

MEMORANDUM OF AGREEMENT

Baldwin County Commission and Alabama Department of Environmental Management

For the purpose of delegating to the Baldwin County Commission the authority to issue Coastal Area Management Program Non-Regulated Use Permits for construction, repair, and reconstruction activities on properties intersected by the construction control line within the geographic jurisdiction of Baldwin County and to administer an enforcement program that enforces the requirements of the County's ordinance(s) pertaining to these activities.

WHEREAS, *Alabama Code* § 22-22A-1, et seq. (1975), states that is the intent of the Alabama State legislature to recognize the unique characteristics of the Alabama coastal region and to provide for its protection and enhancement through a continued coastal area program. The permitting, regulatory, and enforcement functions of the Alabama Coastal Area Management Program are assigned to ADEM; and

WHEREAS, ADEM Division 8 Coastal Program regulated Section 335-8-1-.12 provides that any local government issuing licenses or permits for uses which are subject to the management program may apply to the Department for local program delegation; and

WHEREAS, the Baldwin County Commission has requested delegation for ADEM Admin. Code R. 335-8-2.08 Construction and Other Activities on Gulf Front Beaches and Dunes; and

WHEREAS, the Baldwin County Commission has passed an ordinance regulating construction and other activities on gulf front beaches within the County's jurisdiction; and

WHEREAS, the Baldwin County Commission and the Alabama Department of Environmental Management agree to enter into a cooperative agreement to administer this permitting process which is of common interest and benefit to the citizens of Alabama and the citizens of Baldwin County. The implementation of this delegated program shall be subject to the following:

1. The Baldwin County Coastal Area Program will process permit applications, issue permits, monitor construction activities, and enforce the requirements of its ordinances pertaining to construction, repair, and reconstruction of structures on properties intersected by the Construction Control Line within geographic area for which the County has jurisdiction. The County will process variance applications and provide a right of appeal for a person aggrieved by a local government permit or variance decision.
2. Delegation shall begin on the date on which the Agreement is executed and shall expire five (5) years from the date of execution. Within six (6) months prior to the expiration of this agreement, the County must notify the Department of its intent to either request re-delegation or to allow its delegated authority to expire. If re-delegation is requested, the County may continue to implement the requirements of this agreement, unless otherwise notified by this Department. Requests for re-delegation shall be made in accordance with ADEM Admin. Code 335-8-1-.12, or equivalent section promulgated hereafter.
3. As a delegated entity, the Baldwin County Coastal Area Program is entitled to financial support through contractual agreement with the State of Alabama to assist the County in its implementation of the delegated portions of this program.

4. The Alabama Department of Environmental Management commits to providing technical assistance to the Baldwin County Coastal Area Program. The County commits to implementation of its delegated authority in a manner consistent with Alabama's Coastal Area Management program and ADEM's Division 8 Regulations through the adoption and enforcement of one or more appropriate County ordinances, which are subject to prior review and comment by the ADEM as provided by Paragraph 7 below. The Baldwin County Coastal Area Program commits that it will not knowingly issue a permit under its ordinance or ordinances for any activity in the coastal area that the Alabama Department of Environmental Management finds to be inconsistent with the Alabama Coastal Area Management Program. Except to the extent the County receives specific written notification from the Alabama Department of Environmental Management that ADEM finds a particular interpretation or enforcement practice under the County's ordinance or ordinances to be inconsistent with the Alabama Coastal Area Management Program, it is mutually understood that the County will enforce its ordinance or ordinances in the manner the County interprets to be consistent with Alabama's Coastal Area Management Program and ADEM's Division 8 Regulations.
5. The Baldwin County Coastal Area Program agrees to submit to the Department upon publication a copy of the public notice for each permit application received for the construction, repair and reconstruction of structures on properties intersected by the Construction Control Line within the geographic area for which the County has jurisdiction
6. ADEM issues Development Greater Than 5 acres Coastal Use Permits for projects that are wholly or partially within the coastal area, greater than 5 acres in size, and meet at least one of the following criteria: the project has areas which could be or have been delineated as wetlands; the project is adjacent to coastal waters; or the project is intersected by the Construction Control Line. The delegate agrees not to issue any building permits, authorization and/or approval of any new commercial or residential development or subdivision of property if that permit, authorization, or approval meets the aforementioned criteria, prior to the applicant presenting documentation from the Department showing that all requirements of the ADEM Division 8 Coastal Program rules have been met.
7. The Baldwin County Coastal Area Program agrees to submit for ADEM review and comment any proposed ordinance or revision pertaining to this delegated program. ADEM shall be provided not less than 30 days to review and comment on the proposed changes, and the County shall provide that the 30 day review shall occur prior to any scheduled County final action on the matter. Passage of a proposed or revised ordinance, or implementation of an existing ordinance, that results in construction, repair, and/or reconstruction of structures that are inconsistent with Alabama's Coastal Area Management Program and ADEM's Division 8 regulations may result in loss of local delegation.
8. The Baldwin County Commission agrees that the Secretary of Commerce or any of his/her duly authorized representatives, the Attorney General of the State of Alabama or any of his/her duly authorized representatives, and the Director of ADEM or any of his/her duly authorized representatives, shall have access to and the right to audit, examine, and make excerpts or transcripts from any pertinent permit files, books, documents, papers, and records of the County related to the construction, repair and reconstruction of structures on properties intersected by the Construction Control Line within the geographic jurisdiction of the County. The Baldwin County Commission agrees to provide access to any or all permit files, documents, papers, records and directly pertinent books related to these activities.
9. Any reports, information, data, etc., given to or prepared or assembled by the Baldwin County Commission under this Agreement which the Department requests to be kept as confidential shall not be

made available to any individual or organization by the Baldwin County Commission without the prior written approval of the Department, unless such confidentiality would be contrary to the law of the State of Alabama or the United States.


10. This Agreement may be amended by the mutual written agreement of both parties. Changes which are mutually agreed upon by the Baldwin County Commission and Department shall be incorporated in written amendments to this Agreement.

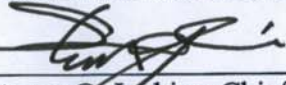
11. Either the Baldwin County Commission or the Department may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof, at least 30 days before the effective date of such termination. In the event of cancellation, any pending permit applications, enforcement actions, finished or unfinished studies, reports and other work by the County shall be submitted to the Department.

THIS AGREEMENT shall become effective upon signature of all parties named below.

BALDWIN COUNTY, ALABAMA

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT


By: 
Charles F. Gruber
Chairman
Baldwin County Commission

By: 
Steven O. Jenkins, Chief
Field Operations Division

Date: 10-7-14

Date: 10/14/2014

ATTEST

By: 
David A. Z. Brewer
County Administrator
Baldwin County Commission

