

D.E.P.

JUL 1 2 2004

**INTERLOCAL AGREEMENT
Southwest District Tampa**

SARASOTA BAY NATIONAL ESTUARY PROGRAM INTERLOCAL AGREEMENT

This Sarasota Bay National Estuary Program Interlocal Agreement (the "Agreement") is executed and made effective the 1st day of October, 2004, by and between the following governmental entities: 1. City of Sarasota, a Florida municipal corporation; 2. City of Bradenton, a Florida municipal corporation; 3. Florida Department of Environmental Protection, a Florida state agency; 4. Sarasota County, a Florida political subdivision; 5. Manatee County, a Florida political subdivision; 6. Southwest Florida Water Management District, a public corporation of the State of Florida; 7. Town of Longboat Key, a Florida municipal corporation, (collectively the "Parties" and each singularly a "Party"); and the following recitation of facts are provided in support of this Agreement:

(A) The Sarasota Bay National Estuary Program was established in 1989 to assist the Sarasota Bay area in developing a comprehensive plan to restore and protect Sarasota Bay. The Sarasota Bay National Estuary Program is governed by a Policy Committee and advised by a Management Committee. The Sarasota Bay National Estuary Program is a part of a national network of twenty-eight (28) estuary programs established under the Federal Clean Water Act and administered nationally by the United States Environmental Protection Agency.

(B) Local government and regulatory agency participants in the Sarasota Bay National Estuary Program consisting of the Parties described in the Preamble above, as well as the United States Environmental Protection Agency, U.S. Fish and Wildlife Service, Florida Fish and Wildlife Commission, Florida Marine Research Institute and the United States Army Corps of Engineers, have developed and unanimously adopted a Comprehensive Conservation & Management Plan for Sarasota Bay, known as *Voyage To Paradise Reclaimed*, dated June 1995, (the "CCMP"), and are committed to its successful implementation. The CCMP seeks to ensure that Sarasota Bay's environmental quality improves as a vibrant part of the region's environmental and economic landscape by preserving and enhancing its role as a recreational resource, and home for fish and wildlife.

(C) The CCMP presents goals for the improvement of Wastewater Treatment and Reclamation, Storm water Treatment and Prevention, Freshwater and Saltwater Wetlands, Fisheries and Other Living Resources, Recreational Use and Governance, which will be reexamined at least once every five (5) years and updated as appropriate. To achieve the CCMP goals, this Agreement emphasizes regional cooperation and regulatory flexibility that allows the Parties to select cost-effective and environmentally beneficial bay improvement options for their communities, so long as the goals of the CCMP are met.

(D) The parties to the CCMP and this Agreement endeavor to be the second National Estuary Program to adopt a binding agreement to ensure that the CCMP is properly and effectively implemented.

NOW THEREFORE, in consideration of the mutual promises contained in this Agreement, the receipt and adequacy acknowledged by them, the Parties agree as follows:

ARTICLE ONE – INTRODUCTORY PROVISIONS

1.1 **Recitals.** The statements contained in the recitation of facts set forth above (collectively the "Recitation of Facts") are true and correct, and are hereby made a part of this Agreement by this reference.

1.2 **Exhibits.** The exhibits, which are attached to this Agreement, are by this reference made a part hereof.

1.3 **Abbreviations and Definitions.** The following abbreviations and definitions will be used for purposes of this Agreement, and will not constitute separate agreements unless otherwise stated below:

(a) The abbreviations and definitions contained in the Preamble will be used for purposes of this Agreement.

(b) The abbreviations and definitions contained in the Recitals will be used for purposes of this Agreement.

(c) The term "Act" means Section 163.01, Fla. Stat., known as the "Florida Interlocal Cooperation Act of 1969".

(d) The term "Action Plan(s)" means the comprehensive action plans developed by each of the Parties which set forth the individual initiatives and strategies each Party will undertake to attain the CCMP Goals, subject to prior approval as set forth below.

(e) The term "Action Plan Supplement(s)" means the annual supplements to each of the Parties' Action Plans that set forth specific projects they will implement to attain the CCMP Goals.

(f) The term "Agreement" means this Interlocal Agreement between the Parties as it is presently constituted or as it may be amended from time to time.

(g) The term "Army Corps" means the United States Army Corps of Engineers, a federal agency.

(h) The term "Bradenton" means the City of Bradenton, a Florida municipal corporation.

(i) The term "CCMP" means the Comprehensive Conservation and Management Plan, dated June 1995, unanimously approved by the Parties, as amended from time to time.

(j) The term "CCMP Goals" or "Goals" means those goals of the CCMP set forth in Exhibit A, as amended from time to time.

- (k) The term "Cities" means collectively the City of Sarasota and City of Bradenton.
- (l) The term "Citizens Advisory Committee" means a committee formed to provide citizen input to the process.
- (m) The term "Counties" means collectively Manatee County and Sarasota County.
- (n) The term "EPA" means the United States Environmental Protection Agency, a federal agency.
- (o) The term "Effective Date" means the date that all Parties have duly executed this Agreement and filing has occurred pursuant to Section 13.14 below.
- (p) The term "FDEP" means the Florida Department of Environmental Protection, a Florida state agency.
- (q) The term "FMRI" means the Florida Marine Research Institute, an institute of the Florida Fish & Wildlife Conservation Commission.
- (r) The term "FWC" shall mean the Florida Fish and Wildlife Commission, a constitutionally created Florida state commission.
- (s) The term "Local Governments" means collectively the Cities and the Counties.
- (t) The term "Longboat Key" means the Town of Longboat Key.
- (u) The term "Management Board" means the new board for the NEP Entity that will replace the Management Committee, as set forth in Article Five below.
- (v) The term "Management Committee" means the existing Management Committee of the NEP, which will be replaced under this Agreement by the Management Board for the NEP Entity under Article Five below.
- (w) The term "Manatee" means Manatee County, a Florida political subdivision.
- (x) The term "NEP Entity" means the interlocal entity formed pursuant to this Agreement and Section 163.01, Fla. Stat., which will be known as the Sarasota Bay Estuary Program.
- (y) The term "Water Quality Consortium" means that a task force will convene to address water quality improvement.

(z) The term "Policy Board" means the new board of the NEP Entity that will replace the Policy Committee, all as set forth in Article Five below.

(aa) The term "Policy Committee" means the existing Policy Committee of the NEP which will be replaced under this Agreement by the Policy Board for the NEP Entity under Article Five below.

(bb) The term "Regulatory Agencies" means the governmental agencies with regulatory authority over the activities of some of the other Parties, including FDEP and SWFWMD.

(cc) The term "SBNEP" means the Sarasota Bay National Estuary Program, an intergovernmental task force.

(dd) The term "Sarasota" means Sarasota County, a Florida political subdivision.

(ee) The term "Streamlined Permitting" means the expedited permitting process described in Section 8.3 below.

(ff) The term "SWFWMD" means the Southwest Florida Water Management District, a public corporation of the State of Florida.

(gg) The term "TAC" means the Technical Advisory Committee comprised of representatives from the technical community.

(hh) The term "U.S. F&WS" means United States Fish and Wildlife Service, a federal agency.

ARTICLE TWO -- INTERLOCAL AGREEMENT

2.1 **Interlocal Agreement.** This Agreement is an interlocal agreement, as contemplated by the Act, and pursuant to the authority of subsection (4) of the Act, all of the Parties qualify to be a part of this Agreement under such Act.

2.2 **Immunity.** Pursuant to subsection (9) of the Act, all of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents or employees of any public agent or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies will apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extraterritorially under the provisions of this Agreement.

ARTICLE THREE -- TERM

3.1 **Term.** The term of this Agreement is perpetual, commencing on the "Effective Date". The last day of the Agreement will be referred to below as the "Termination Date".

3.2 **Sundown Review.** This Agreement will be subject to a review by the Policy Board five (5) years from the Effective Date of this Agreement and on the same day of each five (5) year period thereafter at which time the Policy Board will evaluate the appropriateness and effectiveness of this Agreement and the NEP Entity. The Policy Board will vote by majority vote on whether to terminate this Agreement, amend this Agreement or to allow the status quo to prevail. Should no action occur, this Agreement will continue for another five-year period.

ARTICLE FOUR – CCMP

4.1 **Adoption of CCMP Goals and Priorities.** The Parties hereby agree that the goals and priorities (collectively the "Goals") for Sarasota Bay described in the CCMP and amplified in Exhibit A are approved and adopted. The Goals address issues intended to sustain - a healthier bay that will support both recreation and commerce, focusing on seagrass and nutrient load management, coastal habitats, toxic contaminants, atmospheric deposition, fish and wildlife, recreation and education. The Goals will be achieved in the manner described in Section 4.3 below and in Article Seven. The Parties agree to use their best efforts to achieve all of the Goals within the time periods prescribed, and will work cooperatively to achieve all of the Goals applicable to them in a cost-effective manner. Additionally, the Parties agree to work together in good faith and through their best efforts to address other actions and recommendations in the CCMP not reflected in Exhibit A.

4.2 **Modification.** The CCMP and its incorporated Goals for Sarasota Bay will not be amended, changed, extended, modified or supplemented without the unanimous written consent of all of the Parties. The Goals will be reexamined by the NEP at least once every five (5) years in light of new knowledge or changed circumstances and updated accordingly. The Policy Board may elect by a majority vote to reexamine the Goals more frequently. When it has been determined by the Policy Board that a particular Goal has been met, the Goal will be restructured to provide for ongoing maintenance of the resource.

4.3 **Goals: Achievement.** It is contemplated that all Goals will be collectively achieved by the Parties. It is contemplated this will foster joint cooperation among the Parties and joint restoration and pollution reduction projects where reasonable and cost effective. If a cumulative goal is not met within its stated goal period, then the NEP Entity will develop the additional projects necessary to address the shortfall, including the funding sources, subject to the approval of the Policy Board.

4.4 **Water Quality Management Consortium Responsibilities.** The Water Quality Management Consortium (Exhibit B) is expected to develop an Action Plan by resolution concurrent with the adoption of this Agreement to address the goals for cumulative water quality improvement in bay segments verified by FDEP as impaired. Those Consortium members who are also Parties to this Agreement will incorporate appropriate elements of the Action Plan into their own Action Plans within the later of sixty (60) days of the Effective Date of this Agreement or the adoption of the Water Quality Management Action Plan for "impaired" waters. Such

Action Plan is subject to the approval by majority vote of both the Policy Board and the Management Board. In the event of any inconsistency between the provisions of this Agreement and any agreement that may be adopted by the Consortium, including, without limitation, water quality goals, the provisions of this Agreement will control and prevail.

4.5 Prospective Application. This Agreement is to be of prospective application only. Any actions authorized by FDEP permits or permits issued by other permitting agencies issued in response to permit applications filed prior to the effective date of this Agreement, whether or not such applications were deemed complete by FDEP or other permitting agencies by that date, will not be considered inconsistent with any CCMP goals, either allocated or unallocated, or requirements of this Agreement. Furthermore, any progress made toward implementing CCMP goals, allocated or unallocated or requirements of this Agreement, will be measured based upon an assumption that actions authorized by the permits referred to in this Section were occurring as of the effective date of this Agreement.

4.6 Existing Projects. The Parties will be able to take into account in their Action Plan, projects that accomplish their designated responsibilities to the extent that such projects were completed and became operational on or after July 1, 1995.

ARTICLE FIVE -- STRUCTURE OF THE NEP

5.1 NEP Entity. The Parties agree to the formation of the NEP Entity to be known as the Sarasota Bay Estuary Program pursuant to the authority of Section 7 of the Act.

5.2 NEP Entity. The NEP Entity will be created under authority of subsection (7) of the Act. The NEP Entity will have those powers specifically described in or contemplated by this Agreement.

(a) The NEP Entity will:

- (i) Have the powers and be in compliance with subsection (5) of the Act;
- (ii) Determine, adopt and implement a personnel policy for the recruitment, retention, supervision, discipline and evaluation of the NEP Entity employees;
- (iii) Make purchases and enter into contracts in a manner to be determined, adopted and implemented by the NEP entity;
- (iv) Determine the manner of acquisition, ownership, custody, operation, maintenance, lease or sale of real or personal property;
- (v) Determine the manner of the acceptance of gifts, grants, assistance funds or bequests;

(vi) Determine the manner of submission of requests for federal, state, regional, local government or other aid or grants, except as otherwise specifically described in this Agreement;

(vii) Determine the manner of responding for any liabilities that may be incurred through performance under this Agreement;

(viii) Determine the manner in which strict accountability of all funds will be provided and the manner in which reports, including an annual independent audit, of all receipts and disbursements will be prepared and presented to the NEP Entity and all Parties; and

(ix) Determine, adopt and implement all other necessary and proper matters not otherwise listed above.

(b) The NEP Entity will not promulgate, issue or make rules or regulations, bonds, tax, charge rates, fees or rents, condemn or assume any additional governmental powers by the other Parties except as specifically allowed by this Agreement;

(c) All of the tangible personal property and copies of all records of the City of Sarasota used specifically by or for the NEP and the NEP Entity employees will be transferred by the City of Sarasota to the NEP Entity by the date described in Section 5.8 below (with the consent of EPA first being obtained as applicable). It is the intent that tangible personal property paid by funds of the NEP will be transferred to the NEP Entity in the manner described in Section 5.8 below;

(d) In the event there are surplus funds held by the NEP Entity, they will be used in the manner determined by the Policy Board, consistent with applicable laws and regulations;

(e) The adjudication of disputes or disagreements, the effects of failure of adjudicated parties to pay their share of the cost or expenses and the rights of other Parties in such cases is specifically described in or contemplated by this Agreement;

5.3 NEP Entity Functions and Responsibilities. The NEP Entity will have the following functions and responsibilities, to the extent such functions and responsibilities are not inconsistent with the Act or any provision of applicable law:

(a) To make and enter into contracts and assume such other functions as are necessary to carry out the provisions of any contracts entered into by the NEP Entity;

(b) To employ agencies or employees and establish salaries and personnel and employee benefit programs for such full time and temporary employees as are necessary to carry out the functions of the NEP Entity;

- (c) To acquire, lease, construct, manage, maintain or operate buildings, works or improvements;
- (d) To purchase, receive, or otherwise acquire, own, hold, sell, convey, lend, or otherwise dispose of, real, tangible or intangible personal property, or any legal or equitable interest in such property wherever located, and to the extent the Parties all have such power, to mortgage, pledge, or create a security interest in such property;
- (e) To incur debts, liabilities, obligations, borrow money, issue notes and other obligations, and to the extent the Parties all have such power, to secure any of its obligations by mortgage or pledge of any of its property, income and make contracts of guaranty and suretyship which do not constitute the debts, liabilities or obligations of any of the Parties;
- (f) To adopt policies or procedures or rules pertaining to any of its operations and to conduct its business, locate offices, and exercise the powers granted by law;
- (g) To acquire and to perform all the things necessary to carry out the purposes of this Agreement separately or in conjunction with any of the Parties;
- (h) To conduct and pay for studies, plans and designs to effectuate the purpose of the NEP Entity, which action may include, but are not limited to, work plans for staffing, financing, research, advertising and marketing projects;
- (i) To enter into interlocal agreements, or other contracts with public or private entities, if necessary, for the purposes described in this Agreement;
- (j) To establish any future plan for participation of the Parties to effectuate the terms and provisions of this Agreement, including plans for any additional funding needed to effectuate the terms and provisions of this Agreement;
- (k) To appear on its own behalf before boards, commissions, departments, or other agencies of municipal, county, state, or federal government;
- (l) To request or accept any grant, payment, or gift, of funds or property made by the State of Florida, or by the United States or any department or agency thereof or by any individual, firm, corporation, municipality, county, or organization for any or all of the purposes of the NEP Entity; and to expend such funds in accordance with the terms and conditions of any such grant, payment, or gift, in the pursuit of its administration or in support of the terms and provisions of this Agreement. The NEP Entity will separately account for the public funds and the private funds deposited into any authorized public depository;
- (m) To provide that the Policy Board and the Management Board unanimously agree, to adopt, change, amend, and repeal any terms and provisions of this Agreement;
- (n) To sue and be sued, complain, and defend in its entity name;

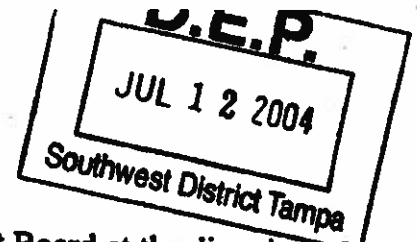
- (o) To transact any lawful business that will aid governmental policy; and
- (p) To make payments or donations or do any other act not inconsistent with law that furthers the affairs of the NEP Entity.

5.4 Policy Board. Initially, the Board of Directors of the NEP Entity will be made up of six (6) voting directors representing the Cities, Counties, FDEP and SWFWMD (collectively the "Policy Group Member(s)"), and one non-voting participant representing the EPA, and will be known as the "Policy Board." Each Policy group member will be appointed by their organization to act as their representative. Each Policy Group Member and the EPA shall appoint an alternate representative for the Policy Board to serve when their actual representative is not available. Each Policy Group Member and the EPA may change the initial or alternative representative from time to time, but must provide a minimum of two (2) business days prior written notice executed by a duly authorized representative before any meeting. The Policy Board will have policy-making powers for the NEP Entity, in addition to those powers explicitly set forth in this Agreement. The Policy Board of the NEP Entity will replace the existing Policy Committee. Except as otherwise specifically set forth herein, a quorum for meetings and all votes will be by a majority of the board members, with the exception that the EPA representative will not vote nor be counted for purposes of a quorum. All members of the Policy Board will serve without compensation.

5.5 Management Board. Initially, the Management Board of the NEP Entity will consist of representatives of each of the Parties (each of which will be voting members), the existing Chairs of the TAC and CAC (both defined in Section 5.7 below) and FMRI (each of which will be voting members) and representatives of the Army Corps, U.S. F&WS and EPA (who all will be nonvoting members) (the "Management Board"). The actual representatives of each of the Parties and the Army Corps, U.S. Fish and Wildlife Service and EPA will be appointed by such Management Board member from time to time. Each of the Parties and the Army Corps, U.S. F&WS and EPA will also appoint an alternate member to the Management Board from time to time, to serve when the actual representative is not available. The TAC and CAC chairs will also have voting authority on the Management Committee. Each of the Parties and EPA may change either their initial or alternate representatives from time to time, but must provide a minimum of two (2) days prior written notice executed by a duly authorized representative before any meeting. The Management Board will have managerial powers for the NEP to the extent delegated by the Policy Board, in addition to those powers explicitly set forth in this Agreement. The Management Board will replace the existing Management Board. Except as otherwise specifically set forth herein, a quorum for meetings and all votes will be by a majority of the board members. All members of the Management Board will serve without compensation.

5.6 Officers. The Policy Board will elect (i) a chair or chairs of the Policy Board; (ii) other Policy Board officers; and (iii) and officers of the NEP Entity. The Management Board will elect (i) a chair or chairs of the Management Board; and (ii) other Management Board officers. Until the EPA ceases funding under Article Nine below, the FDEP Representative on both the Policy Board and the Management Board will serve as Co-Chair with EPA; alternating

meeting oversight.



5.7 Committees. The Policy Board or the Management Board at the direction of the Policy Board, may continue such existing advisory committees, as it deems necessary, including without limitation, the Technical Advisory Committee ("TAC") and the Citizen Advisory Committee ("CAC"). All members of committees will serve without compensation.

5.8 Transition and Administrative Support. The staff of the current NEP will become the staff of the NEP Entity. Within six (6) months of the full execution of this Agreement, the Policy Board will approve an Operating Procedures Manual establishing procedures the NEP Entity will follow in its operations, including hiring/termination, pay/compensation, benefits, procurement of services and general policies. Within the period of three (3) to nine (9) months after the full execution of this Agreement, the NEP Entity will enter into agreements with third parties to provide administrative support for the NEP Entity, the Policy Board and the Management Board in accordance with the Operation Procedures Manual. Transfer of NEP staff, office equipment and furniture, NEP funds, and other assets of the NEP along with the responsibilities for grants, contracts, and other legal documents in the name of City of Sarasota on behalf of the NEP from the City of Sarasota to the NEP Entity will be effective on the date the administrative support agreement becomes effective.

5.9 Limitations of Powers. The NEP Entity will have no powers of taxation, regulation or eminent domain.

5.10 Additional Board Members. Should other governmental entities or regulatory agencies or private industry entities desire to become a party to this Agreement and members of the Policy Board, the representation must be unanimously approved by the Policy Board in its sole and absolute discretion. Such Party must comply with all of the provisions of this Agreement and be willing and able to contribute its pro-rata share of the funding. The funding ratios in Article Nine below will be amended accordingly to reflect any new Policy Board Members' obligations, as of the first day of the next fiscal year of the NEP Entity. Once an entity is approved they will become a member of the NEP Entity, of the Policy Board and of the Management Board with the same voting rights as the existing members of such entities or boards. Should other governmental entities or regulatory agencies or private industry entities desire to become a party to this Agreement and member of the Management Committee (and not contribute funding) they must be unanimously approved by the Policy Board and the Management Board. Once an entity has approval, they will become a member of the Management Board with the same voting rights as the existing members.

5.11 Fiscal Year. The NEP Entity will have a fiscal year ending September 30 of each year.

5.12 Budgets.

(a) During the month of June and following preparation of a tentative budget, the Policy Board will publish a notice of its intention to adopt a tentative budget. Following an appropriate hearing, the Policy Board will adopt a tentative budget each year during the month of

June for the NEP Entity covering its proposed operation and requirements for the next ensuing fiscal year.

(b) The Policy Board will give consideration to objections filed against the budget and in its discretion, may amend the tentative budget. The Policy Board, by September 30th following appropriate notice and hearing, will adopt a final budget for the NEP Entity, which will thereupon become the operating and fiscal budget for the NEP Entity for the ensuing fiscal year.

(c) The Policy Board will provide copies of the tentative budget to the Parties, as well as the Army Corps, U.S. F&WS and EPA, and the tentative budget will be accompanied by the estimated annual contribution of each of the Policy Board Members. The notice will set forth the tentative budget in full, and will be noticed to the general public that on a date and at a place appearing on the notice, opportunity will be afforded to the public to appear before the Policy Board and submit any objections or comments to the proposed budget. The notice will be published once a week for two consecutive weeks in any newspaper of general circulation in each jurisdiction, the last publication of which will appear not less than one week prior to the date set by the Policy Board for the hearing on the budget.

5.13 **Bylaws.** The Policy Board by unanimous vote will create and adopt Bylaws or appropriate rules of procedure for the NEP Entity for its governance and which will remain in effect until modified by the Policy Board. The Bylaws or appropriate rules of procedure will be initially created and adopted at the same time or before execution of the administrative support agreement described in Section 5.8 above.

5.14 **Policies.** The NEP Entity will adopt its operating rules and internal procedures in the manner described in Section 5.2(b) above. Until such rules and procedures are fully adopted, the Policy Board may use the rules and procedures presently used by the City of Sarasota.

ARTICLE SIX - - RESPONSIBILITIES OF THE PARTIES

6.1 **Interpretation of Agreement and CCMP.** The parties agree that this Agreement is intended to make the CCMP a standard by which regulatory actions are taken within the framework of existing rules and regulations. Thus, if a CCMP goal is furthered by an Action Plan or proposed permit, the Regulatory Agencies will attempt to allow such suggested actions to occur as long as proposed activities are within the parameters of existing rules and regulations. This will be known as "Regulatory Flexibility," as contemplated by Section 6.3 below. In the event that a new waiver, or rule change is required, then the provisions of Section 6.4 below will control and prevail. By participation in this Agreement, the Regulatory Agencies do not subordinate or relinquish their regulatory authority over the estuary or the power to act independently and apart from this Agreement.

6.2 **Responsibilities of all Parties.** By entering into this Agreement, the intent of the Parties is to assure effective and timely implementation of recommended actions and to adjust strategies as needed in the future to keep Sarasota Bay's recovery on track. To that end, each of

the Parties hereby agree to cooperate with and assist the NEP entity to:

(a) Determine how it will contribute toward the attainment of the Goals including their individual goals and time frames for achieving those goals;

(b) Submit no later than two (2) months following the effective date of this Agreement, its conceptual Action Plan (addressing Section 4.4) outlining the projects, initiatives, and strategies that it will undertake over a certain period of time to achieve the Goals for Sarasota Bay;

(c) Appoint upon execution of this Agreement, an individual or individuals to serve as its liaison with the NEP on tracking and coordinating CCMP implementation and submit the individual(s) name(s) in writing to the NEP; and

(d) Annually review and, where new projects are required to accomplish the Goals, resubmit its Action Plan, developed pursuant to Section 4.4, to the Management Board and thereafter the Policy Board in the form of an Action Plan Supplement, and supplement the plan with such details describing the projects it will undertake.

6.3 Additional Responsibilities of the Regulatory Agencies.

(a) The Regulatory Agencies agree to allow as much flexibility as is legally permissible for projects that are part of an approved Action Plan.

(b) The flexibility contemplated by this section is intended to facilitate achievement of the CCMP goals, produce a net environmental benefit, and allow an efficiency that will reduce the overall costs of implementing the CCMP. For projects reviewed under Florida Statutes Section 403.0752, the Regulatory Agencies agree to extend, as appropriate, the following forms of flexibility for projects that are part of an approved Action Plan: (1) permitting process flexibility, (2) expedited permit processing, (3) alternative monitoring and reporting requirements, (4) coordinated permitting and inspections, and (5) cooperative inspections that provide an opportunity for informal resolution of compliance issues before enforcement action is initiated.

(c) The executive director or agency head of each permitting agency will appoint a highly placed staff member as an Action Plan and Action Plan Supplement coordinator. The coordinator will maintain awareness of the status, and will oversee the progress of, any project that is a part of an approved Action Plan and Action Plan Supplement through the permitting process. For a Local Government applicant, the responsibilities of the coordinator will include: (1) review of the informational requirements required in permit review; (2) review of any proposed conditions or other requirements contemplated for permit issuance; (3) review of any monitoring and reporting requirements in permit issuance, that are in addition to those being accomplished by Local Governments incident to the CCMP; and (4) other matters as may be reasonably necessary. The representatives of the Parties involved with implementation of this Agreement must be well-versed in the principles of ecosystem management and the CCMP, and will strive to implement those principles in the design of projects and processing of permit

applications. The provisions of this subsection (c) are the good faith efforts of the Regulatory Agencies to facilitate actions in permitting projects contemplated by Action Plans and Action Plan Supplements approved hereunder, and does not provide any right of action by any of the Parties claiming that the provisions of this subsection (c) have been breached.

6.4 Variances and Waivers or Rule Changes. The Regulatory Agencies agree to consider granting variances, waivers or changes to rules pursuant to or in accordance with Chapter 28-104, *Florida Administrative Code*, if requested, for those projects that demonstrate consistency with the goals of the CCMP, including but not limited to the implementation of the Parties' approved Action Plans, to the extent their existing laws, rules and regulations permit such relief. An agency's decision concerning when and whether to grant a variance or waiver or rule change, is a matter wholly within the discretion of each agency and any decision not to extend a variance or waiver or rule change will not be considered a breach of this Agreement.

6.5 Regulatory Process Review. Subject to the above limitations, all Regulatory Agencies and all other Parties having regulatory functions agree to periodically review their regulatory processes and incorporate changes in statutes, rules or policies that would assist in meeting the goals of the CCMP. Any such changes will be made in keeping with the cooperative intent of this section and this Agreement.

6.6 Additional Responsibilities of the Local Governments.
In relation to Action Plans described in Section 4.4:

(a) Identify the regulatory flexibility desired for its projects from time to time, and provide a list of desired flexibility to the Regulatory Agencies.

(b) Will consider for inclusion, the goals contained in its applicable Action Plan (as they may be amended from time to time) into its comprehensive plan and necessary actions in its capital improvement plans as amended from time to time.

(c) Identify regulatory and land-planning flexibility to be exercised by Local Governments in attaining CCMP Goals.

6.7 Responsibilities of the NEP Entity. The NEP Entity will:

(a) Serve as the coordinating body for the Action Plans and assist the Parties in gathering information necessary for the development of Action Plans and the subsequent implementation thereof;

(b) Report annually to the Policy Board on each Party's compliance with this Agreement and the status of each Party's Action Plan implementation;

(c) Prepare, every three (3) years, a baywide environmental monitoring report on conditions and trends in Sarasota Bay;

(d) Assist the Parties in locating grants and other funds to aid in implementation of the projects set forth in individual Action Plans and Action Plan Supplements;

(e) Coordinate outreach programs to promote public participation and facilitate restoration activities that support the CCMP Goals;

(f) Coordinate the re-examination and updating of the CCMP every five (5) years;

(g) Facilitate resolution of conflicts among the Parties;

(h) Establish a process that determines when a member has achieved its share of the CCMP Goals and ensures continued maintenance of those goals afterwards;

(i) Oversee atmospheric deposition, habitat assessments, toxic contamination, water quality, artificial reefs and other research projects;

(j) Develop action plans to address goals not being addressed through other Party's Action Plans; and

(k) Participate in the Florida Coastal Zone Management (CZM) Program federal consistency review process to ensure that relevant federally funded or permitted projects are consistent with the goals of the CCMP.

Specific action to accomplish such goals must be approved by both the Policy Board and the Management Board.

ARTICLE SEVEN – ACTION PLANS

7.1 Action Plans. Each Party will assist the NEP entity in the preparation of Action Plans, within two years following the Effective Date of this Agreement. The NEP entity will submit a conceptual Action Plan (revised CCMP) to the Management Board for approval outlining the manner in which it intends to achieve the Goals of the CCMP. The Action Plan is a long-term strategy outlining each Party's contribution to the attainment of the CCMP Goals and specifically how each Party will attain the CCMP Goals, if any. The Action Plan may be revised at any time throughout the Term by submitting such revisions to the Management Board for approval.

7.2 Action Plan Supplements. Before each annual anniversary date of this Agreement, each Party will review its Action Plan. Where new projects are required to accomplish the Action Plan, each Party will submit an Action Plan Supplement to the Management Board for approval. The Action Plan Supplement will describe specific projects outlined in an Action Plan, including anticipated costs, financing and impact. Where no supplement is required, a notice to that effect will be submitted to the Management Board. The Action Plan Supplement should also include provisions for maintenance throughout the term of

this Agreement of any particular CCMP Goal once it has been attained. The Action Plan Supplement may be revised at any time throughout the term by submitting such revisions to the Management Board for approval.

7.3 Review of Action Plans.

(a) **Management Board.** The Management Board will review the Action Plans and revisions thereto submitted by the Parties and vote on recommending individual Action Plans to the Policy Board. An affirmative majority vote of the Management Board is required in order for any individual Action Plan to be recommended to the Policy Board, except that a negative vote from any Regulatory Agency with jurisdiction over the Action Plan will result in a negative recommendation. Revisions to the Action Plans need only be approved by the Management Board and the Policy Board, unless otherwise directed.

(b) **Policy Board.** The Policy Board will review the Action Plans recommended by the Management Board for consistency with the CCMP Goals and for feasibility and will vote on each Action Plan's acceptability. An affirmative majority vote of the Policy Board is required to approve any individual Action Plan. In addition, in order for any individual Action Plan to be approved and implemented, all applicable Regulatory Agencies on both the Management Board and the Policy Board that have jurisdiction over the Party's Action Plan, must have cast an affirmative vote for the plan.

7.4 Review of Action Plan Supplements.

(a) **Management Board.** The Management Board will review the Action Plan Supplements and revisions thereof submitted by the Parties and vote on recommending individual Action Plan Supplements to the Policy Board. An affirmative majority vote of the Management Board is required in order for any individual Action Plan Supplements to be recommended to the Policy Board, except that a negative vote from any Regulatory Agency with jurisdiction over the Action Plan Supplement will result in a negative recommendation.

(b) **Policy Board.** The Policy Board will review the Action Plan Supplements recommended by the Management Board for consistency with the CCMP Goals and for feasibility and vote on the acceptability of each Action Plan Supplement. An affirmative majority vote of the Policy Board is required to approve any individual Action Plan Supplement. In addition, in order for an individual Action Plan Supplements to be approved and implemented, all applicable Regulatory Agencies on both the Management Board and the Policy Board that have jurisdiction over the Party's Action Plan Supplement, must have cast an affirmative vote for the plan.

7.5 Action Plan Permitting. For each specific project of any individual Action Plan that requires a permit, an applicant may request its application be reviewed under the Streamlined Permitting Process or the applicant may apply to each Regulatory Agency with jurisdiction over the activity individually.

ARTICLE EIGHT – STREAMLINED PERMITTING AND ECOSYSTEM MANAGEMENT

8.1 Ecosystem Management. Section 403.0752, Florida Statutes, "Ecosystem Management Law" provides a new means for regulatory agencies and local governments to enter into comprehensive multiparty permitting agreements. The CCMP will be conclusively deemed an ecosystem management conceptual design upon which more detailed ecosystem management agreements will be entered into based upon individual Action Plans.

8.2 Ecosystem Management Agreements. At the time of approval of a Party's Action Plan by the Management Board and the Policy Board, the applicable parties may, in their respective sole discretion, enter into an ecosystem management agreement as contemplated by the Ecosystem Management Law. Such agreement may coordinate the legal requirements and timelines of the Parties, and may include all necessary permit processing, project construction, operating, monitoring and enforcement actions, proprietary approvals, and compliance with development orders and regional and local comprehensive plans.

8.3 Streamlined Review Process. In order to streamline the necessary authorizations from the Regulatory Agencies, the Parties agree that the review process for projects contained in an approved Action Plan may be as follows, unless the applicable affected Local Government otherwise elects:

(a) **Regulatory Agencies:** The Regulatory Agencies will review the applicable permit application as part of a Team Permitting process, and as such, will work together to coordinate their requests for information from local governments; and

(b) **Pre-application:** Before any Party submits a permit application, the Regulatory Agencies will encourage the applicant to attend an informal meeting to address the questions and concerns of the Regulatory Agencies up front and in an expedited manner.

ARTICLE NINE – BUDGETING AND FUNDING

9.1 NEP Budget. The Policy Board is responsible for establishing the budget for the NEP Entity and will annually review and approve the budget. The budget will require approval by two-thirds (2/3rds) of all members of the Policy Board.

9.2 Current Funding. The NEP staff, research and education is currently funded primarily by the EPA with additional appropriations from the Southwest Florida Water Management District, Manasota Basin Board, Florida Department of Environmental Protection, Sarasota and Manatee Counties, Cities of Sarasota and Bradenton and EPA; project (construction) funding is being provided by the U.S. F&WS, Army Corps and other

organizations on a project specific basis. The funding of the NEP will remain unchanged through October 1, 2011 at which time the Parties to this Agreement will be responsible for the funding as set forth below.

9.3 Initial Funding. Subject to the provisions of Section 9.5 below, for the period commencing on October 1, 2004 through September 30, 2011, each member of the Policy Board and EPA will fund the annual cost of administering the NEP Entity office in the same amount as set forth in Section 9.4. As changes are made to the Policy Board composition, funding allocations will be re-established by the Policy Board.

9.4 Term Funding. Subject to the provisions of Section 9.5 below, from October 1, 2004 through the end of the term of the Agreement, all NEP Entity budgeted costs will be funded by SWFWMD or designated Basin Boards, FDEP, Manatee and Sarasota County and the Cities of Sarasota and Bradenton. Annual goals or targets for local contributions will be made as follows: Manatee County \$50,000, Sarasota County \$50,000, City of Sarasota \$33,000 and City of Bradenton \$15,000, Town of Longboat Key \$15,000, and SWFWMD \$133,000 annually. The Policy Board also agrees to work toward identifying matching resources for the Federal EPA grant to maximize the use of local funds.

9.5 Annual Approval. Each Policy Board member agrees to use its best efforts in securing the funding levels specified in Sections 9.3, and 9.4 of this Agreement through appropriate approvals from the board member's legislative or governing body each fiscal year. The Parties, however, acknowledge that any funding decisions remain within the sole discretion of each Policy Board member's governing body. Securing funding approval will be considered a condition precedent to the funding obligations of an Entity each year under Sections 9.3, and 9.4 above.

ARTICLE TEN – DEFAULT

In the event any Party is determined to be in willful and significant noncompliance with its Action Plan, the CCMP Goals or the terms of this Agreement, the Policy Board may, by a unanimous vote by all parties except the party charged with being in default, remove the non-complying Party from this Agreement. Prior to any such vote by the Policy Board, the non-complying Party will be given a notice of its non-compliance and an opportunity to remedy the problem within a reasonable period or through a public hearing before the Policy Board if there is a dispute whether a default exists. If a Party is found to be in noncompliance with permits by the applicable Regulatory Agency(ies), the permitting agencies may take actions to enforce the permits against non-complying Party under the agency's laws and regulations. If any Party is discharged under this Article Ten, (i) all monies previously paid hereunder will be conclusively deemed earned and not subject to return to such Party, (ii) any future funding responsibility of such party will terminate, and (iii) this Agreement will continue as to the remaining parties. Provided, however, any funds paid before termination, but not expended, will only be used by the NEP Entity in accordance with the approved budget for which such contribution was made.

ARTICLE ELEVEN – NOTICE

Any and all notices required or permitted to be given hereunder will be in writing, and will be considered delivered if the notice is either personally delivered to each Party at the address set forth in Exhibit D, transmitted by electronic facsimile machine to the fax numbers listed, or sent by U.S. certified or registered mail, postage prepaid, return receipt requested, to such addresses, all such notices being effective upon delivery to and receipt by the Parties, unless the respective party or Parties notify(ies) all other Parties in writing in accordance herewith of a change of address and/or representative at such address authorized to receive any and all such notices, in which case any and all such notices will be delivered and/or mailed as aforesaid to said Party or Parties at such new address with respect to such Party.

ARTICLE TWELVE – WITHDRAWAL OF A PARTY

Notwithstanding anything contained in this Agreement to the contrary, any Party has the right to withdraw as a Party to this Agreement by providing one hundred eighty (180) days prior written notice as set forth in Article Eleven above. In the event all other parties receive written notice of such withdrawal from the withdrawing Party, on the day following the conclusion of the one hundred eighty (180) day period, the withdrawing party will no longer be considered a Party to this Agreement. Provided however, even though such withdrawing Party will have withdrawn as a Party to this Agreement, the withdrawing Party will continue to be subject to all obligations and responsibilities of a party with respect to required compliance with all applicable laws and regulations, without the benefit of being considered a Party hereto to this Agreement. If a Party withdraws under this Article Twelve, (i) all monies previously paid hereunder will be conclusively deemed earned and not subject to return to such Party; (ii) the funding responsibility of such party will extend an additional one hundred eighty (180) days or until the next fiscal year, whichever is longer, and (iii) this Agreement will continue as to the remaining Parties.

ARTICLE THIRTEEN – CONCLUSION

13.1 No Third Party Beneficiaries. This Agreement will inure to the benefit of the Parties. This Agreement is for the exclusive benefit of the Parties, and will not be deemed to be made for the benefit of any other persons not so specified.

13.2 Modification. This Agreement may be modified, altered or amended only by a written instrument subsequently executed by the parties hereto.

13.3 Complete Agreement. This Agreement, along with the 1995 CCMP, constitutes the full, complete and wholly independent agreement among the Parties with regard to the matters addressed herein. This Agreement also supersedes all prior agreements, understandings, representations, and statements among the Parties with respect to the matters addressed herein, either written or oral.

13.4 Severability Clause. If any clause, provision or section of this Agreement is found to be illegal or invalid by any court, the invalidity of such clause, provision or section will not affect any of the remaining clauses, provisions or sections herein, and this Agreement will be construed and enforced as if such illegal or invalid clause, provision or section had not been contained herein.

13.5 Governing Law. Existing and future laws, rules and regulations of the United States and its agencies, the State of Florida and its agencies and the other Parties to this Agreement will take precedence over the terms and provisions of this Agreement in case of conflict or inconsistencies between them. The laws of the United States or State of Florida as applicable will govern the validity, performance and enforcement of this Agreement.

13.6 Public Purpose. This Agreement satisfies, fulfills and is pursuant to and for a public purpose and municipal purpose and is in the public interest, and is a proper exercise of each Party's power and authority under each Party's individual municipal or governmental authority.

13.7 Performance Standards. None of the provisions in this Agreement will be deemed in any manner to amend, modify or otherwise change any of the provisions, regulations or ordinances of any municipality or governmental agency which is a Party to this Agreement and does not allow a performance standard less than is otherwise required under the terms of those provisions or regulations or ordinances, except as specifically provided herein.

13.8 Survival. All of the representations and warranties set forth in this Agreement will survive the consummation of any and all of the transactions described in the Agreement and the termination of this Agreement, and will not be deemed to be merged in the Agreement or any other instrument, which may be executed and delivered pursuant to this Agreement.

13.9 Authority. None of the Parties has any authority to bind or make any oral or written representations on behalf of the other Parties with differing interests hereunder, and nothing contained in this Agreement will be construed to imply that any one or more of the Parties has formed a partnership or become an agent for any one or more of the other Parties.

13.10 Headings Not a Part Hereof. The headings preceding the several articles and sections hereof (and any table of contents hereto) are solely for convenience of reference, do not constitute a part of this Agreement and will not affect its meaning, construction or effect.

13.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which may be executed by less than all of the parties but all of which will be construed together as a single instrument. This Agreement will become effective upon the exchange of original counterpart signature pages signed by all of the parties, but if such initial exchange occurs by facsimile, original signature pages will be exchanged within ten days of the date hereof.

13.12 Binding Effect. This Agreement will bind the successors and assigns of the Parties.

13.13 Execution. This Agreement will not be effective nor will it have any force and effect until all of the Parties have duly executed this Agreement and filed the Agreement pursuant to Section 13.14 below.

13.14 Filing. Each Party to this Agreement will, pursuant to Section 163.01(11), FL State code, file a copy of this Agreement and any amendments thereto with the Clerk of the Circuit Court of each County where that Party is located.

13.15 Conditions Precedent. The EPA has separately executed the Memorandum of Understanding (Exhibit C).

IN WITNESS WHEREOF, the Parties hereto caused this Agreement to be executed, under seal, and will be deemed to have executed such, on the day and year first above written.

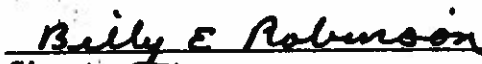
City of Sarasota, a Florida municipal corporation

By:


Signature

Title: Lou Ann R. Palmer, Mayor

Attest:

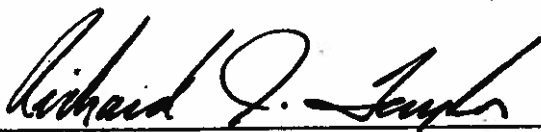

Signature

Title: Billy E. Robinson, City Auditor and Clerk

(SEAL)

APPROVED AS TO FORM:

Signature



Name Legibly Printed, Typewriter or Stamped

City of Bradenton, a Florida municipal corporation

By:

Signature

Title:

MAYOR - CITY OF BRADENTON

Attest:

Signature

Title:

CITY CLERK & TREASURER



MAYOR WAYNE H. POSTON

Name Legibly Printed, Typewritten or Stamped

Florida Department of Environmental Protection, a Florida state agency

By: _____

Signature

Title: _____

Director of District Management

Attest: _____

Signature

Title: _____

ENVIRONMENTAL ADMINISTRATOR

(SEAL)



Sandra G. Lynch
MY COMMISSION # DD20069 EXPIRES
January 12, 2008
BONDED THEU TROY FARM INSURANCE, INC.

APPROVED AS TO FORM:

Signature

Sandra G. Lynch

Sandra G. Lynch

Name Legibly Printed, Typewritten or Stamped

IN WITNESS WHEREOF, the parties have executed the Agreement as of the date first above written.

Witness: _____

BY: _____

ITS: _____

DATE: _____

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA
COUNTY, FLORIDA
BY: [Signature]
CHAIRMAN
DATE: 6/08/04

ATTEST:

KAREN E. RUSHING, Clerk
of the Circuit Court and
Ex-Officio Clerk of the
Board of County Commissioners

BY: [Signature]
DEPUTY CLERK

Approved as to form and correctness:

BY: [Signature]
COUNTY ATTORNEY TRW

SINET

Manatee County, a Florida political subdivision

By:

Jane W. von Hahmann

Signature



Title:

Jane W. von Hahmann, Chairman 5/4/04

Attest:

Susan Blomina

Signature

Title:

Deputy Clerk

(SEAL)

APPROVED AS TO FORM:

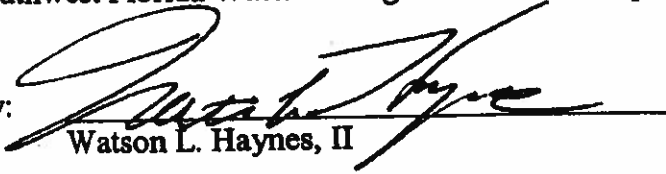
Signature

N/A

Name Legibly Printed, Typewritten or Stamped

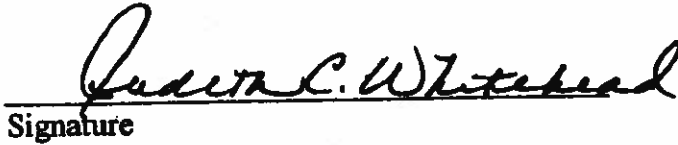
Southwest Florida Water Management District, a public corporation of the State of Florida

By:

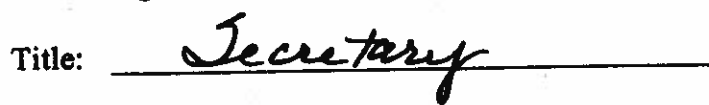

Watson L. Haynes, II

Title: Chairman

Attest:

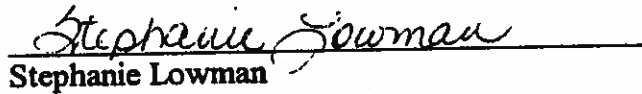

Signature

Title:


Secretary

(SEAL)

APPROVED AS TO FORM:
Signature


Stephanie Lowman

Town of Longboat Key, a Florida municipal corporation

By:

Signature

Title:

Ronald A. Johnson, Mayor

Attest:

Signature

Title:

Donna H. Spencer, Town Clerk

(SEAL)

APPROVED AS TO FORM:

Signature

Andrew H. Cohen

Name Legibly Printed, Typewritten or Stamped

List of Exhibits

Exhibit A – Goals and Objectives

Exhibit B –List of Water Quality Consortium Members

Exhibit C – Draft Memorandum of Understanding – between the EPA and SBEP

Exhibit D – Address List

EXHIBIT A

Goals and Objectives

- I. Improve water transparency**
- II. Reduce the quantity and improve the quality of stormwater runoff to Sarasota Bay**
- III. Restore shoreline habitats and eliminate further losses**
- IV. Restore and sustain fish and other living resources in Sarasota Bay**
- V. Provide increased levels of managed access to Sarasota Bay and its resources**
- VI. Establish an appropriate institutional structure to oversee implementation of the Sarasota Bay Comprehensive Conservation and Management Plan**

EXHIBIT B
Water Quality Consortium

Sarasota County Stormwater
1001 Sarasota Center Blvd.
Sarasota, FL 34240

City of Sarasota Public Works
1761 12th Street
Sarasota, FL 34236

Manatee County Stormwater
Drainage Division
P.O. Box 1000
Bradenton, FL 34206

Florida Sea Grant College
1303 17th Street West
Palmetto, FL 34221

Manatee County Extension Office
P.O. Box 1000
Bradenton, FL 34206

Sarasota County Natural Resource
Protection/Water Resource/ Services
2817 Cattleman Road
Sarasota, FL 34232

Sarasota County Extension Office
2900 Ringling Blvd.
Sarasota, FL 34237

Natural Resource Conservation
Service
304 8th Avenue West, Suite 104
Palmetto, FL 34221

USGS
University Center for Business
10500 University Center Dr. Ste. 215
Tampa, FL 33612-6427

Florida Department of
Environmental Protection
3804 Coconut Palm Drive
Tampa, FL 33619

Florida Marine Research Institute
100 Eighth Avenue SE
St. Petersburg, FL 33701

U.S. Fish & Wildlife Service
South Florida Field Office
1339 20th Street
Vero Beach, FL 32960

Manatee County Ecosystems Administration
1112 Manatee Avenue W.
Bradenton, FL 34205

SW FL Water Management District
2379 Broad St.
Brooksville, FL 34604-6899

City of Bradenton Public Utilities
1411 9th Street West
Bradenton, FL 34205

Town of Longboat Key
Public Works
600 General Harris Street
Longboat Key, FL 34228-1412

Sarasota County Utilities
1001 Sarasota Center Blvd.
Sarasota, FL 34240

EXHIBIT B
Water Quality Consortium

Manatee County Solid Waste
4410 66th Street West
Bradenton, FL 34210

Manatee County Environmental Mgmt.
202 6th Avenue East
Bradenton, FL 34208

U.S. Army Corps of Engineers
P. O. Box 4970
Jacksonville, FL 32232

(to be inserted after agreement is signed by all parties)

EXHIBIT C

**MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY AND THE SARASOTA BAY ESTUARY
PROGRAM**

EXHIBIT D
List of Addresses

City of Sarasota
1565 First Street
Sarasota, FL 34236

City of Bradenton
1411 Ninth Street West
Bradenton, FL 34205

Florida Dept. of Environmental Protection
3804 Coconut Palm Drive
Tampa, FL 33619

Sarasota County Government
P.O. Box 8
Sarasota, FL 34236

Manatee County Government
P.O. Box 1000
Bradenton, FL 34206

SWFWMD
2379 Broad Street
Brooksville, FL 45604-6899

Town of Longboat Key
501 Bay Isles Road
Longboat Key, FL 34228

