that appropriate citation and attribution is given for work performed pursuant to this Agreement. Specific uses of an agency logo or seal will require advance approval by that Party.

VI. AREAS FOR POTENTIAL COLLABORATION

A. This Agreement has been developed within the context of the Administration's National Policy for the Stewardship of the Ocean, our Coasts, and the Great Lakes. The nine priority objectives, as identified in the National Policy, serve as the framework for EPA and NOAA collaboration. This Agreement and the work that will be accomplished under it directly address that Policy's Priority Objective 4: Better coordinate and support Federal, State, Tribal, local and regional management of the ocean, our coasts, and the Great Lakes. Improve coordination and integration across the Federal Government, and as appropriate, engage with the international community.

B. Although the initial focus of the projects undertaken through this Memorandum of Agreement (MOA) will be on the National Policy's Priority Objectives 5, 6 and 7, this Agreement provides the flexibility to cooperatively address all nine Priority Objectives that must be pursued in order to implement the National Ocean Policy. Examples of areas of potential collaboration are listed below; specific projects and activities will be identified annually through the development of a work plan.

1. **Priority Objective 5: Resiliency and Adaptation to Climate Change and Ocean Acidification**: Strengthen resiliency of coastal communities and marine and Great Lakes environments and their abilities to adapt to climate change impacts and ocean acidification.

    a. Develop policy guidelines, tools, case studies and other products and provide training and technical assistance for coastal and waterfront communities focused on improving ecosystem resilience and incorporating climate change adaptation, hazard resiliency and smart growth in development and management plans and activities.

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b. Develop and implement climate adaptation strategies and tools through existing networks such as Regional Ocean Governance groups, the US Coral Reef Task Force, the National Estuary Programs, the National System of MPAs and other protected area sites.

c. Develop outreach and extension materials for coastal and waterfront communities to describe results and lessons learned from climate adaptation activities such as Climate Ready Estuary projects.

d. Support place-based projects focused on equitable development and climate adaptation in coastal urban watersheds.

2. **Priority Objective 6: Regional Ecosystem Protection and Restoration**: Establish and implement an integrated ecosystem protection and restoration strategy that is science-based and aligns conservation and restoration goals at the Federal, State, Tribal, local and regional levels.

   a. Coordinate efforts to assess risks to ecosystem functions within coastal, marine, and Great Lakes environments.

   b. Coordinate and promote the development and use of effective methods for aquatic and terrestrial habitat protection and restoration, as well as for land acquisition that promote biological integrity and natural systems safeguard investments, enhance ecosystem resiliency, and support adaptation to expected climate change impacts.

   c. Support colocated local projects on issues of mutual interest, such as developing environmental indicators, refining methods for valuing ecosystem services, implementing comprehensive conservation and management plans, conducting local ecosystem monitoring and adapting to climate change.

   d. Develop joint National Coastal Condition Reports and related initiatives to generate information and provide periodic environmental report cards on the state of our Nation's coastal waters.

3. **Priority Objective 7: Water Quality and Sustainable Practices on Land**: Enhance water quality in the ocean, along our coasts and in the Great Lakes by promoting and implementing sustainable practices on land.

   a. Develop and distribute tools, case studies and other products, and provide technical assistance and training focused on building local and regional community capacity to implement more sustainable construction and land use practices.

   b. Support projects that address pollutants, invasive species, harmful algal blooms, pathogens, nutrients, sedimentation and acidification to enhance the capacity of coastal communities to improve water quality, to protect

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critical coastal and near shore marine habitats and to protect public health. Work toward establishing a comprehensive framework, integrated with State monitoring programs, that provides assessment and reporting relevant to these issues at the national and state levels.

VII. IMPLEMENTATION OF SUPPORT AGREEMENTS

A. This Agreement is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the Parties to this Agreement will be handled in accordance with applicable laws, regulations and procedures, and will be subject to separate support agreements hereunder that shall be effected in writing by representatives of both Parties.

B. This Agreement in no way restricts EPA or NOAA from participating in similar activities or arrangements with other entities or Federal agencies.

C. Nothing in this Agreement shall obligate EPA or NOAA to expend appropriations or to enter into any contract or other obligations.

D. Should EPA and NOAA decide to collaborate on a specific project or projects, one agency will be selected to serve as the lead agency. The lead agency will be responsible for all grant management, financial and accounting services involved in awarding funds to a recipient. The other agency will be responsible for transferring its share of funds to support the project to the lead agency and any other duties as may be specified in separate support agreements under this Agreement.

E. Projects funded pursuant to this Agreement shall be determined annually on a case-by-case basis in accordance with this Agreement, each agency's budget priorities, and as put forth in specific support agreements hereunder. Any awards shall be made pursuant to both agencies' governing authorities and will be administered in accordance with applicable laws, regulations and procedures.

F. Neither NOAA nor EPA may endorse the purchase or sale of products and services provided by private organizations that become partners in this effort. This Agreement does not create any right or benefit, substantive or procedural, enforceable by law or equity against NOAA or EPA, their officers or employees or any other person. This Agreement does not direct or apply to any person outside NOAA and EPA. This MOA is intended only to improve the internal management of the Federal Government.

G. Support agreements will be executed if funds are to be transferred between the Parties. Each support agreement will include the following:

1. Purpose;
2. Organization authorities to expend or transfer funds;
3. A detailed Statement of Work (SOW), which clearly describes the supplies or services being ordered, the quantity ordered, the unit cost per individual unit

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or service performed, line total (unit costs times quantity) in dollars and cents, the total amount (total of all line items), and delivery schedules, with cost breakdown;

4. Accounting and fiscal data to include each Party's Dun and Bradstreet (DUNS) Number and Employer Identification Number. The following information is required for Federal parties: OMB MAX Code, Agency Location Code, Appropriation Codes for payment and collection, type of funds and expiration date, and complete string of accounting and classification code structure;
5. Funding, billing, and payment arrangements;
6. Identification of individual project managers;
7. Identification of types of contracts to be used, if any;
8. Types and frequencies of reports required;
9. Identification of which Party is to be responsible for government-furnished equipment, contract administration, records maintenance, rights to data, software and intellectual property, and contract audits;
10. Procedures for amending or terminating the support agreement;
11. Such other particulars as necessary to describe clearly the obligations of the Parties with respect to the requested goods and services; and
12. Appropriate approval/signature blocks for each Party's respective signatory officials.

VIII. CONTACTS

A. The contacts for coordinating activities under this Agreement are:

1. NOAA
   Margaret Davidson, Director
   NOAA Coastal Services Center
   2234 South Hobson Ave.
   Charleston, SC 29405
   Phone: (843) 740-1200

2. EPA
   Paul Cough, Director
   Oceans and Coastal Protection Division
   Office of Wetlands, Oceans, and Watersheds
   U.S. EPA
   1301 Constitution Avenue, NW
   Mail code 4504T
   Washington, D.C. 20460
   Phone: (202) 566-0688

B. The Parties agree that if there is a change regarding the information in this section, the Party making the change will notify the other Party in writing of such change.

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IX. DURATION OF AGREEMENT, AMENDMENTS, OR TERMINATION

A. This Agreement will become effective on the date of last signature and shall remain in effect for five (5) years.

B. This Agreement may be amended at any time within the scope of the Agreement, through the written mutual consent of the Parties.

C. This Agreement may be terminated by (1) mutual written consent, (2) 90 days advance written notice by either Party, or (3) completion of the Terms and Conditions of the Agreement.

D. The Parties will review this Agreement at a minimum of once every three years to determine whether the Agreement should be revised or terminated.

X. RESOLUTION OF DISAGREEMENTS

A. Nothing in this Agreement is intended to conflict with current DOC, NOAA, NOS or EPA directives or applicable laws. Any such conflicting term shall be invalid, but the remainder of the Agreement shall remain in effect. If a term is deemed invalid, the Parties shall immediately review the Agreement to decide what they should do in light of the invalid term, e.g., amend or terminate the Agreement.

B. Should disagreement arise on the interpretation of the provisions in this agreement, the dispute shall be resolved pursuant to the Business Rules for Intragovernmental Transactions delineated in the Treasury Financial Manual, Vol. 1, Bulletin 2007-03, Section VII (Resolving Intragovernmental Disputes and Major Differences).

XI. APPROVALS

ACCEPTED AND APPROVED FOR THE U.S. DEPARTMENT OF COMMERCE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

BY: _____
Jane Lubchenco, Ph.D.
Under Secretary of Commerce for for Oceans and Atmosphere and NOAA Administrator

DATE: MAR 24 2011

ACCEPTED AND APPROVED FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

BY: _____
Lisa P. Jackson
EPA Administrator

DATE: April 8, 2011

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