



FLORIDA'S SPACE COAST



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February 12, 2025

MEMORANDUM

TO: Virginia Barker, Natural Resources Management Director

RE: Item J.1., Adoption of Save Our Indian River Lagoon (SOIRL) Project Plan 2025 Update, as Recommended by the SOIRL Citizens Oversight Committee (COC)

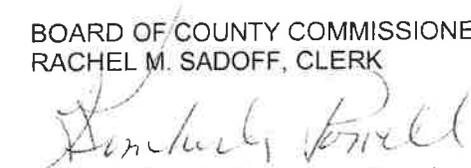
The Board of County Commissioners, in regular session on February 11, 2025, adopted the SOIRL Project Plan 2025 Update, as recommended by SOIRL COC on January 17, 2025; and authorized maintaining the following administrative authorities provided by past Board actions, with the inclusion of grant agreements as listed in Item 2:

- 1) authorize associated Budget Change Requests;
- 2) approve continued signature authority to the Chairman (or authorized representative, in accordance with the threshold limits provided for in Brevard County Policies and Administrative Orders) to execute contracts, agreements, task orders, change orders, contract renewals, amendments, other contract-related documents, and grant agreements, subject to review and approval by the County Attorney, Risk Management, and Purchasing, as appropriate, for projects and programs approved in the SOIRL Project Plan;
- 3) authorize you to execute no-cost time extensions up to one year total and approve the County Manager to execute no-cost time extensions up to two years total;
- 4) grant permission to advertise and competitively procure goods and services needed to implement projects and programs approved in the SOIRL Project Plan, subject to available funding; and
- 5) authorize staff to submit grant applications for leveraging cost share for projects and programs approved in the SOIRL Project Plan.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

cc: County Manager
County Attorney
Finance
Budget

TEMPORARY USE ACKNOWLEDGMENT
BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY

THIS ACKNOWLEDGEMENT, Made this 17 day of, September 2019 by the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY ("BCC")**, FLORIDA, a political subdivision of the State of Florida, as follows:

1. TEMPORARY DREDGED MATERIAL DEWATERING ACTIVITIES

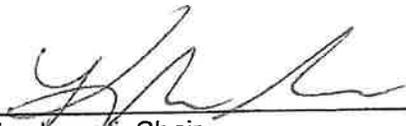
- a) In connection with the Sykes Creek Muck Removal Project, the County shall utilize a portion of the County's property located in the Single-family Residential (RU-1-11) and Medium-density Multiple-family Residential (RU-2-15) zoning classifications to temporarily allow the construction and operation of a temporary dredged material dewatering facility in conjunction with temporary parking and storage of construction equipment and materials, if necessary.
- b) The purpose is to fulfill the County's obligation to conduct muck dredging along the southern segment of the Sykes Creek as part of the County's effort to conduct environmental restoration dredging to improve water quality within the Indian River Lagoon. The project is a direct public benefit by removing nutrient-laden muck material that smothers the natural bottom, clouds the water, prevents the growth of seagrass, and contributes to harmful algal blooms.
- c) The temporary dredged material management activities will include (a) clearing of vegetation, (b) site excavation and grading to create staging areas for equipment and materials, drying areas, stormwater swales, an access road, and a containment area for dredged materials, (c) ingress/egress of highway haul trucks, and (d) loading dredged material onto highway haul trucks. Equipment on-site may include, but is not limited to, front-end loader(s), trackhoe, skid steer, backhoe, and highway haul trucks. Contractor's activities on-site will typically be between the hours of 7:00 AM to 7:00 PM.
- d) Upon completion of the dredge activities and the associated dewatering of dredged material the County will require the removal of all equipment and materials from the site. Thereafter site restoration will occur. Site Restoration will include (a) removal of temporary construction access road, (b) restoration of site grades to pre-construction conditions, and (c) conversion of the site to a stormwater treatment facility. Established vegetative buffers and berms between the site and the adjacent residential properties will remain in place.
- e) The temporary uses described in paragraph (a) above are to be located on the property described by the Brevard County Property Identification Number as 24-37-31-00-4. The legal description is attached hereto and made part hereof as Exhibit "A".

f) This location is directly adjacent to property lines under different ownership, and no less than 15 feet from the nearest dwelling unit. The temporary dredged material management area will be buffered from residential property by a 15-foot vegetative buffer and berm. The temporary use will be subject to the noise limitations prescribed in Chapter 46, Article IV, Sections 46-126 through 46-131 Code of Ordinances of Brevard County, Florida.

g) This temporary use by the County is for a period of four (4) years effective upon execution by Brevard County and the issuance of the Notice to Proceed to the Contractor awarded the construction services contract for the Sykes Creek Phase II Muck Removal Project.

BREVARD COUNTY BOARD OF
COUNTY COMMISSIONERS

2725 Judge Fran Jamieson Way
Viera, Florida 32940

By: 
Kristine Isnardi, Chair

ATTEST:


Scott Ellis, Clerk

As approved by the Board on 9/17/19

Exhibit A

(Legal Description)

That portion of Lot **1**, Block A, Glen Haven Subdivision — Sec 1, according to the map or plat thereof, recorded in Plat Book 14, Page 61, Brevard County, Florida, lying within

A PARCEL OF LAND LYING IN SECTIONS 30 AND 31, TOWNSHIP 24 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTH 114 CORNER OF SECTION 31, THENCE SOUTH 90 DEGREES 00'00" WEST ALONG THE NORTH LINE OF SAID SECTION 31, ALSO BEING THE SOUTH LINE OF GLEN HAVEN SUBDIVISION, A DISTANCE OF 1,129.86 FEET TO A POINT ON THE MEAN HIGH WATER LINE OF NEWFOUND HARBOR;
THENCE CONTINUE SOUTH 90 DEGREES 00'00" WEST ALONG THE EXTENSION OF SAID NORTH LINE OF SECTION 31, A DISTANCE OF 648.55 FEET TO THE BULKHEAD LINE ESTABLISHED FOR THIS AREA,
THENCE SOUTH 11 DEGREES 43'20" EAST ALONG SAID BULKHEAD LINE, A DISTANCE OF 285.54 FEET, TO A POINT 279.59 FEET PERPENDICULAR TO SAID NORTH SECTION LINE,
THENCE NORTH 90 DEGREES 00'00" EAST, PARALLEL WITH SAID NORTH SECTION LINE; A DISTANCE OF 736.55 FEET TO A POINT ON THE MEAN HIGH WATER LINE OF NEWFOUND HARBOR; THENCE NORTH 84 DEGREES 37'47" EAST, ALONG THE NORTHERLY LINE OF OFFICIAL RECORDS BOOK 3326, PAGES 1798-1803, A DISTANCE OF 170.51 FEET; THENCE NORTH 89 DEGREES 34'54" EAST, ALONG THE SAID NORTHERLY LINE OF OFFICIAL RECORDS BOOK 3326, PAGES 1798-1803, A DISTANCE OF 1263.69 FEET, TO THE WEST LINE OF OFFICIAL RECORDS BOOK 4639, PAGE 3418; THENCE NORTH 00 DEGREES 05'47" EAST, ALONG SAID WEST LINE, A DISTANCE OF 254.30 FEET, TO THE SAID NORTH LINE OF SECTION 31,
THENCE SOUTH 90 DEGREES 00'00" WEST ALONG THE SAID NORTH LINE OF SECTION 31, A DISTANCE OF 15.30 FEET TO THE SOUTHEAST CORNER OF LOT 1, BLOCK A, GLEN HAVEN SUBDIVISION;
THENCE NORTH 46 DEGREES 41'59" WEST, ALONG THE EASTERLY LINE OF SAID LOT 1, A DISTANCE OF 64.59 FEET;
THENCE NORTH 38 DEGREES 09'00" WEST, ALONG SAID EASTERLY LINE OF LOT 1, A DISTANCE OF 35.11 FEET; THENCE SOUTH 00 DEGREES 00'00" EAST A DISTANCE OF 71.90 FEET, TO THE SAID NORTH LINE OF SECTION 31;
THENCE SOUTH 90 DEGREES 00'00" WEST ALONG THE SAID NORTH LINE OF SECTION 31, A DISTANCE OF 366.00 FEET TO THE POINT OF BEGINNING.

Financial Management Area BC01 Brevard County FM Area Version 0
 Fiscal Year 2026

Fund/Group * Functional Area/Group * Period/Group
 Funds Center Group 271010 Funded Program Group 514984 0..999
 Funded Program Group Sykes Creek Muck Dredging (SOIRL)

Commitment Items	Current Budget	All Commitments	Actuals	Available Budget	% Usage
5468100 Cap Ren/Enh >\$35,000	310,000.00	156,083.75	960.75	152,955.50	50.66
* Capital Renovations	310,000.00	156,083.75	960.75	152,955.50	50.66
5650000 Construction					
* Construction					
** CAPITAL OUTLAY	310,000.00	156,083.75	960.75	152,955.50	50.66
5990030 Reserves Cap Outlay	24,915,038.00			24,915,038.00	
** RESERVES	24,915,038.00			24,915,038.00	
*** Expenditure Items	25,225,038.00	156,083.75	960.75	25,067,993.50	0.62
**** Total	25,225,038.00	156,083.75	960.75	25,067,993.50	0.62

Attachment E

NANDIVADA MULTI-USE STORMWATER PROJECT PH1
CONTRACT BETWEEN
BREVARD COUNTY
AND
UNIVERSAL CONTRACTING AND CONSTRUCTION, INC.

THIS CONTRACT is made and entered into on the date of the last signature below, by and between **BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940 (hereinafter "County"), and Universal Contracting and Construction, Inc., whose principal address is 9075 Ellis Road, Melbourne, Florida 32904 (hereinafter "Contractor"), and who collectively are referred to as the "Parties".

WITNESSETH:

WHEREAS, the County desired to competitively procure the services of a qualified contractor to develop various plans for review and approval by the County and the County's Engineer that include but are not limited to the proposed excavation, dewatering and drilling methods, turbidity control from any construction activities in compliance with all applicable Federal, state, and local permits and regulations, for the Nandivada Multi-Use Stormwater Project – Phase I; and

WHEREAS, the County issued a competitive Invitation to Bid No. B-8-25-38 on June 25, 2025; and

WHEREAS, on August 26, 2025, the Contractor was selected as the best contractor to fully perform the bid requirements; and

NOW, THEREFORE, the parties hereto, in consideration of the above recitals and of the mutual promises and other good and valuable consideration hereinafter set forth, mutually agree as follows:

1. The above recitals are true and correct and incorporated herein by this reference.
2. **SCOPE OF THE WORK**
 - 2.1 The Contractor shall furnish all labor, materials, equipment, machinery, tools, apparatus, and transportation and perform all the work on and described in the Construction Drawings, Specifications, and Contract Documents entitled:

NANDIVADA MULTI-USE STORMWATER PROJECT PH1
BID NO. B-8-25-38

As Prepared by WSP USA Inc., acting as, and in the Contract Documents entitled as the County's Engineer, and shall do everything required by these Contract Documents.

Project Description:

The Nandivada Multi-Purpose Stormwater Project, Phase I as generally described herein, will include and is not limited to; dewatering, directional boring (621+/- feet), excavation, fusion welding, repair of roadways, demolition, construction of sidewalk and driveway, and traffic control devices, sod replacement, ditch lining, and drainage structure installation. This Bid is for Phase I only. The area within and adjacent to, the Phase I construction is within a region of high-density utilities.

The Contractor is responsible for developing various plans for review and approval by the County and the County's Engineer that include the proposed excavation, dewatering and drilling methods, turbidity control from any construction activities, and must comply with all applicable Federal, state, and local permits and regulations. Details of the required plans are found within the Technical Specifications. Conditions and Specifications relevant to this project are provided in detail as part of the Bid Documents.

3. THE CONTRACT SUM

- 3.1 The County shall pay to the Contractor for the faithful performance of the Contract, in lawful money of the United States, and subject to additions and deductions as provided in the Contract Documents.
- 3.2 Based upon the price shown in the Proposal heretofore submitted to the County by the Contractor, a copy of said Proposal being a part of these Contract Documents, the aggregate amount of this Contract is the sum of: \$523,228.00.

4. COMMENCEMENT AND COMPLETION OF WORK

- 4.1 The Contractor shall commence work within 15 calendar days after issuance of Notice to Proceed.
- 4.2 The Contractor shall prosecute the work with faithfulness and diligence and shall cause substantial completion of the work not later than one hundred twenty (120) calendar days after the issuance of Notice to Proceed and cause final completion of the work within thirty (30) days after substantial completion.
- 4.3 Prior to commencing the work, the Contractor shall execute, deliver to the County, and record in the public records of Brevard County, required payment and performance bonds in substantially the same format provided herein.

- 4.4 Prior to commencement of work the Contractor shall submit a work plan to the County and Engineer of Record that provides details on excavation, dewatering and drilling methods.

5. CONTRACTOR'S ACCEPTANCE OF CONDITIONS

- 5.1 The Contractor hereby agrees that the project site has been carefully examined and that sufficient observations have been made such that Contractor is completely familiar with all site conditions and requirements as they relate to the work described in these Contract Documents, and assumes full responsibility, therefore.
- 5.2 The provisions of this Contract shall control any inconsistent provisions contained in the specifications. All Drawings and Specifications have been read and carefully considered by the Contractor, who understands and agrees to their sufficiency for the work to be done. It is expressly agreed that under no circumstances, conditions or situations, shall this Contract be more strongly construed against the County than against the Contractor and the Surety.
- 5.3 Any ambiguity or uncertainty in the Drawings or Specifications shall be interpreted and construed by the County's Engineer and the decision shall be final and binding upon all parties.
- 5.4 It is distinctly understood and agreed that the passing, approval and acceptance of any part of the work or material by the County, the County's Engineer, or by any agent or representative of the County or County's Engineer as in compliance with the terms of this Contract and of the Drawings and Specifications covering said work, shall not operate as a waiver by the County of strict compliance with the terms of this Contract, and/or the Drawings and Specifications covering said work; and the County may require the Contractor and the surety to repair, replace, restore and/or make the work comply strictly, and in all things, with this Contract and the Drawings and Specifications. All of said work and/or materials which within a period of one year from and after the date of the passing, approval, and/or acceptance of any such work or material, are found to be defective or to fail in any way to comply with this Contract or with the Drawings and Specifications shall be reconstructed as directed by the County. This provision shall not apply to materials or equipment normally expected to deteriorate or wear out and become subject to normal repair and replacement before their condition is discovered. The Contractor shall not be required to do normal maintenance work under the guaranteed provisions. Failure on the part of the Contractor and the Surety to immediately repair or replace any such defective materials and workmanship shall entitle the County, in the County's sole discretion, to replace or repair the same and, after notice, recover the reasonable cost of such replacement and repair from the Contractor and the Surety, who shall in any event be jointly and severally liable to the County for all damage, loss and expense caused to the County by reason of the

Contractor's breach of this Contract and the Contractor's failure to comply strictly and in all things with this Contract and with the Drawings and Specifications.

6. LIQUIDATED DAMAGES

- 6.1 It is mutually agreed that time is of the essence of this Contract and should the Contractor fail to complete the work within the specified time, or any authorized extension thereof, there shall be deducted from the compensation otherwise to be paid to the Contractor, and the County will retain the amount of liquidated damages stated in Section 8-10.2 of F.D.O.T. Standard Specifications for Road and Bridge Construction, per calendar day elapsing beyond the specified time for completion or any authorized extension thereof, which sum shall represent the actual damages which the County will have sustained by failure of the Contractor to complete the work within the specified time; it being further agreed that said sum is not a penalty, but is the stipulated amount of damages sustained by the County in the event of such default by the Contractor.
- 6.2 For the purposes of this Article, the day of final acceptance of the work shall be considered a day of delay, and the scheduled day of completion of the work shall be considered a day scheduled for production.
- 6.3 The County has the right to deduct, as payment on such liquidated damages, against any money the County owes the Contractor.
- 6.4 The County does not waive its right to liquidated damages due under the Contract by allowing the Contractor to continue and to finish the work, or any part of it, after the expiration of the Contract Time including granted time extensions.
- 6.5 Contract days shall stop for purposes of determining if or how much liquidated damages shall be accrued upon substantial completion which shall occur as described on Section II, Definitions, Substantial Completion.
- 6.6 No liquidated damages shall apply to delay of work directly caused by the County not having received the USCOE permit authorization.

7. PARTIAL AND FINAL PAYMENTS

- 7.1 In accordance with the provisions fully set forth in the Technical Specifications and subject to additions and deductions as provided, the County shall pay the Contractor as follows:
 - a) Within ten (10) business days after the Contractor submits any request for partial (Progress) payment ("Payment Request") to the County's designated Owner's Agent/Project Manager, the County shall review the Payment Request to determine completeness, compliance with the Contract Documents, and whether any

deficiencies or disputed items exist. If any portion of the Payment Request is disputed, deficient, or requires revision, the County shall issue a written notice of dispute or required corrections to the Contractor within the same 10-day period, identifying the items requiring correction and directing the Contractor to submit a corrected Payment Request to the Owner's Agent/Project Manager.

- b) If the County does not issue such written notice within the 10-day review period, the Payment Request shall be deemed accepted for purposes of establishing the statutory payment deadlines under the Florida Local Government Prompt Payment Act, §§218.70–218.80, Florida Statutes.
- c) Upon approval of all or part of the Payment Request—whether by timely written acceptance or by operation of the Act—partial payment shall be made by the County in compliance with the statutory deadlines, namely within twenty-five (25) business days after the stamped date of receipt if approval by the County's Agent/Project Manager is required, or within twenty (20) business days after such date if no such approval is required. Payment shall be based on the County-approved estimate of work performed during the preceding calendar month, less five percent (5%) retainage, which the County shall withhold until final completion in accordance with Section 218.735(7)–(8), Florida Statutes.
- d) If a written notice of dispute or deficiency is issued, the Contractor shall revise and resubmit a corrected Payment Request. A corrected Payment Request shall be paid or rejected no later than ten (10) business days after receipt or, if Board approval is required, the first business day following the next regularly scheduled meeting of the Board of County Commissioners, consistent with §218.735(3), Florida Statutes. Undisputed portions of a Payment Request shall be paid timely regardless of any partial dispute.
- e) Notwithstanding the foregoing, pursuant to §255.05(11), Florida Statutes, when the Contractor has furnished and recorded a payment and performance bond and provided the County with written consent of the Surety regarding the Project or payment in question, no releases shall be required as a condition of payment. The Surety may, by written directive served on the County, revoke its consent or require that a specified amount be withheld, which becomes effective upon receipt by the County.

7.2 FINAL PAYMENT

- a) Upon the Contractor's completion of all Work, including all punch list items issued in accordance with §218.735(7), Florida Statutes, and upon submission of all close-out documents, warranties,

releases, and evidence satisfactory to the County that all payrolls, material bills, and other costs incurred in connection with the Work have been paid, the Contractor may submit a Final Payment Request to the County's Owner's Agent/Project Manager.

- b) The County shall apply the same ten (10) calendar day review rule used for Progress Payment Requests. If deficiencies are identified, written notice shall be issued within 10 days; otherwise, the Final Payment Request shall be deemed accepted for statutory timing purposes.
- c) Final payment, including release of retainage, shall then be made within the applicable statutory deadlines under §218.735(1)—twenty-five (25) business days if agent approval is required, or twenty (20) business days if not—provided that:
- d) all Work has been fully completed to the satisfaction of the County;
- e) all guarantees and close-out documents required by the Contract have been furnished; and
- f) the Work has been formally accepted by the County.
- g) Nothing herein alters the retainage deadlines required by §218.735(7)–(8), which require release of retainage within 30 days for contracts under \$10 million (or within 60 days for larger contracts where allowed by Contract).
- h) Contractor acknowledges that, pursuant to Florida law, the Contractor may not lien County's interest in the Project site. Contractor agrees to advise all subcontractors and material suppliers of the non-lienable nature of the project and to further furnish each such person or entity a copy of the Labor and Material Payment Bond for the project.

8. ADDITIONAL BOND

- 8.1 It is further mutually agreed between parties hereto that if, at any time after the execution of this Contract and the Public Construction Performance Bond and the Public Construction Payment Bond hereto attached for its faithful performance, the County shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the work, the Contractor shall, at the Contractor's expense, and within Seven (7) days after the receipt of Notice from the County to do so, furnish an additional bond or bonds, in such form and amount, and with such sureties as shall be satisfactory to the County. In such event, no further payment to the Contractor shall be deemed due under this Contract until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the County.

9. CONTRACT DOCUMENTS

- 9.1 The Contract Documents, as that term is defined in the Instructions to Bidders/Contractors for Nandivada Multi-use Stormwater Project PH1, Bid No. B-8-25-38, are as fully a part of this Contract as if herein repeated, whether or not those documents are actually attached to this Contract. The Construction Drawings are provided separately. The permit information and permit requirements are contained in the Appendix of the Technical Specifications.
- 9.2 The Contractor shall perform the services under this Contract as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status.

10. PUBLIC RECORDS AND AUDIT REQUIREMENTS

- 10.1 In the performance of this Contract, the Contractor shall keep books, records and accounts of all activities related to this Contract, in compliance with generally accepted accounting procedures and in compliance with the Public Records Laws of the State of Florida (including, but not limited to Chapter 119, Florida Statutes).
- 10.2 All records or documents created by the Contractor or provided to the Contractor in connection with the activities or services provided under the terms of this Contract, are public records and the Contractor agrees to comply with any request for such public records or documents made in accordance with Section 119.07, Florida Statutes. The Contractor shall also ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- 10.3 Records, documents, books, and accounts ordinarily and necessarily required for the performance of this Contract shall be kept, maintained and open to inspection by the County and its representatives during regular business hours and shall be retained by the Contractor or for a period of five (5) years after completion or termination of this Contract.
- 10.4 Pursuant to Section 119.0701, F.S., a request to inspect or copy public records relating to this Contract for services must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Contractor of the request, and the Contractor must provide the records to the County or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Ch. 119, F.S. If the Contractor fails to provide the public records to the County within a reasonable time, the Contractor may be subject to penalties under Section 119.10, F.S.
- 10.5 The Contractor shall identify and ensure that all public records which are exempt or confidential and exempt from public records disclosure

requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the County.

- 10.6 Upon completion of the Contract, the Contractor shall transfer, at no cost to the County, all public records in possession of the Contractor or keep and maintain public records required by the County to perform the services under this Contract. If the Contractor transfers all public records to the County upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records that are stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is accessible by and compatible with the information technology systems of the County.
- 10.7 Failure to comply with the provisions of this section shall result in the County taking enforcement action against the Contractor, including the cost to the County for gaining the Contractor's compliance, which will include, but is not limited to, the County's staff time expended to obtain compliance with this section, litigation filing fees and attorney's fees. The County may also unilaterally terminate the Contract if the County refuses to allow public access to Public Records as required by law.
- 10.8 No reports, data, programs, or other materials produced, in whole or in part for the benefit and use of the County, under this Contract shall be subject to copyright by the Contractor in the United States or any other country.
- 10.9 **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS FOR THE NATURAL RESOURCES MANAGEMENT DEPARTMENT BY TELEPHONE AT (321) 633-2016, BY EMAIL AT MARY.BLAKELY@BREVARDFL.GOV, OR AT THE MAILING ADDRESS BELOW:**

Brevard County Natural Resources Management Department
ATTN: Custodian of Records
2725 Judge Fran Jamieson
Way Building A, Room 219
Viera, FL 32940

11. NOTICE

All notices and written communication between the parties shall be sent by

electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. Any and all notices required by this Contract shall be delivered to the parties at the addresses identified below:

**County: Project Manager, Nandivada Multiuse Stormwater Project PH1
Brevard County Natural Resources Management. Dept.
2725 Judge Fran Jamieson Way, Building A-219,
Viera, FL 32940**

Project Manager: Agustin Sebastian
321-482-7970 (mobile)
agustin.sebastian@brevardfl.gov

**Contractor: Universal Contracting and Construction, Inc.
9075 Ellis Road
Melbourne, FL 32904**

Project Manager: Jason Wadsworth
321-508-4444 office
JasonWadsworth@gmail.com / Admin@universalccinc.com

**Engineer: Timothy J. Kelly, P.E.
WSP USA Inc.
5015 S. Florida Avenue, Suite 301
Lakeland, Florida 33813
timothy.kelly@wsp.com
407-587-7800**

12. ATTORNEY'S FEES

12.1 In the event of any legal action to enforce the terms of this Contract, each party shall bear its own reasonable attorney's fees and costs, including expert witness fees or costs against a surety in accordance with the provisions of the performance bond or under any provision of state law requiring the surety to pay attorney's fees or costs.

13. MODIFICATION

13.1 This Contract, together with the Bid Documents, constitutes the entire contract between the County and the Contractor and supersedes all prior written or oral understandings. No modification of this Contract shall be binding on County or Contractor unless reduced to writing and executed by a duly authorized representative of County and Contractor.

14. GOVERNING LAWS

14.1 This Contract shall be governed, interpreted, and construed according to the laws of the State of Florida, and federal laws and regulations.

15. COMPLIANCE WITH STATUTES

15.1 It shall be the Contractor's responsibility to be aware of and comply with all applicable federal, state, and local laws.

15.2 BUY AMERICAN – The bidder proposes and agrees, if this Proposal is accepted, to comply with 1 U.S.C. Chapter 83: Buy American statutes.

16. VENUE AND WAIVER OF JURY TRIAL

16.1 In any legal action brought by any party to this Contract to interpret, construe, or enforce this Contract **ANY TRIAL SHALL BE NONJURY** and venue shall be in a court of competent jurisdiction in and for Brevard County Florida, unless otherwise mandated by a funding source associated with this project; in that event the funding source provisions shall prevail.

17. CONFLICT OF INTEREST

17.1 The Contractor shall not engage the services of any person or persons now employed by the County, including any department, agency board or commission thereof, to provide services relating to this Contract without written consent from the County.

17.2 The Contractor shall not accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

17.3 The Contractor shall not award a contract or subcontract under this Contract to any company who the County has a financial or any other interest in, including but not limited to employing an employee of the County or any member of an employee's, agents, or officer's immediate family.

18. INFORMATION RELEASE/GRANTOR RECOGNITION

18.1 News releases, publicity releases, or advertisements relating to this Contract, or the tasks or projects associated with the project, shall be submitted in writing to the County and be approved in advance of any release or publication. Releases shall identify the funding entity as well as the funding source.

19. INSURANCE AND INDEMNIFICATION

- 19.1 The Contractor agrees to provide and maintain at all times during the term of this Contract, without cost or expense to the COUNTY, policies of insurance as provided below.
- 19.2 Comprehensive General Liability Insurance insuring the CONTRACTOR against any and all claims, demands or causes of actions whatsoever for injuries received and damages to property in connection with the use, occupation, management and control of the premises and the improvements thereon. Such policies of insurance shall insure the CONTRACTOR in amount not less than TWO MILLION DOLLARS (\$2,000,000.00) to cover any and all claims arising in connection with any one particular accident or occurrence, including Products and/or Completed Operations, Explosion Hazard, Collapse Hazard, and Underground Property Damage Hazard, Contractual Liability under this Contract. Certificate of Insurance must explicitly state that "X", "C", and "U" are included in this coverage.
- 19.3 "Workers' Compensation Insurance" for all of the Contractor's employees employed at the site of the project and, in case any work is sublet, the Contractor shall require each Subcontractor similarly to provide "Workers' Compensation Insurance" for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor as required by State of Florida law. This coverage must include Employer's Liability with a limit of at least \$100,000 for each accident. Additionally, the Contractor and all subcontractors shall provide evidence of United States Longshoremen's and Harbor Workers (USL&H) coverage and contingent coverage of Jones Act (Marine Employers Liability) in compliance with Federal statutes, or proof of exemption. The Contractor shall be responsible for compliance with these requirements by each subcontractor, vendor or supplier when applicable.
- 19.4 Auto Liability Insurance policy with includes coverage for all owned, non-owned and hired vehicles with a \$1,000,000 combined single limit for each occurrence.
- 19.5 Contractors Pollution Liability policy with minimum limits of \$1,000,000 to be endorsed to also provide coverage for the removal, transportation and disposal of hazardous wastes and materials, including asbestos, lead, etc.
- 19.6 Any additional specialty insurance coverage requirement will be dictated by the specific goods, products or services provided under the subject contract and insurance underwriting standards, practices, procedures or products available in the commercial insurance market at the time of the contract inception. The Contractor is required to procure and maintain all such specialty coverage in accordance with prudent business practices within the Contractors industry.

- 19.7 Builders risk insurance policy or Installation Floater with loss limits equal to the value of the construction project.
- 19.8 The County, its officials, employees, and volunteers are to be added by endorsement as additional insureds to all liability policies; however, waiver of subrogation will be accepted in lieu of additional insured status for workers' compensation liability coverage.
- 19.9 Before starting the work, the Contractor will file with the Natural Resources Department, 2725 Judge Fran Jamieson Way, Bldg. A-219, Viera, Florida, 32940, the County certificates of such insurance and applicable endorsement pages acceptable to the County. The Contractor shall provide Certificates of Insurance (using Acord 25 forms or similar) and applicable endorsement pages to the County within five (5) days of the Contractor's execution of, and prior to the commencement of work under, the Contract, demonstrating that the aforementioned insurance requirements have been met. Insurance carriers providing coverage required herein must be licensed or authorized to conduct business in the State of Florida and must possess A.M. Best's Financial Strength Rating of A- Class VIII or better. **"Brevard County" shall be stated as being the Certificate Holder.** The Certificates of Insurance shall indicate that the policies have been endorsed to cover "Brevard County" as an additional insured without added exclusions or limiting endorsements that diminish the protection afforded to the County. The certificates shall contain a provision that the coverage afforded under the policies will not be canceled or materially changed until at least 30 days prior written notice has been given to the County.
- 19.10 The insurance coverages enumerated above constitute the minimum requirements and shall in no way lessen or limit the liability of CONTRACTOR under the terms of the Contract. Subcontractor's insurance shall be the responsibility of CONTRACTOR.
- 19.11 The Contractor shall indemnify and hold harmless the County and its agents and employees, and the County's Engineer and their agents and employees from and against all claims, damages, losses and expenses, including attorney's fees arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expenses (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. The obligation of the Contractor under this Article shall not extend to the liability of the County's Engineer and their agents or employees arising out of errors or omissions in maps, drawings, opinions, reports, surveys, contract modifications, designs or

specifications which have been prepared by the County's Engineer. This indemnification shall survive the term of this Agreement.

19.12 Nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available under the laws of the State of Florida, nor as a waiver of sovereign immunity of the COUNTY beyond the waiver provided for in Section 768.28, Florida Statutes, as may be amended. Nothing in this Contract is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. Nothing herein shall constitute a waiver of the COUNTY'S sovereign immunity protections. The COUNTY'S liability hereunder shall be subject to the protections of and limitations on damages set forth in Section 768.28, Florida Statutes.

20. UNAUTHORIZED ALIEN WORKERS – Employment Eligibility Verification (E-Verify)

The Contractor:

19.1. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CONTRACTOR during the term of the contract; and

19.2. shall expressly require any subcontractors performing work or providing services pursuant to this contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term; and

19.3. agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the County consistent with the terms of the CONTRACTOR'S enrollment in the program. This includes maintaining a copy of proof of the CONTRACTOR'S and subcontractors' enrollment in the E-Verify Program; and

19.4. compliance with the terms of this section is made an express condition of this Contract and the COUNTY may treat a failure to comply as a material breach; and

19.5. shall require any sub-contractor to provide the Contractor with an affidavit stating that it does not employ, contract with, or subcontract with any unauthorized aliens; and

19.6. nothing in this Section may be construed to allow intentional discrimination of any class protected by law.

21. PUBLIC ENTITY CRIMES

A person or affiliate who has been placed on the convicted vendor list following a

conviction for a public entity crime may not submit a bid/quote/proposal on a contract to provide goods or services to a public entity, may not submit a bid/quote/proposal on a contract with a public entity for construction or repair of a public building or public work, may not submit bids/quotes/proposals on leases of rental property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of threshold amount provided in Section 287.017, Florida Statutes for CATEGORY TWO for a period of 36 months from date of being placed on convicted vendor list.

22. SURVIVAL

The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Contract, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination, cancellation, or expiration of this Contract.

23. SCRUTINIZED COMPANIES.

The Contractor certifies that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, F.S. In addition, the Contractor agrees to observe the requirements of Section 287.135, F.S., for applicable sub-agreements entered into for the performance of work under this Contract. Pursuant to Section 287.135, F.S., the County may immediately terminate this Contract for cause if the Contractor its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on any applicable scrutinized companies list or engaged in prohibited contracting activity during the term of the Contract. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions, then they shall become inoperative.

24. DISCOUNTS

All discounts, EXCEPT THOSE FOR PROMPT PAYMENT, shall be considered in determining the lowest net cost for bid evaluation purposes

THE REMAINDER OF THIS PAGE LEFT BLANK

IN WITNESS WHEREOF the parties by their undersigned, authorized agents have executed this Contract as of the date of the last signature below.

Attest:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

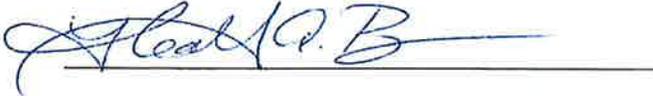

Rachel M. Sadoff, Clerk



Thad Altman, Chair

As approved by the Board on
February 11, 2025

Reviewed for legal form and content:



Heather A. Balsler, Assistant County Attorney

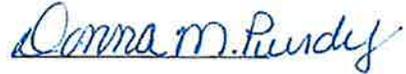
Witnessed in the presence of**


Monica Wadsworth

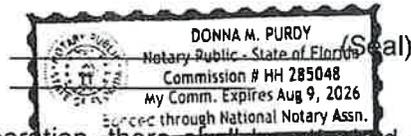

Christina Romano

CONTRACTOR Universal Contracting & Construction, Inc.


Jason Wadsworth-CEO



Attest:



- (*) In the event that the Contractor is a Corporation, there shall be attached to each counterpart, a certified copy of a resolution of the Board of Directors of the Corporation, authorizing the officer who signs the Contract to do so in its behalf.
- (**) Two witnesses are required when Contractor is sole proprietor or partnership.

CERTIFICATE

STATE OF FLORIDA

COUNTY OF _____

I HEREBY CERTIFY that at a meeting of the Board of Directors of _____
_____, a corporation under the laws of the State of
_____, held on
_____, 20___, the following resolution was duly passed and
adopted:

"RESOLVED, that _____, as _____ President of the
corporation, be is hereby authorized to execute the Contract dated _____, 2025,
between the BREVARD COUNTY, FLORIDA, and this corporation, and that the execution
thereof, attested by the Secretary of the corporation and with corporate seal affixed, shall
be the official act and deed of this corporation."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the
corporation on this ___ day of _____, 20___.

Secretary of Corporation

PUBLIC CONSTRUCTION BOND
(Payment and Performance)

Bond No. _____

BY THIS BOND, We _____, having its principal place of business at _____, (____)____-_____, herein called Principal, and _____, having its principal place of business at _____, (____)____-, a corporation as Surety, are bound to Brevard County, Florida, a political subdivision of the State of Florida, 2725 Judge Fran Jamieson Way, Viera, Florida, 32940, (321) 633-2000, herein called County, in the sum of _____ (\$_____.00) for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND are that if Principal:

1. Performs the contract number _____ dated _____ between Principal and County for construction of (project description & location) _____, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and
3. Pays County all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that County sustains because of a default by Principal under the contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.
5. This Bond shall be recorded in the public records of Brevard County, Florida, at the

Principal's expense. A certified copy of this recorded Bond shall be provided to the County.

No payments shall be made to the Principal until the Bond has been recorded and a certified copy has been provided to the County.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2) and (10), Florida Statutes. Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

Signed and sealed this _____ day of _____, 20__.

Witness:

(Principal) (Seal)

Its: _____
(Title)

Witness:

(Surety) (Seal)

Its: _____
(Title)

**PUBLIC CONSTRUCTION PERFORMANCE AND GUARANTEE
BOND**

BY THIS BOND, We _____, as Principal and _____, a corporation as Surety, are bound to Brevard County Board of County Commissioners, Brevard County, Florida, herein called County, in the sum of _____ (\$ _____), for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND are that if Principal:

Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, and shall remedy any defects in the work due to faulty materials or workmanship or failure to properly maintain during the length of the Contract, and pay for all damage to other work, person, or property resulting therefrom, which shall appear within a period of one (1) year from the date of final acceptance of the work provided for in the Contract, then this bond is to be void; otherwise it remains in full force and effect.

Any modifications in or under the Contract and compliance or noncompliance with any formalities connected with the Contract does not affect Surety's obligation under this bond.

Signed and sealed this _____ day of _____, 20__.

Attest:

By: _____

(As to Corporate Principal) Secretary

Name and Title of Principal

Witness to Principal

(Corporate Seal)

By: _____

Witness to Surety

Name and Title of Surety
(Corporate Seal)

**CERTIFICATE AS TO CORPORATE PRINCIPAL FOR
PERFORMANCE BOND**

I, _____ certify that I am the Secretary of the Corporation named as Principal in the within bond; that _____ who signed the said bond on behalf of the Principal, was then _____ of said Corporation; that I know the Principal, and the Principal's signature hereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing body.

_____(Seal)
Secretary

STATE OF FLORIDA)

ss

COUNTY OF)

Before me, a Notary Public, duly commissioned, qualified and acting, personally appeared _____ to me well known, who being by me first duly sworn upon oath, says that this individual is the Attorney-in-Fact, for the _____ and that said individual has been authorized by _____ to execute the foregoing bond on behalf of the Contractor named therein in favor of Brevard County, Florida.

Subscribed and sworn to before me this _____ day of _____, 20____, A.D.

(Attach Power of Attorney)

Notary Public
State of Florida-at-Large

My Commission Expires: _____

My Commission Number is: _____

PUBLIC CONSTRUCTION BOND
(Payment and Performance)

Bond No. S7A2SU0007276

BY THIS BOND, We Waterfront Property Services, LLC
dba Gator Dredging, having its principal place of business at
1401 Lake Ave. S.E., Largo, FL 33771, (727) 527- 1300,
American Alternative Insurance Corporation
herein called Principal, and _____, having its principal place of business at
555 COLLEGE ROAD EAST - P.O. BOX 5241, PRINCETON, NJ 08543, (609) 243-4200, a corporation as
Surety, are bound to Board of County Commissioners of Brevard County, Florida, 2725 Judge Fran
Jamieson Way, Viera, Florida, 32940, (321) 633-2000, herein called County, in the sum of
Eighteen Million Two Hundred Ninety-Three 18,293,701.50
Thousand Seven Hundred One 50/100 (\$ ** ~~X00~~) for payment of which we bind ourselves,
our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND are that if Principal:

1. Performs the contract number B-6-25-24 dated 2/11/25 between Principal and County
for construction of (project description & location)
Brevard County, Eau Gallie Muck Removal Project, the contract being
made a part of this bond by reference, at the times and in the manner prescribed in the
contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida
Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by
Principal in the prosecution of the work provided for in the contract; and
3. Pays County all losses, damages, expenses, costs, and attorney's fees, including appellate
proceedings, that County sustains because of a default by Principal under the contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the time
specified in the contract, then this bond is void; otherwise it remains in full force.
5. This Bond shall be recorded in the public records of Brevard County, Florida, at the
Principal's expense. A certified copy of this recorded Bond shall be provided to the County.

**DUAL
OBLIGEE
RIDER**

This Rider is to be attached to and forms a part of Performance and Payment Bonds No. S7A2SU0007276 (hereinafter individually referred to as "Performance Bond" or "Payment Bond", and collectively referred to as "Bonds") issued by American Alternative Insurance Corporation, (hereinafter referred to as "Surety"), as Surety, on the 20th day of November, 2025.

WHEREAS, on or about the 11th day of February, 2025, Waterfront Property Services, LLC dba Gator Dredging (hereinafter called the "Principal"), entered into a written agreement with Board of County Commissioners of Brevard County Eau Gallie Muck Runway Project Area IFC No. B-3-25-24 Issued for Construction (IFC), Brevard County Eau Gallie River (hereinafter called the "Primary Obligee") for the construction of the Florida Inland Navigation District (hereinafter called the "Contract"); and

WHEREAS, the Principal and the Surety executed and delivered to said Primary Obligee the Bonds in connection with the Contract; and

WHEREAS, the Primary Obligee has requested the Principal and the Surety to execute and deliver this Rider.

NOW, THEREFORE, the undersigned hereby agree and stipulate that Florida Inland Navigation District

shall be added to the Bonds as a named obligee (hereinafter referred to as "Additional Obligee"), subject to the conditions set forth below:

1. The Surety shall not be liable under the Bonds to the Primary Obligee, the Additional Obligee, or any of them, unless the Primary Obligee, the Additional Obligee, or any of them, shall make payments to the Principal (or in the case the Surety arranges for completion of the Contract, to the Surety) strictly in accordance with the terms of said Contract as to payments and shall perform all other obligations to be performed under said Contract at the time and in the manner therein set forth.

2. The aggregate liability of the Surety under the Performance Bond, to any or all of the obligees (Primary and Additional Obligees), as their interests may appear, is limited to the penal sum of the Performance Bond; the Additional Obligee's rights hereunder are subject to the same defenses Principal and/or Surety have against the Primary Obligee, and the total liability of the Surety shall in no event exceed the amount recoverable from the Principal by the Primary Obligee under the Contract. At the Surety's election, any payment due under the Performance Bond may be made by joint check payable to one or more of the obligees.

3. The aggregate liability of the Surety under the Payment Bond to any or all of the obligees (Primary and Additional Obligees), and persons or entities that are entitled to make claim under the Payment Bond (hereinafter, "Claimants"), as their interests may appear, is limited to the penal sum of the Payment Bond; the Additional Obligee's rights hereunder, if any, are subject to the same defenses Principal and/or Surety have against the Primary Obligee and/or the Claimants under the Payment Bond. At the Surety's election, any payment due under the Payment Bond may be made by joint check payable to one or more of the obligees and/or Claimants.

Except as herein modified, the Bonds shall be and remains in full force and effect.

Signed this 19th day of December, 2025.

Waterfront Property Services, LLC dba Gator Dredging
(Principal)

By: Wick Stoughton

Board of County Commissioners of Brevard County
(Primary Obligee)

By: Thad Altman

JAN 27 2026

American Alternative Insurance Corporation

By: Kevin Wojtowicz, Attorney-in-Fact /

& F.L. Licensed Agent

**SAVE OUR INDIAN RIVER LAGOON PROJECT ESTUARINE HABITAT MONITORING
MASTER AGREEMENT BETWEEN
BREVARD COUNTY
AND
THE UNIVERSITY OF CENTRAL FLORIDA RESEARCH FOUNDATION, INC.**

This Master Agreement (the "Master Agreement") is entered into as of the date of last signature below ("Effective Date") by and between Brevard County, a political subdivision of the State of Florida, whose address is 2725 Judge Fran Jamieson Way, A-219, Viera, Florida 32940 (hereinafter referred to as "BREVARD COUNTY") and The University of Central Florida Research Foundation, Inc. (hereinafter referred to as "UCFRF"), a direct support organization and instrumentality acting for the benefit of and on behalf of The University of Central Florida Board of Trustees ("UCF"), having offices at 12201 Research Parkway, Suite 501, Orlando, FL 32826. BREVARD COUNTY and UCFRF are each referred to individually as "Party", or collectively, as "Parties".

WITNESSETH

WHEREAS, UCFRF is a university direct-support organization within the definition of the Florida Statutes, Section 1004.28, and is organized and operated exclusively for the benefit of UCF; and

WHEREAS, UCFRF, in furtherance of UCF's education and research mission, has knowledge, experience and expertise in research, coastal habitats, and shoreline restoration projects in the Indian River Lagoon of interest to BREVARD COUNTY; and

WHEREAS, BREVARD COUNTY is desirous of engaging UCFRF to provide estuarine habitat monitoring services as described in specific, separate Task Orders. The Parties agree in advance on these general terms and conditions that will be part of each Task Order issued under this Master Agreement.

NOW THEREFORE, in consideration of the above recitals and of the mutual promises and other good and valuable consideration set forth below, these Parties intending to be bound, agree in advance as follows:

1. STATEMENT OF WORK

BREVARD COUNTY and UCFRF intend for this Master Agreement to cover a series of scopes of services in which UCFRF will provide estuarine habitat monitoring services. Once the Parties mutually agree to a particular scope of service, UCFRF shall submit a proposal to BREVARD COUNTY detailing the agreed-upon scope of service, level of effort, price, payment schedule, deliverable schedule, and any additional terms required for the work ("Proposal").

2. TASK ORDERS

UCFRF agrees to provide estuarine habitat monitoring services in accordance with the terms outlined in the specific Task Orders. Upon the Parties' agreement to a Proposal, BREVARD COUNTY will issue a written task order consistent with Master Agreement Exhibit A Sample Task Order incorporating: (i) the mutually agreed upon scope of services which shall be the

“Scope of Services” to the Task Order; (ii) the agreed price which shall be the “Compensation” of the Task Order; (iii) identification of key individuals who will be responsible for the Scope of Services, which shall be the “Key Personnel”; and (iv) any additional terms agreed between the Parties (“Task Order”). Only after each Party, through its authorized representatives, has executed in writing a Task Order will each Party’s respective obligations under the Task Order arise and bind them to the Task Order contractually.

Each Task Order shall be signed by both BREVARD COUNTY and UCFRF. The terms of this Master Agreement shall be automatically incorporated into the Task Order. However, in the event of any conflict between the terms of the Task Order and the terms of this Master Agreement, the terms of the Task Order shall take precedence over the terms of this Master Agreement.

3. PERIOD OF PERFORMANCE

This Master Agreement shall begin upon the Effective Date and shall remain in effect until September 30, 2035, unless otherwise amended. Each Task Order authorized under this Master Agreement shall specify a separate period of performance that is specific to the work being performed under the Task Order (“Task Order Schedule”). This Master Agreement may be extended for two (2) additional two-year terms if agreed to in writing by both parties and requested at least thirty (30) days in advance of the expiration date.

4. KEY PERSONNEL

The noted UCF individual(s) as indicated in each Task Order are considered key personnel essential to the services under the Task Order. UCFRF will seek approval from BREVARD COUNTY for any changes in key personnel or their level of effort. Any change(s) in the individual(s) or their level of effort requires written modification to the Task Order.

5. CONSIDERATION AND PAYMENT

- (a) BREVARD COUNTY hereby agrees to pay to UCFRF on a fixed price basis to perform the services associated with the Task Orders authorized under this Master Agreement.
- (b) UCFRF shall submit invoices in accordance with the compensation guidelines/payment schedule as set forth in the Task Orders to the following address:

BREVARD COUNTY
Natural Resources Management Department
2725 Judge Fran Jamieson Way, Bldg A, Suite 219
Viera, FL 32940
Attn: Aleah Ataman

Invoices may be submitted electronically via email to NRMD.Finance@brevardfl.gov.

- (c) BREVARD COUNTY shall send payment of the invoice amounts to UCFRF within thirty (30) days of receipt of a complete invoice and shall remit such payment to the following address:

University of Central Florida
Contracts & Grants Payment
PO Box 160119
Orlando, FL 32816-0119

6. PERFORMANCE

UCFRF will provide diligent efforts in performing the services under this Master Agreement and services will be rendered at a level commensurate with professional standards acceptable in the discipline and within the scope of the project as set forth in a Task Order, to the reasonable satisfaction of BREVARD COUNTY.

7. REPORTS

UCFRF shall prepare and submit to BREVARD COUNTY all necessary reports as set forth in the Task Orders.

8. SUBAGREEMENTS

UCFRF shall not sublet, assign or transfer any work under this Agreement without the written consent of BREVARD COUNTY. If applicable, and upon receipt of such consent in writing, the names of the firms responsible for such sublet, assigned, or transferred portions of the work shall appear on the Invoices for Services performed.

9. TERMINATION

This Master Agreement and the performance of all work under this Master Agreement may be terminated without cause by either Party with thirty (30) days written notice to all other Parties. If a Party terminates this Master Agreement, all Task Orders shall also automatically terminate. If a Party terminates a Task Order, only that Task Order shall terminate. BREVARD COUNTY will pay all reasonable allowable costs associated with this Master Agreement and/or Task Order, as applicable, up to the date of termination, including any non-cancellable obligations.

10. FORCE MAJEURE

- (a) No Party shall be liable for any delays in or failure of performance due to strike, riot, fire, storm, explosion, War, act of God, governmental action, embargo, epidemic, pandemic, or any other cause beyond the reasonable control of such Party. The Party affected shall promptly notify the other in writing of the nature, cause, date of commencement thereof, the anticipated extent of such delay, and whether it is anticipated that any completion dates will be affected thereby.
- (b) In the event of any delay resulting from such causes and provided the affected Party has promptly notified the other and exercised due diligence, as provided in Section 10 (a), the time of performance of each of the Parties hereunder (including payment of monies) shall be extended for a period of time equal to the period of such delay.

11. CONFIDENTIALITY

Should it be necessary for either Party to receive confidential information, the disclosing party agrees to label in writing at the time of delivery that such information is confidential, or if given orally, reduce to writing, clearly marked as confidential, within thirty (30) days of the oral disclosure. For information that a disclosing party claims is exempt and/or confidential under Florida law, the disclosing party shall provide the specific statutory cite justifying the redaction and/or removal of such qualifying information. The receiving Party and its personnel agree to safeguard the confidential material to the same extent it safeguards its own. The Parties' technical

representatives are responsible for initiating a Confidential Disclosure Agreement if applicable, and forwarding it to the contractual representatives for execution. Confidential information does not include information that is:

- a.) already known to the receiving Party at the time of disclosure;
- b.) generally available to the public or becomes available to the public through no fault of the receiving Party;
- c.) is developed independently of and without reference to the confidential information;
- d.) is received from a third party who had a legal right to disclose such information without restriction; or
- e.) is explicitly authorized by the disclosing Party.

The receiving Party may disclose Confidential Information to the extent required by applicable law, regulation, or valid administrative or court order. To the extent permitted by law, the receiving Party shall first notify the disclosing Party to provide the disclosing Party an opportunity to prevent disclosures.

Both Parties understand that the other is subject to Florida's Public Records Law. Upon written request of the disclosing Party, the receiving Party shall promptly return all confidential information of the disclosing Party, together with all copies thereof at the expense of the disclosing Party. Alternatively, the non-disclosing Party can provide a sworn certification that the Confidential Information has been destroyed. Notwithstanding the foregoing, the receiving Party may retain one (1) copy of all confidential information for its legal and archival purposes.

Any invention disclosures regardless of being marked will be treated as confidential.

BREVARD COUNTY understands and agrees that UCFRF does not have employees and that all personnel performing under this Agreement are employees or agents of UCF. As a result and notwithstanding anything to the contrary hereunder, UCFRF shall be able to disclose Confidential Information, as described in this provision, to employees of UCF who have a legitimate need to know the Confidential Information.

Notwithstanding any expiration or termination of this Master Agreement, each Party's obligations of confidentiality with respect to the other's confidential information will continue for five (5) years from the Effective Date of this Master Agreement.

12. PUBLIC RECORDS AND AUDIT REQUIREMENTS

- (a) In the performance of this Master Agreement, UCFRF shall keep books, records and accounts of all activities related to the Master Agreement in compliance with generally accepted accounting procedures and in compliance with the Public Records Laws of the State of Florida (including, but not limited to Chapter 119, Florida Statutes).
- (b) All records or documents created by UCFRF or provided to UCFRF in connection with the activities or services provided under the terms of this Master Agreement, are public records and UCFRF agrees to comply with any request for such public records or documents made in accordance with Section 119.07, Florida Statutes. UCFRF shall also ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

- (c) Records, documents, books, and accounts ordinarily and necessarily required for the performance of this Master Agreement shall be kept, maintained, and open to inspection by BREVARD COUNTY and its representatives during regular business hours and shall be retained by UCFRF for a period of five (5) years after completion or termination of this Master Agreement. If any litigation, claim or audit is started before the five-year period expires, and extends beyond the five-year period, the records shall be retained until the litigation, claims or audit findings involving the records have been resolved.
- (d) Pursuant to Section 119.0701, F.S., a request to inspect or copy public records relating to this Master Agreement for services must be made directly to BREVARD COUNTY. If BREVARD COUNTY does not possess the requested records, it shall immediately notify UCFRF of the request, and UCFRF must provide the records to BREVARD COUNTY or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Ch. 119, F.S. If UCFRF fails to provide the public records to BREVARD COUNTY within a reasonable time, UCFRF may be subject to penalties under Section 119.10, F.S.
- (e) UCFRF shall identify and ensure that all public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Master Agreement term and following completion of the Master Agreement if UCFRF does not transfer the records to BREVARD COUNTY.
- (f) Upon completion or termination of the Master Agreement, UCFRF shall transfer, at no cost to BREVARD COUNTY, all public records in possession of UCFRF or keep and maintain public records as required under this Master Agreement. If UCFRF transfers all public records to BREVARD COUNTY upon completion of the Master Agreement, UCFRF shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If UCFRF keeps and maintains public records upon completion or termination of the Master Agreement, UCFRF shall meet all applicable requirements for retaining public records. All records that are stored electronically must be provided to BREVARD COUNTY, upon request from BREVARD COUNTY'S custodian of public records in a format that is accessible by and compatible with the information technology systems of BREVARD COUNTY.
- (g) BREVARD COUNTY may also unilaterally terminate the Master Agreement if UCFRF refuses to allow public access to Public Records as required by law.

IF UCFRF HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO UCFRF'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS: MARY BLAKELY AT 321- 633 -2016 or MARY.BLAKELY@BREVARDFL.GOV or at the mailing address below:

**Natural Resources Management Department
2725 Judge Fran Jamieson Way, Suite A-219
Viera, FL 32940**

13. ASSUMPTION OF RISK

Each Party assumes any and all risks of personal injury and property damage attributable to the negligent acts or omissions of that Party's respective officers, employees, servants, and agents thereof while acting within the scope of their employment and/or this Master Agreement. The

parties acknowledge and agree that UCFRF is a direct support organization acting on behalf of and as an instrumentality of UCF and that the cap on the amount and liability of UCFRF and UCF for damages regardless of the number or nature of claims in tort, equity, or contract shall not exceed the lesser of the (i) dollar amount set by the legislature for tort in Section 768.28, Florida Statutes or (ii) policy limits of UCFRF's insurance coverage. BREVARD COUNTY and UCFRF further agree that nothing contained herein shall be construed or interpreted as (1) denying to either Party any remedy or defense available to such Party under the laws of the State of Florida; (2) the consent of the State of Florida or its agents and agencies to be sued; or (3) a waiver of sovereign immunity of the State of Florida beyond the waiver provided in Section 768.28, Florida Statutes.

14. NO WARRANTIES

OTHER THAN TO COMPLETE THE AGREEMENT IN ACCORDANCE WITH ANY SIGNED TASK ORDERS, UCFRF MAKES NO WARRANTY, EXPRESS, IMPLIED OR OTHERWISE, WITH RESPECT TO USE, OPERATION, EFFECTIVENESS OR FITNESS FOR ANY PARTICULAR PURPOSE OF ITS SERVICES PERFORMED UNDER THIS MASTER AGREEMENT OR THEIR RESULTS OR THAT THE SAME WILL NOT INFRINGE ANY THIRD PARTY PATENT, COPYRIGHT, TRADEMARK, OR OTHER THIRD PARTY RIGHTS. THE PARTIES MAKE NO REPRESENTATION AS TO THE USEFULNESS OF RESEARCH DELIVERABLES OR INTELLECTUAL PROPERTY. IF ANY PARTY CHOOSES TO EXPLOIT RESEARCH DELIVERABLES OR INTELLECTUAL PROPERTY IN ANY MANNER WHATSOEVER, IT DOES SO AT ITS OWN RISK.

15. INDEPENDENT CONTRACTOR

BREVARD COUNTY contracts for the services of UCFRF as an independent contractor and not as an employee. Nothing herein shall be construed to create a partnership, joint venture, or agency relationship between the Parties. Neither Party shall have the authority to enter into any agreements of any kind on behalf of another, or to bind or obligate one another to any third party.

16. PUBLICATIONS

BREVARD COUNTY recognizes that under UCF policy, the results of UCFRF's research must be publishable and agrees that the researchers engaged in activities under this Master Agreement shall be permitted to present at symposia, national or regional professional meetings, and to publish in journals, theses or dissertations, or otherwise of their own choosing, methods and results of such services. Prior to release, BREVARD COUNTY shall be given the opportunity to review any publication(s) or presentation(s) for confidential information.

17. PUBLICITY

No Party will use, nor authorize others to use, the name, symbols, or marks of the other Party in any sales promotion or advertising or in any other form of publicity without the prior express written permission of the respective organization and, if appropriate, the individual whose name is to be used. Any proposed public statement, advertisement, press release or communications by either Party shall be submitted to the other Party for its review and written approval at least thirty (30) days prior to the planned dissemination or publication, unless otherwise required. However, nothing shall prohibit either Party from complying with Florida Statute 1004.22(2) regarding sponsored research activities.

18. CONTRACTOR REPRESENTATIVES

The following serve as the representatives of each Party in the areas indicated:

TECHNICAL MATTERS:

ADMINISTRATIVE MATTERS:

University of Central Florida Research Foundation, Inc.

Dr. Melinda Donnelly
Dept. of Biology
4110 Libra Drive
Orlando, FL 32816-2368
Ph: 321-403-0278
Email: Melinda.Donnelly@ucf.edu

Denisha Pierre
Contract Officer III
12201 Research Parkway, Suite 501
Orlando, FL 32826-3246
Ph: 407-882-0153
Email: Denisha.pierre@ucf.edu

Brevard County

Aleah Ataman
Natural Resources Management
2725 Judge Fran Jamieson Way
Bldg A, Suite 219
Viera, Florida 32940
Ph: 321-633-2016
Email: Aleah.Ataman@BrevardFL.gov

Joshua Hibbard
Natural Resources Management
2725 Judge Fran Jamieson Way
Bldg A, Suite 219
Viera, Florida 32940
Ph: 321-633-2016
Email: Joshua.Hibbard@BrevardFL.gov

19. INTELLECTUAL PROPERTY

“Intellectual Property” means individually and collectively all inventions, improvements and/or discoveries, patentable or unpatentable, copyrightable or uncopyrightable, including but not limited to mask works, computer software, both object and source code, data, databases, and works of authorship.

Intellectual Property developed solely by BREVARD COUNTY shall be solely and exclusively owned by BREVARD COUNTY. Intellectual Property developed solely by UCFRF shall be solely and exclusively owned by UCFRF. “Joint Intellectual Property” means any Intellectual Property developed jointly by BREVARD COUNTY and UCFRF under this Agreement. Joint Intellectual Property will be owned jointly by BREVARD COUNTY and UCFRF, who agree to jointly determine proper inventorship and authorship subject to Title 35 of the United States Code for inventions and Title 17 of the United States Code for works of authorship and to jointly determine filing and licensing.

“Background Intellectual Property” means Intellectual Property which was in existence, prior to the Effective Date of this Master Agreement, or which is created or developed by a Party outside of the course of the scope of work of a Task Order. The Parties agree that Background Intellectual Property of BREVARD COUNTY and UCFRF is their separate property, respectively, and is not affected by this Master Agreement. Neither Party shall acquire any claims to or rights in the Background Intellectual Property of the other Party by this Master Agreement or performance hereunder.

Nothing in the Master Agreement shall circumvent or restrict either Party's pre-existing obligations with the United States government pertaining to any kind of Intellectual Property, including but not limited to such pre-existing obligations contained in grants, contracts and other types of agreements or arrangements between either Party and the U.S. Government. These obligations may include granting licenses to the U.S. government for certain Intellectual Property which is being developed.

Notwithstanding any provision to the contrary in the Master Agreement, UCFRF shall retain the right to practice any Intellectual Property developed hereunder for its own academic, noncommercial research and teaching purposes.

Notwithstanding any provision to the contrary in the Master Agreement, BREVARD COUNTY shall retain the right to practice any Intellectual Property developed hereunder for its own noncommercial research and use.

20. REGULATORY COMPLIANCE AND GOVERNING LAW

This Master Agreement, and any disputes arising under it, shall be governed by and construed in accordance with the laws of the State of Florida.

UCFRF shall be responsible for complying with all applicable Federal, State, and local laws and permitting requirements.

21. DISPUTES

In the event of controversy, dispute, misunderstanding, or claim arising out of or relating to this Master Agreement, each Party's authorized representative shall negotiate to resolve such dispute. In the event they are unable to resolve the pending dispute, each Party's legal representative will negotiate in good faith to resolve any dispute.

If the Parties hereto are unable to settle any dispute arising under this Agreement between themselves within forty-five (45) days of written notice of such dispute, either Party may initiate mediation upon written notice to the other Party. The Parties shall share the cost of the mediator and each Party shall bear its own cost of mediation.

If the Parties have not reached a settlement within forty-five (45) days of the initiation of the mediation, then either Party is free to pursue other remedies of law available. Pending any decision, UCFRF shall proceed diligently with the performance of its work under the Master Agreement which is not in dispute. In the event of any potential legal action to interpret, construe, and/or enforce the terms of this Master Agreement or any Task Order, each Party shall bear its own attorney's fees and costs.

22. EQUIPMENT

Unless otherwise stated in a Task Order, UCFRF will be accountable for and hold title to all equipment purchased under this Master Agreement and will be responsible for employing it for the overall purpose of the project. UCFRF agrees to maintain sufficient records to enable BREVARD COUNTY to fulfill its accountability. Each Party will be accountable for and keep title to all equipment it owns and utilizes under this Master Agreement.

23. LIMITATION OF DAMAGES

In no event will either Party be responsible for any special damages, punitive damages, indirect damages, consequential damages, exemplary damages of any kind, lost goodwill, lost profits, and/or lost business, regardless of how such damages arise or whether there was advance knowledge.

24. SEVERABILITY AND SURVIVABILITY

The illegality or unenforceability of the whole or any part of the provisions of this Master Agreement will not affect the continued operation of the remaining provisions. The respective obligations of the Parties, which by their nature would continue beyond the termination or expiration of this Master Agreement, including without limitation, the obligations regarding confidentiality (as limited in such provision), Intellectual Property, and public records shall survive termination, cancellation, or expiration of this Master Agreement.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

25. ENTIRE AGREEMENT

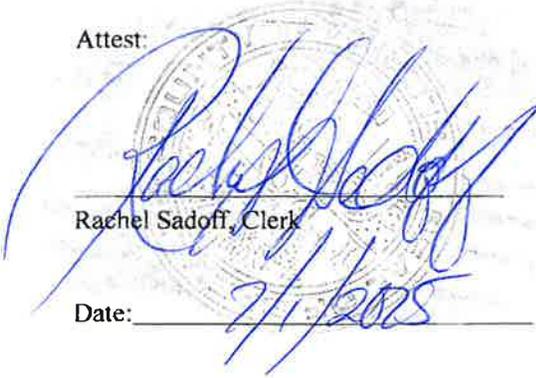
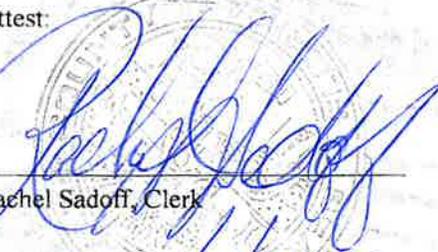
This Master Agreement represents the entire understanding of BREVARD COUNTY and UCFRF, and may only be modified in writing and duly executed by all Parties.

THE UNDERSIGNED, BY THEIR AUTHORIZED AGENTS, HAVE EXECUTED THIS MASTER AGREEMENT AS OF THE DATE LAST WRITTEN BELOW.

Brevard County Board of County
Commissioners
By: 
Date: 6/24/25
Rob Feltner, Chairman
As Approved by the Board February 11, 2025

University of Central Florida Research
Foundation, Inc.
By: 
Date: 6/16/2025
Name: Amanda Coveney
Title: Associate Director

Attest:



Rachel Sadoff, Clerk
Date: 7/1/2025

Reviewed for legal form and content for
Brevard County


Heather A. Balsler, Assistant County Attorney

MASTER AGREEMENT EXHIBIT A
Sample Task Order Template

TASK ORDER No.

Brevard County SOIRL Estuarine Habitat Monitoring

WHEREAS, BREVARD COUNTY, and UCFRF, have executed a Master Agreement dated. - - - - 2025, which is incorporated herein by reference; and,

WHEREAS, BREVARD COUNTY has requested UCFRF to perform a specific Scope of Services; and,

WHEREAS, UCFRF has agreed to perform said service as outlined in the attached statement of work (Task Order No. _ Exhibit A).

NOW THEREFORE, in consideration of the mutual promises contained in the referenced Master Agreement to which this Task Order is incorporated therein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. PURPOSE

The purpose of this Task Order is to provide services to the Brevard County Board of County Commissioners – Save Our Indian River Lagoon Project Program.

II. SCOPE OF SERVICES

UCFRF shall perform to the best of its ability, all work outlined in Task Order No. _ Exhibit A Statement of Work titled “_____”

III. COMPENSATION GUIDELINES/PAYMENT

BREVARD COUNTY shall compensate UCFRF on a fixed priced basis not-to-exceed \$ _____ to be paid in accordance with the payment schedule in Task Order No. _ Exhibit A.

Each invoice shall be submitted in detail sufficient for proper pre-audit and post-audit review. If necessary for audit purposes, UCFRF shall provide additional supporting information, upon request from BREVARD COUNTY.

IV. PAYMENT SCHEDULE

UCFRF shall submit ___ invoices in accordance with the schedule outlined in Task Order No. _ Exhibit A, to the address outlined in the Master Agreement.

V. KEY PERSONNEL

The key technical person(s) performing the Scope of Services outlined in Task Order No. _ Exhibit A are:

Name: _____
Address: _____
Phone: _____
Email: _____

Name: _____
Address: _____
Phone: _____
Email: _____

Their level of effort is outlined in Task Order No. _ Exhibit A.

VI. TASK ORDER SCHEDULE

The Task Order No. _ period of performance shall be in effect from the time of execution and continue through

VII. DELIVERABLES/REPORTS

UCFRF shall submit required deliverables and reports in accordance with the schedule outlined in Task Order No. _ Exhibit A to the following address:

BREVARD COUNTY
Natural Resources Management Department
2725 Judge Fran Jamieson Way, Bldg A, Suite 219
Viera, FL 32940
Attn: _____

VIII. OTHER TERMS AND CONDITIONS

All of the terms and conditions of the Master Agreement shall apply to this Task Order as if fully set out herein unless such terms and conditions are specifically superseded by the terms and conditions of this Task Order.

IX. ENTIRE AGREEMENT

This Task Order, together with the Master Agreement, represents the entire understanding between UCFRF and BREVARD COUNTY.

- Signature Page Follows -

IN WITNESS WHEREOF, the Parties have caused this Task Order to be signed by their duly authorized officers or representatives effective as of the date last written below ("Effective Date").

Brevard County Board of County Commissioners

By: _____

Name: _____

Title: _____

Date: _____

The University of Central Florida Research Foundation, Inc.

By: _____

Name: _____

Title: _____

Date: _____

TASK ORDER No. EXHIBIT A

Statement of Work

**SAVE OUR INDIAN RIVER LAGOON PROJECT COST-SHARE FUNDING AGREEMENT BETWEEN
BREVARD COUNTY, FLORIDA AND THE CITY OF TITUSVILLE, FLORIDA.**

AGREEMENT NUMBER: SOIRL 25-270

THIS AGREEMENT (“Agreement”) is made and entered into the date of last signature below by and between Brevard County, Florida, a political subdivision of the State of Florida (hereinafter “COUNTY”), and the City of Titusville, Florida, a Florida municipal corporation organized and existing under the laws of the State of Florida (hereinafter “CITY”).

RECITALS

WHEREAS, the COUNTY saw the urgent need to implement the “Save Our Indian River Lagoon Project Plan,” with the aim to restore the Indian River Lagoon through financing, planning, constructing, maintaining, and operating capital improvements and capital maintenance projects and programs designed to improve water quality, fish, wildlife and marine habitat, remove muck and reduce pollution, as permitted under Section 212.055(2)(d)1., Florida Statutes; and

WHEREAS, pursuant to Section 212.055, Florida Statutes, the COUNTY is authorized to levy a discretionary infrastructure sales tax of one-half cent by ordinance enacted by a majority of the members of the Board of County Commissioners and approved by a majority of the electors of Brevard County voting in a referendum on the surtax; and

WHEREAS, the COUNTY promulgated and passed Brevard County Ordinance No. 2016-15, (“the Ordinance”) imposing a one-half cent discretionary infrastructure sales tax for a period of ten (10) years from the date of levy, for the purposes expressed above, subject to approval of said surtax by a majority vote of those qualified electors of Brevard County voting in a referendum that was held on November 8, 2016; and

WHEREAS, it was contemplated that, if approved, said one-half cent discretionary infrastructure sales tax shall be imposed and collected County-wide, commencing on January 1, 2017, and continuing thereafter for a period of ten (10) years until December 31, 2026; and

WHEREAS, on November 8, 2016, a majority of those qualified electors of Brevard County voted in favor of the referendum, thereby authorizing the levy of the one-half cent surtax; and

WHEREAS, the COUNTY deems it in the best interest of all of the citizens and residents of Brevard County, Florida, that the proceeds of the one-half cent discretionary infrastructure sales tax be used to fund projects and programs designed to restore the Indian River Lagoon in the manner set forth in the Ordinance and its incorporated Save Our Indian River Lagoon Project Plan, including operations, maintenance and reasonable administrative costs of those projects and programs; and

WHEREAS, the project identified in the Statement of Work (“the Project”) has been

included and approved by the Board of County Commissioners as part of the Save Our Indian River Lagoon Project Plan; and

WHEREAS, the COUNTY has determined that providing cost-share funding to the CITY for the purposes provided for herein will assist the COUNTY in effectively and efficiently implementing the Ordinance and its incorporated Save Our Indian River Lagoon Project Plan, as amended from time to time, and would be a proper expenditure of the monies reserved in the Save Our Indian River Lagoon Trust Fund;

NOW, THEREFORE, for value received, and in consideration of the following covenants, promises and provisions; the Parties agree as follows:

Section 1. Documents.

This Agreement incorporates all of the following:

- a. The Recitals set forth above;
- b. The terms of the Agreement set forth herein;
- c. Attachment A – Statement of Work;
- d. Attachment B – Project Progress Report Form;
- e. Attachment C – Reimbursement/Invoice Form;
- f. Attachment D – Recipient’s Certification of Payment Form;
- g. Attachment E – Eligible Tax Funding Cost Share Form; and
- h. Attachment F – Foreign Disclosure Form (for projects over \$100,000).

Section 2. Statement of Work.

In consideration of the above recitals, and the funding assistance described below, the CITY agrees to perform and complete the activities provided for in the **Statement of Work, Attachment A**. CITY shall complete the Project in conformity with the contract documents and all attachments and other items incorporated by reference herein.

Section 3. Term and Extensions.

- a. The term of this Agreement is from the date upon which the last party has dated and executed the same ("Effective Date") until March 1, 2027 ("Completion Date"). CITY shall not commence the Project until any required submittals are received and approved. Time is of the essence for every aspect of this Agreement, including any time extensions.
- b. Any request for an extension of time beyond the Completion Date must be made in writing no less than forty-five (45) days prior to the contracted Completion Date. Timely requests to extend for up to one (1) year may be approved by the Natural Resources Management Department Director, or his/her designee; and up to two (2) years may be approved by the County Manager, or designee. Timely requests to extend for longer than the County Manager’s authorization to approve, may only be approved by the Board of County Commissioners.
- c. Notwithstanding specific mention that certain provisions survive termination or expiration of this Agreement, all provisions of this Agreement that by their nature extend beyond the Completion Date, including by way of example without limitation, delivery of a final progress

report, will remain in full force and effect after the Completion Date as necessary to affect performance.

Section 4. Offer Limitations.

a. This Agreement constitutes an offer until authorized, signed and returned to the COUNTY by the CITY. This offer terminates sixty (60) days after receipt by the CITY; provided, however, that the CITY may submit a written request for extension of this time limit which may be approved by the County Manager or his/her designee.

b. If the Project, which is eligible for reimbursement under this Agreement, does not begin within one hundred eighty (180) days of the Effective Date, or if the invoice for non-construction projects is not submitted within two hundred seventy (270) days of the Effective Date, this Agreement will be subject to termination and the funds subject to reallocation.

Section 5. Project Management.

The Project Managers listed below shall be responsible for overall coordination and management of the Project. Either party may change its Project Manager upon three (3) business days' prior written notice to the other party. Written notice of change of address shall be provided within five (5) business days. All notices shall be in writing to the Project Managers at the addresses below and shall be sent by one of the following methods: (1) hand delivery; (2) U.S. certified mail; (3) national overnight courier; or (4) e-mail. Notices via certified mail are deemed delivered upon receipt. Notices via overnight courier are deemed delivered one (1) business day after having been deposited with the courier. Notices via e-mail are deemed delivered on the date received.

COUNTY

Terri Breeden
Project Manager
Department of Natural Resource
Management 2725 Judge Fran Jamieson Way,
Building A Viera, Florida 32940
321-633-2016
Email: Terri.Breeden@brevardfl.gov

CITY

Sandra Reller
Public Works Operations Director
City of Titusville
555 S Washington Ave
Titusville, FL 32796
321-567-3846
E-mail: Sandra.Reller@Titusville.com

a. The COUNTY'S Project Manager shall have sole responsibility for transmitting instructions, receiving information, and communicating the COUNTY'S policies and decisions regarding all matters pertinent to the performance of the Project. The COUNTY'S Project Manager may authorize minor changes in the Project that the parties agree are not inconsistent with the purpose of the Project, and do not affect the COUNTY'S cost-share funding amount, the Project's nutrient reduction benefits, Completion Date, or otherwise significantly modify the terms of the Agreement.

b. Should additional funding be acquired from sources other than the Indian River Lagoon one-half cent surtax, the County Manager and City Manager are authorized to sign amendments to

this Agreement only if such additional funding: (1) reduces the Indian River Lagoon tax funding amount; and/or (2) reduces the CITY's cost-share amount.

Section 6. Deliverables.

- a. The CITY shall fully implement the Project, as described in the **Statement of Work, Attachment A**. The CITY is responsible for the professional quality, technical accuracy, and timely completion of the Project. Both workmanship and materials shall be of good quality. Unless otherwise specifically provided for herein, the CITY shall provide and pay for all materials, labor, and other facilities and equipment necessary to complete the Project.
- b. The COUNTY'S Project Manager shall make a final acceptance inspection of the project when completed and finished in all respects. Upon satisfactory completion of the Project, the CITY will provide the COUNTY a written statement indicating that the Project has been completed in accordance with this Agreement. Acceptance of the final payment by the CITY shall constitute a release in full of all claims against the COUNTY arising from or by reason of this Agreement.
- c. Unless otherwise provided herein, the COUNTY does not assert an ownership interest in any of the deliverables under this Agreement.

Section 7. Progress Reports and Performance Monitoring

- a. The CITY shall provide to the COUNTY Project update/status reports as provided in the **Statement of Work, Attachment A**. Reports will provide detail on progress of the Project and outline any potential issues affecting completion or the overall schedule.
- b. The CITY shall use the COUNTY'S **Project Progress Report Form, Attachment B**. CITY shall submit the Project Progress Reports to the COUNTY'S Project Manager within twenty (20) days after the closing date of each calendar quarter (March 31, June 30, September 30 and December 31).
- c. Commencement of Construction. The CITY shall notify the COUNTY once construction has started at the site.
- d. For as long as the Project is operational, the COUNTY shall have the right to inspect the operation of the Project during normal business hours upon reasonable prior notice. The CITY shall make available to the COUNTY any available data that is requested pertaining to the performance of the Project.

Section 8. Amount of Funding.

- a. For satisfactory completion of the Project, the COUNTY shall pay the CITY its "Eligible Tax Funding Cost Share" as stated in **Eligible Tax Funding Cost Share Form, Attachment E**. This amount shall be reduced correspondingly if additional matching funds for the Project are secured by the CITY. The contract amount may be increased by the appropriate grant amount if the COUNTY is able to secure funds from external revenue sources that are approved for

allocation to this Project by the Board of County Commissioners, or its duly authorized representative.

b. The CITY shall be responsible for payment of all additional costs beyond the cost-share amount necessary to ensure completion of the Project.

c. During contract negotiations, the CITY must submit the adopted budget for the project, the amount of all secured grants for the Project, and an estimate of Project costs as defined below in Section 8.e. The Eligible Tax Funding Cost Share shall be reduced as necessary to not exceed the balance of Project costs minus external matching funds for the Project.

d. The CITY shall notify the COUNTY'S Project Manager in writing upon receipt of any additional external funding for the Project not disclosed prior to execution of this Agreement. The Eligible Tax Funding Cost Share shall be reduced as necessary so as not to exceed the balance of Project Costs minus external matching funds for the Project.

e. "Project cost" is defined to include actual costs of constructing project facilities, including construction, construction management, construction QA/QC testing, land acquisition, engineering, design, permitting, permit fees, impact fees, and any other Project-specific costs authorized under the **Statement of Work, Attachment A**. Project cost does not include any costs incurred prior to the Effective Date, unless expressly authorized by the Statement of Work, nor any costs not included in the contracted Statement of Work.

f. The CITY is responsible for owning, operating and maintaining the Project for the typical operating life of the Project.

Section 9. Payment of Invoices.

a. The CITY shall submit itemized invoices as per the **Statement of Work, Attachment A** on a quarterly basis for reimbursable expenses by one of the following four methods by: (1) mail; (2) hand delivery; or (3) national overnight courier to the Brevard County Natural Resources Management Department, Terri Breeden, Project Manager, 2725 Judge Fran Jamieson Way, Building A, Viera, Florida 32940; or (4) e-mail to Terri.Breeden@brevardfl.gov. If a delivery method is not selected in this paragraph, the default invoicing basis will be quarterly increments and sent by mail to the Project Manager.

b. All invoices shall be submitted using **Reimbursement/Invoice Form, Attachment C**, and include the following information: (1) the COUNTY'S contract number; (2) the CITY'S name, address, and authorization to directly deposit payment into the CITY'S account; (3) the CITY'S invoice number and date of invoice; (4) the COUNTY'S Project Manager; (5) the CITY'S Project Manager; (6) supporting documentation as to cost and/or Project completion (as per the cost schedule and other requirements of the **Statement of Work, Attachment A**); and (7) **Project Progress Report Form, Attachment B**. Invoices that do not include the above-listed information shall be returned without action within ten (10) business days of receipt, stating the basis for rejection.

c. Incremental payments shall be calculated as the fraction of Eligible Tax Funding Cost Share listed in the **Eligible Tax Funding Cost Share Form, Attachment E** (after adjustments per Section 8c. and/or d.) divided by Project Cost multiplied by the amount of the City's Project Cost incurred during the respective incremental billing period. This percentage may be adjusted as needed if the project is partially funded through other grant funding sources. Payments shall be made within forty-five (45) days of receipt of an approved invoice.

d. The invoices shall be submitted in detail sufficient for proper pre-audit and post-audit review. Invoices shall include a copy of contractor and supplier invoices to the CITY and proof of payment. If necessary for audit purposes, the CITY shall provide additional supporting information as required to document invoices.

e. CITY shall be reimbursed for the actual cost of the Project, or the contracted amount, whichever is less. The COUNTY shall not withhold any retainage from this reimbursement. COUNTY reimbursement is subject to annual budgetary limitations and allocations, if applicable.

f. The COUNTY'S fiscal year ends on September 30th. The COUNTY is required to account for all encumbered funds at that time. Submittal of an invoice as of September 30th satisfies this requirement. Regardless of whether the CITY chooses monthly, quarterly, or annual invoices, if any expenses occur between a previous invoice and September 30th, the CITY shall submit a description of the work completed on the Project through September 30th and a corresponding invoice for that cost-share eligible amount achieved during that time interval.

Section 10. Final Invoice.

a. The final invoice must be submitted no later than forty-five (45) days after the City's final payment to its vendors for the Project or October 30th if the City's final payment is made between September 15th and September 30th.

b. Final Invoices that are submitted after the requisite date shall be subject to a penalty of ten percent (10%) of the invoice. This penalty may be waived by the COUNTY, in its sole judgment and discretion, upon a showing of special circumstances that prevent the timely submittal of the final invoice. The CITY must request approval for delayed submittal of the final invoice not later than ten (10) days prior to the due date and state the basis for the delay.

Section 11. Travel Expenses.

If the cost schedule for this Agreement includes a line item for travel expenses, travel expenses shall be drawn from the Project budget. Travel expenses are otherwise not compensable. If travel expenses are not included in the cost schedule, they are a cost of providing the service that is borne by the CITY.

Section 12. Payments Withheld.

The COUNTY may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect the COUNTY from loss as a result of: (1) defective work not remedied; (2) failure to maintain adequate

progress in the Project; or (3) any other material breach of this Agreement. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.

Section 13. Multi-Year Agreements.

a. For multi-fiscal year agreements, the COUNTY must budget the amount of funds that will be expended during each fiscal year as accurately as possible. Funds contracted for reimbursement beyond the COUNTY'S current fiscal year will be budgeted in subsequent fiscal years per the schedule specified in the Project Agreement, as amended. The **Statement of Work, Attachment A**, includes the parties' current schedule for completion of the work and projection of expenditures on a fiscal year basis (October 1 – September 30) ("Estimated Reimbursement Schedule").

b. If the CITY anticipates that expenditures will exceed the budgeted amount during any fiscal year, the CITY shall promptly notify the COUNTY'S Project Manager and provide a proposed revised work schedule and Annual Spending Plan that provides for completion of the work without increasing the Total Compensation. The last date for the COUNTY to receive this request is August 1 of the then-current fiscal year. Funds allocated in the current fiscal year that are not reimbursed in the current fiscal year due to slippage in the Project delivery schedule will be requested by COUNTY staff to roll forward to the next fiscal year as a Budget Amendment – (Regular), per BCC-21.

c. The COUNTY may in its sole discretion prepare a Budget Change Request incorporating the revised work schedule and Estimated Reimbursement Schedule as appropriate for changes in the Project schedule.

Section 14. Sovereign immunity, Liability, and Insurance.

To the extent provided by law, the CITY shall indemnify, defend, and hold harmless the COUNTY against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of the CITY, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with this Contract, to the extent and within the limitations of Section 768.28, Florida Statutes. The CITY accepts all risks arising from construction or operation of the Project. Nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available under the laws of the State of Florida, nor as a waiver of sovereign immunity of the COUNTY or CITY beyond the waiver provided for in Section 768.28, Florida Statutes, as may be amended. Nothing contained herein shall constitute agreement by the CITY to indemnify the COUNTY for the negligent acts or omissions of the COUNTY, its officers or employees. Nothing in this Contract is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. Each party shall acquire and maintain throughout the term of this Agreement such liability, workers' compensation, and automobile insurance as required by their current rules and regulations.

The selected contractor shall purchase and maintain general liability insurance in the amount of \$1,000,000/\$2,000,000 and auto liability insurance in the amount of \$500,000/\$1,000,000, and

Workers' Compensation to the State of Florida's limits. The selected contractor shall provide Certificates of Insurance to the City and COUNTY demonstrating that the aforementioned insurance requirements have been met prior to the commencement of work under this Contract and is responsible for ensuring it has the coverage required hereunder throughout the length of this contract. Insurance carriers providing coverage required herein must be licensed or authorized to conduct business in the State of Florida and must possess A.M. Best's Financial Strength Rating of A-Class VIII or better. The Certificates of Insurance shall indicate that the policies (except professional liability) have been endorsed to cover the COUNTY and the CITY as an additional insured (a waiver of subrogation in lieu of additional insured status on the Workers' Compensation policy is acceptable) and that these policies may not be canceled or modified without thirty (30) days prior written notice being issued by the insurer to the COUNTY. The CONTRACTOR is also responsible for providing the COUNTY with thirty (30) days prior written notice of any change or cancellation of the policies.

The selected contractor shall submit a certificate of insurance that meets these requirements to both the CITY and the BOCC before the commencement of the project. Where the City is indemnified under any agreement awarded to the selected subcontractor, the County shall also likewise be so indemnified by the subcontractor and the City shall provide written proof of such indemnification.

The parties acknowledge that specific consideration has been exchanged for this indemnification provision. This indemnification shall survive the termination of this Contract.

Section 15. Funding Availability.

a. This Agreement is at all times contingent upon funding availability, which may include a single source or multiple sources, including, but not limited to: (1) the Save Our Indian River Lagoon one-half cent surtax; (2) annual appropriations by the Florida Legislature; or (3) appropriations from other agencies or funding sources. Agreements that extend for a period of more than one Fiscal Year are subject to annual appropriation of funds in the sole discretion and judgment of the COUNTY for each succeeding Fiscal Year. Should the Project not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the COUNTY shall so notify the CITY and this Agreement shall be deemed terminated for convenience five (5) days after receipt of such notice, or within such additional time as the COUNTY may allow. For the purpose of this Agreement, "Fiscal Year" is defined as the period beginning on October 1 and ending on September 30.

b. The CITY agrees that any and all City funds budgeted (in the adopted or amended budget) for this Project that are saved by the CITY by virtue of reimbursement or allocation received pursuant to this cost-share agreement, shall be reallocated and expended by the CITY solely to other City, County or third party project(s) benefiting the restoration of the Indian River Lagoon within five (5) years of the Effective Date of this Agreement. Should the CITY choose to not expend such funds in the manner described above, the CITY shall transfer those funds to the COUNTY for deposit to the Save Our Indian River Lagoon Trust Fund. The CITY'S obligation under this paragraph shall survive the termination of this agreement.

Section 16. Failure to Complete Project.

- a. Should the CITY fail to complete the Project, the CITY shall refund to the COUNTY all of the funds provided to the CITY pursuant to this Agreement.
- b. With a recommendation from its Citizen Oversight Committee, the COUNTY, in its sole judgment and discretion, may determine that the CITY has failed to complete the Project due to circumstances that are beyond the CITY'S control, due to termination of this agreement for reasons of funding availability, or due to a good faith determination that the Project is no longer environmentally or economically feasible. In such event, the COUNTY may excuse the CITY from the obligation to return funds provided hereunder.
- c. If the Project has not been completed within thirty (30) days after the Completion Date, the CITY shall provide the COUNTY with notice regarding its intention as to completion of the Project. The parties shall discuss the status of the Project and may mutually agree to revise the time for Project completion or the scope of the Project. Failure to complete the Project within ninety (90) days after the Completion Date shall be deemed to constitute failure to complete the Project for the purposes of this provision.
- d. In the event the Project constitutes a portion of the total functional Project, this paragraph shall apply in the event the total functional Project is not completed. In such event, the 90-day timeframe provided herein shall commence upon the date scheduled for completion of the total functional Project at the time of execution of this Agreement, unless extended by mutual agreement of the parties. Paragraphs 17(a) and 17(b) shall survive the termination or expiration of this Agreement.
- e. Force Majeure. The failure to carry out any terms of this Agreement due to any one of the following circumstances beyond the control of the CITY: (a) the operation and effect of rules, regulations, or orders promulgated by any commission, county, or governmental agency of the state of Florida or the United States; (b) a restraining order, injunction, or similar decree of any court of competent jurisdiction; (c) war; (d) flood; (e) earthquake; (f) fire; (g) severe wind storm or hurricane; (h) acts of public disturbance; (i) quarantine restrictions; (j) epidemic; (k) strikes; or (l) sabotage. The CITY shall not be subject to any liability for failure to carry out any of the terms of this Agreement to the extent that such failure shall be due to a Force Majeure event as defined herein. In such event, the CITY shall be excused from the obligation to return funds provided herein if the parties can agree, in writing, to a revised completion date for the Project based on the circumstances.

Section 17. Termination.

- a. If the CITY materially fails to fulfill its obligations under this Agreement, including any specific milestones established herein, the COUNTY may provide the CITY written notice of the deficiency by forwarding a "Notice to Cure," citing the specific nature of the breach. The CITY shall have thirty (30) days following receipt of the notice to cure the breach. If the CITY fails to cure the breach within the thirty (30) day period, the COUNTY may issue a "Termination for Default Notice" terminating this Agreement without further notice. In such event, the CITY shall refund to the COUNTY all funds provided to the CITY pursuant to this Agreement within thirty

(30) days of such termination. The COUNTY may also terminate this Agreement upon ten (10) days written notice in the event of any material misrepresentations in the Project Proposal.

b. Delay or failure by the COUNTY to enforce any right, remedy or deadline hereunder shall not impair, or be deemed a waiver of, any such right, remedy or deadline, or impair the COUNTY'S rights or remedies for any subsequent breach or continued breach of this Agreement.

c. This Agreement may be terminated by either party for convenience upon ninety (90) days prior written notice to the other party. In the event the COUNTY terminates for convenience, the CITY shall be paid for work completed and costs incurred in good faith through the date of termination. In the event the CITY terminates for convenience, COUNTY shall receive a full refund of the funds provided herein within thirty (30) days of the date of termination.

ADDITIONAL PROVISIONS

Section 18. Assignment.

The CITY shall not assign this Agreement, or any monies due hereunder, without the COUNTY'S prior written consent. The CITY is solely responsible for fulfilling all work elements in any contracts awarded by the CITY and payment of all monies due. No provision of this Agreement shall create a contractual relationship between the COUNTY and any of the CITY'S contractors or subcontractors.

Section 19. Audit; Access to Records; Repayment of Funds.

a. Maintenance of Records. The CITY shall maintain its books and records such that receipt and expenditure of the funds provided hereunder are shown separately from other expenditures in a format that can be easily reviewed. The CITY shall keep the records of receipts and expenditures, copies of all reports submitted to the COUNTY, and copies of all invoices and supporting documentation for at least five (5) years after expiration of this Agreement. In addition, the CITY shall maintain records to demonstrate satisfaction of its obligation under subparagraph 15b. above.

b. Review and Auditing. In accordance with generally accepted governmental auditing standards, the COUNTY shall have access to and the right to examine any directly pertinent books and other records involving transactions related to this Agreement. In the event of an audit, the CITY shall maintain all required records until the audit is completed and all questions are resolved. The CITY will provide proper facilities for access to and inspection of all required records.

c. Repayment of Funds. COUNTY funding shall be subject to repayment after expiration of this Agreement if, upon audit examination, the COUNTY finds any of the following: (1) the CITY has spent funds for purposes other than as provided for herein; (2) the CITY has failed to perform a continuing obligation of this Agreement; (3) the CITY has received duplicate funds from the COUNTY or other external funding entity for the same purpose; (4) the CITY has been advanced or paid unobligated funds; (5) the CITY has been paid funds in excess of the amount the CITY is

entitled to receive under the Agreement; and/or (6) the CITY has received contributions amounting to more than one hundred percent (100%) of the Project cost through cumulative public agency cost-share funding.

Section 20. Dispute Resolution.

The CITY is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute involving performance of this Agreement by submitting a written statement to the COUNTY's Project Manager no later than ten (10) business days after the precipitating event. If not resolved by the COUNTY Project Manager within ten (10) business days, the COUNTY Project Manager shall forward the request to the County Manager's Office, which shall issue a written decision within ten (10) business days of receipt. This determination shall constitute final action of the COUNTY and may then be subject to judicial review upon completion of the Project.

Section 21. Governing Law, Venue, Attorney's Fees, Waiver of Right to Jury Trial.

This Agreement shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Agreement: (1) Venue for any state or federal legal proceedings shall be in a court of competent jurisdiction in and for Brevard County; (2) Each party shall bear its own attorney's fees, including appeals; (3) For civil proceedings, the parties hereby consent to trial by the court and **WAIVE THE RIGHT TO JURY TRIAL.**

Section 22. Permits.

The CITY shall comply with all applicable federal, state, and local laws and regulations in implementing the Project and shall include this requirement in all subcontracts pertaining to the Project. The CITY shall obtain any and all governmental permits necessary to implement the Project. Any activity not properly permitted prior to implementation or completed without proper permits does not comply with this Agreement and shall not be approved for cost-share funding.

Section 23. Independent Contractors.

The parties to this Agreement, their employees and agents, are independent contractors and not employees or agents of each other. Nothing in this Agreement shall be interpreted to establish any relationship other than that of independent contractors during and after the term of this Agreement. The CITY is not a contractor of the COUNTY. The COUNTY is providing cost-share funding as a cooperating governmental entity to assist the CITY in accomplishing the Project. The CITY is solely responsible for accomplishing the Project and directing the means and methods by which the Project is accomplished. The CITY is solely responsible for compliance with all labor, health care, and tax laws pertaining to the CITY, its officers, agents, and employees.

Section 24. Scrutinized Companies.

a. The CITY certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida Statutes, the COUNTY may immediately terminate this Agreement at its sole option if the CITY or its subcontractors are found to have

submitted a false certification; or if the CITY or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

b. If this Agreement is for more than one million dollars, the CITY certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, Florida Statutes, the COUNTY may immediately terminate this Agreement at its sole option if the CITY, its affiliates, or its subcontractors are found to have submitted a false certification; or if the CITY, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

c. The CITY agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

d. As provided in Section 287.135(8), Florida Statutes, if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

Section 25. Public Entity Crime.

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.

Section 26. Public Records.

Records of the CITY that are made or received in the course of performance of the Project may be public records that are subject to the requirements of Chapter 119, Florida Statutes. If the CITY receives a public records request, the CITY shall promptly notify the COUNTY'S Project Manager. Each party reserves the right to cancel this Agreement for refusal by the other party to allow public access to all documents, papers, letters, or other materials related hereto and subject to the provisions of Chapter 119, Florida Statutes, as amended.

Section 27. Royalties and Patents.

The CITY certifies that the Project does not, to the best of its information and belief, infringe on any patent rights. The CITY shall pay all royalties and patent and license fees necessary for performance of the Project and shall defend all suits or claims for infringement of any patent rights and save and hold the COUNTY harmless from loss to the extent allowed by Florida law.

Section 28. Employment Eligibility Verification (E-Verify):

The CITY:

- a. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CITY during the term of the contract; and
- b. shall expressly require any subcontractors performing work or providing services pursuant to this contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term; and
- c. agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the County consistent with the terms of the CITY'S enrollment in the program. This includes maintaining a copy of proof of the CITY'S and subcontractors' enrollment in the E-Verify Program; and
- d. compliance with the terms of this section is made an express condition of this Contract and the COUNTY may treat a failure to comply as a material breach; and
- e. shall require any contractor to provide the City with an affidavit stating that it does not employ, contract with, or subcontract with any unauthorized aliens; and
- f. nothing in this Section may be construed to allow intentional discrimination of any class protected by law.

Section 29. Severability.

If any portion of this Contract is found to be invalid or unenforceable or if applicable law mandates a different interpretation or result, the remaining provisions will remain in effect and the parties will negotiate in good faith to substitute for such invalid, illegal, or unenforceable provision a mutually acceptable provision consistent with the original intention of the parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURES TO FOLLOW.]

IN WITNESS WHEREOF, the COUNTY has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representative, and CITY has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representatives. This Agreement may be executed in separate counterparts, which shall not affect its validity. Upon execution, this Agreement constitutes the entire agreement of the parties, notwithstanding any stipulations, representations, agreements, or promises, oral or otherwise, not printed or inserted herein. This Agreement cannot be changed by any means other than written amendments referencing this Agreement and signed by all parties.

Brevard County, Florida

Titusville, Florida

By: Rob Feltner

By: _____

Date: 6/24/25

Date: _____

Rob Feltner, Chairman

Name: Andrew Connors

As Approved by the Board on February 11, 2025

Title: Mayor

Attest



Rachel Sadoff, Clerk
Date: 7/1/2025

Reviewed for legal form and content for Brevard County



Heather A. Balsler, Assistant County Attorney

**ATTACHMENT A
STATEMENT OF WORK**

PROJECT TITLE: Tennessee St Baffle Box

PROJECT LOCATION: 28.629917; -80.827499

PROJECT BACKGROUND: In February 2013, the Florida Department of Environmental Protection adopted a Basin Management Action Plan (BMAP) for implementation of the Total Maximum Daily Loads (TMDLs) for the North Indian River Lagoon (IRL) requiring nutrient load reductions of nitrogen and phosphorus. This planned water quality project will assist the City in striving to meet the pollutant removal allocation required by the BMAP. This project is designed to provide removal efficiencies that help meet TMDL requirements for the IRL and will provide a net water quality benefit to the IRL.

PROJECT DESCRIPTION: Installation of a second-generation baffle box with nutrient-reducing media biosorption filtration media (aka a third-generation baffle box) at Tennessee St and Georgia Ave within the Chain of Lakes Basin. The baffle box will treat 673 acres of highly developed land prior to discharging to the Indian River Lagoon.

TASKS and DELIVERABLES:

The City agrees to include physical signage approved by the County at the site during the performance of the work. The signage shall contain the Brevard County Save Our Indian River Lagoon logo. The physical design of the sign shall allow space for the following text: "This project has been funded in part by the Save Our Indian River Lagoon ½ cent sales tax."

Task #1: Design and Permitting

Task Description: The City will complete the design of the baffle box and obtain all necessary permits for the completion of the project if applicable.

Task Deliverable: Copies of construction plans and permits.

Task #2 Construction of Project

Task Description: Construct and install the baffle box and any other incidental work necessary to complete the project in accordance with the final design and required permits.

Task Deliverable: Dated photographs of the completed project and signed acceptance of the completed work by the Grantee.

Task	Task Title	Task Start Date	Task End Date
1	Design & Permitting	6/1/2025	1/1/2026
2	Construction of Project	3/1/2026	3/1/2027

Estimated Reimbursement Schedule:

Project reimbursements will be requested after project completion.

Please provide a schedule of estimated amounts in the quarter (1st, 2nd, 3rd, 4th quarter 20xx) for each reimbursement that will be requested. Note that quarters go by the County fiscal year so 1st quarter is Oct.-Dec., 2nd quarter is Jan.-Mar., 3rd quarter is Apr.-Jun., 4th quarter is Jul.-Aug.) You do not need to include quarters that reimbursement is not requested. If project goes beyond the two years provided in the table below you may insert another table.

Task #	Quarter #1/FY27	Quarter #/Year					
1							
2	\$514,794						

Deliverables:

Quarterly and final reports including pictures of progress made, or plans if pictures are not yet available.

Project's Status without Trust Funds (Adjust the highlighted section and delete the other options that do not apply):

This project is not included in the City's FY 2024-2025 budget, therefore without the Save Our Indian River Lagoon Funding the project would not have been executed in the near future.

Other:

SAVE OUR INDIAN RIVER LAGOON
PROJECT PROGRESS REPORT FORM

Date: _____

Report Number: _____

Project Information

Project Name:			
Recipient Name:			
Contract Number:		County Project Manager Email:	
Nitrogen Reduction Benefit (lbs/yr)		County Project Manager Phone:	
Phosphorus Reduction Benefit (lbs/yr)		Recipient's Email:	
TSS Reduction Benefit (lbs/yr)		Recipient's Phone:	

Construction Schedule

Start Date (mm/dd/yy):	
Completion (mm/dd/yy):	

Reporting Period

Beginning Date (mm/dd/yy):	
Ending Date (mm/dd/yy):	

Budget

Total Budget:	
Expended To-date:	
Contract Amount:	

Expended This Period:	
Percent Budget Expended:	0%
Percent Cost Share:	0%

Estimated Reimbursement Schedule

Fiscal Year 1		
Reimbursement #	Anticipated Amount	Anticipated Date
1		
2		
3		
4		

Fiscal Year 2		
Reimbursement #	Anticipated Amount	Anticipated Date
1		
2		
3		
4		

Project Status (Include Overall Project % Complete)

--

Tasks/Milestones/Deliverables Scheduled for this Reporting Period or Within the Next 90 days:

Task Number	Tasks/Milestones/Deliverables	Start Date	Finish Date	Percent Complete	Projected Finish Date
1	Permitting			0%	
2	Engineering			0%	
3	Construction			0%	
				0%	
				0%	

Problems, Issues, Solutions, Anticipated deviations from schedule:

--

Attach an additional page of notes if necessary to explain reasons for lateness or unusual events or circumstances.

Attachment C – Detail Sheet

Save Our Indian River Lagoon Cost Share Program – Invoice for Reimbursement

RECIPIENT'S NAME:											
PROJECT NAME:											
COUNTY'S PROJECT MANAGER:											
AGREEMENT NO.:											
PERFORMANCE PERIOD FROM:											
PERFORMANCE PERIOD TO:											
PAYMENT REQUEST NO.:											
DATE OF REQUEST:											
TOTAL PROJECT COST:											
COST-SHARE PERCENTAGE:											
COST-SHARE AMOUNT:											
TOTAL COST-SHARE PREVIOUSLY REIMBURSED:											
CURRENT REIMBURSEMENT AMOUNT REQUESTED:											
NOTES:											
ITEM NO.	VENDOR	DESCRIPTION OF SERVICES	CHECK DATE	CHECK NUMBER	INVOICE NUMBER	INVOICE AMOUNT	CURRENT REIMBURSEMENT AMOUNT REQUESTED				
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											
12											
TOTALS:						\$ 0.00	\$ 0.00				

Recipient's Certification of Payment Request

I, _____, on behalf of _____, do hereby certify for SOIRL Agreement No. _____ and Payment Request No. _____ that:

- The disbursement amount requested is for allowable costs for the project described in Attachment A of the Agreement.
- All costs included in the amount requested have been satisfactorily purchased, performed, received, and applied toward completing the project; such costs are documented by invoices or other appropriate documentation as required in the Agreement.
- All procurement for the amount requested was completed in a manner consistent with applicable law and contract requirements.
- If notified by the County of any restrictions on the use of local preference for this Agreement, the Recipient confirms that no local preference was used.
- The Recipient has paid such costs under the terms and provisions of contracts relating directly to the project; and the Recipient is not in default of any terms or provisions of the contracts.

Check all that apply:

- All permits and approvals required for the construction, which is underway, have been obtained.
- Construction up to the point of this disbursement is in compliance with the construction plans and permits.
- The Recipient's Grant Manager relied on certifications from the following professionals that provided services for this project during the time period covered by this Certification of Payment Request, and such certifications are included:

Professional Service Provider (Name / License No.)	Period of Service (mm/dd/yy – mm/dd/yy)

 Recipient's Grant Manager's Signature

 Print Name

 Telephone Number

 Recipient's Fiscal Agent

 Print Name

 Telephone Number

ATTACHMENT E

Recipient Name:	City of Titusville
Project Name:	Tennessee St Baffle Box
Agreement Number:	25-270

Estimated Project Cost-Share Table							
Task Number	Task Description	Task Cost	Grant 1 ()	Grant 2 ()	Grant 3 ()	Eligible Lagoon Tax Cost Share, Adjusted	Local Match
1	Permitting						\$ -
2	Engineering						\$ -
3	Construction	\$535,000.00				\$ 514,794.00	\$ 20,206.00
4	Monitoring						\$ -
	Total	\$ 535,000.00	\$ -	\$ -	\$ -	\$ 514,794.00	\$ 20,206.00

Save Our Indian River Lagoon Funding Eligibility Calculation	
Project Type	Stormwater
Pounds of Nitrogen Reduction	1442
Eligible Cost Share per Pound	\$357
Eligible Tax Funding Cost Share	\$ 514,794.00
Reduction so Sum of Grants does not exceed Project Cost	\$ -
Eligible Cost Share, Adjusted	\$ 514,794.00
Cost Share Percentage	96%

Attachment F

DISCLOSURE FORM

FOREIGN INFLUENCE ON CONTRACTS OR GRANTS HAVING A VALUE OF \$100,000 OR MORE

Summary of Form: In order for the County to comply with section 286.101, Florida Statutes, all prospective contractors and grant recipients seeking to contract with the County, or receive a grant from the County, where said contract or grant has a value of \$100,000 or more must disclose to the County (1) any current or prior interest of, (2) any contract with, or (3) any grant or gift received from a foreign country of concern (defined as the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, and the Syrian Arab Republic, or an agency or other entity under the significant control of such foreign country of concern) if such interest, contract, or grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract or grant or gift was received or in force at any time during the previous five years. The disclosure is specified below. Within one year before applying for any grant or proposing any Contract, such entity must provide a copy of such disclosure to the Department of Financial Services. Disclosure is not required in certain circumstances, outlined below. A Contract is any agreement for the direct benefit or use of any party to such agreement, including an agreement for the sale of commodities or services. A Gift is any transfer of money or property from one entity to another without compensation. A Grant is a transfer of money for a specified purpose, including a conditional gift. An interest in an entity means any direct or indirect investment in or loan to the entity valued at 5 percent or more of the entity's net worth or any form of direct or indirect control exerting similar or greater influence on the governance of the entity.

I. SECTION I. Please answer yes or no to each statement below:

YES / NO I AM BIDDING ON A CONTRACT/APPLYING FOR A GRANT WITH A POTENTIAL VALUE UNDER \$100,000. If yes, this disclosure form has been completed. Please sign and date at the bottom.

YES / NO I AM BIDDING ON A CONTRACT/APPLYING FOR A GRANT WITH A POTENTIAL VALUE OF OVER \$100,000. If yes, proceed to the next question.

YES / NO I HAVE MADE A FOREIGN INFLUENCE DISCLOSURE ONLINE WITH THE DEPARTMENT OF FINANCIAL SERVICES. If yes, please proceed to SECTION IV and provide the date of the disclosure, your name and address. Then sign and date at the bottom.

II. SECTION II. Please answer yes or no to the statement below:

YES / NO Bidder/Grantee has (1) a current or prior interest of, any contract with, or any grant or gift received from a foreign country of concern (defined as the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan Regime of Nicolas Maduro, and the Syrian Arab Republic, or an agency or other entity under the significant control of such foreign country of concern); and (2)

Attachment F

such interest, contract, or grant or gift has a value of \$50,000 or more; and (3) such interest existed, or such contract or grant or gift was received or in force at any time during the previous five years.

III. SECTION III. If you answered NO to SECTION II, you have completed this form. Please sign/date at the bottom. If you answered YES to SECTION II, then answer YES or NO to the following:

- YES / NO This is a proposal to sell commodities through an online procurement programs established pursuant to section 287.057(22), Florida Statutes.
- YES / NO This is a proposal from an entity that discloses foreign gifts or grants under section 1010.25 or section 286.101(2), Florida Statutes.
- YES / NO This is a proposal from a foreign source that, if granted or accepted, would be disclosed under section 286.101(2) or section 1010.25, Florida Statutes.
- YES / NO This is a proposal from a public or not-for-profit research institution with respect to research funded by any federal Agency.

IV. SECTION IV. If you answered YES to any question in SECTION III, you have completed this form. Please sign/date at the bottom. If you answered NO to all of the questions in SECTION III, then you must make the following disclosures online to the State of Florida Department of Financial Services before the County may contract with you or award you said grant. Please disclose the following:

Date Disclosure of the information below was made by Bidder/Grantee to the State of Florida Department of Financial Services online: _____

Name of Bidder/Grantee: _____

Mailing Address of Bidder/Grantee: _____

Value of the Contract/Grant or Gift: _____

Foreign Country of Concern or the Agency or other entity under the significant

Control of such Foreign country of Concern: _____

Date of Termination of the contract or interest with the Foreign Country of Concern:

Date of Receipt of the Contract/Grant or Gift: _____

Name of the agent or controlled entity that is the source or interest holder:

Attachment F

I verify that the information provided on this form is true and correct, and that I am duly authorized to make said binding disclosures on behalf of myself or my Company, as applicable.

Signature: _____ Date: _____

Title: _____

STATE OF FLORIDA

COUNTY OF _____

Sworn to and subscribed before me by means of physical presence or online notarization, this ____ day of _____, _____, by (name of person making statement).

[Notary Seal]

Notary Public

Name typed, printed or stamped

My Commission Expires: _____

_____ Personally Known OR _____ Produced Identification

Type of Identification Produced _____

**SAVE OUR INDIAN RIVER LAGOON PROJECT REIMBURSEMENT CONTRACT BETWEEN
BREVARD COUNTY, FLORIDA, AND INDIAN RIVER CLAM PROJECT, INC.**

CONTRACT NUMBER: SOIRL 25-265

THIS CONTRACT (“Contract”) is made and entered into by and between the Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida (hereinafter “COUNTY”), and the Indian River Clam Project, Inc., whose address is located at: 2575 McGraw Avenue, Melbourne, FL 32934 (hereinafter the “GRANTEE”).

RECITALS

WHEREAS, the COUNTY saw the urgent need to implement the “Save Our Indian River Lagoon Project Plan,” with the aim to restore the Indian River Lagoon through financing, planning, constructing, maintaining, and operating capital improvements and capital maintenance projects and programs designed to improve water quality, fish, wildlife and marine habitat, remove muck and reduce pollution, as permitted under Section 212.055(2)(d)1., Florida Statutes; and

WHEREAS, pursuant to Section 212.055, Florida Statutes, the COUNTY is authorized to levy a discretionary infrastructure sales tax of one-half cent by ordinance enacted by a majority of the members of the Board of County Commissioners and approved by a majority of the electors of Brevard County voting in a referendum on the surtax; and

WHEREAS, the COUNTY promulgated and passed Brevard County Ordinance No. 2016-15, (“the Ordinance”) imposing a one-half cent discretionary infrastructure sales tax for a period of ten (10) years from the date of levy, for the purposes expressed above, subject to approval of said surtax by a majority vote of those qualified electors of Brevard County voting in a referendum that was held on November 8, 2016; and

WHEREAS, it was contemplated that, if approved, said one-half cent discretionary infrastructure sales tax shall be imposed and collected County-wide, commencing on January 1, 2017, and continuing thereafter for a period of ten (10) years until December 31, 2026; and

WHEREAS, on November 8, 2016, a majority of those qualified electors of Brevard County voted in favor of the referendum, thereby authorizing the levy of the one-half cent surtax; and

WHEREAS, the COUNTY deems it in the best interest of all of the citizens and residents of Brevard County, Florida, that the proceeds of the one-half cent discretionary infrastructure sales tax be used to fund projects and programs designed to restore the Indian River Lagoon in the manner set forth in the Ordinance and its incorporated Save Our Indian River Lagoon Project Plan, including operations, maintenance and reasonable administrative costs of those projects and programs; and

WHEREAS, the project identified in the Statement of Work (“the Project”) has been included and approved by the Board of County Commissioners as part of the Save Our Indian River Lagoon Project Plan; and

WHEREAS, the COUNTY has determined that providing reimbursement grant funding to the GRANTEE for the purposes provided for herein will assist the COUNTY in effectively and efficiently implementing the Ordinance and its incorporated Save Our Indian River Lagoon Project Plan, as amended from time to time, and would be a proper expenditure of the monies reserved in the Save Our Indian River Lagoon Trust Fund.

NOW, THEREFORE, for value received, and in consideration of the following covenants, promises and provisions, the Parties agree as follows:

Section 1. Documents.

This Contract incorporates all of the following:

- a. The Recitals set forth above;
- b. The terms of the Contract set forth herein;
- c. Attachment A – Statement of Work;
- d. Attachment B – Project Progress Report Form;
- e. Attachment C – Reimbursement/Invoice Form;
- f. Attachment D – Recipient’s Certification of Payment Form;
- g. Attachment E – Eligible Tax Funding Cost Share Form;
- h. Attachment F – Foreign Disclosure Form (for projects over \$100,000);
- i. Attachment G – Certification of Financial Condition; and
- j. Attachment H - Nutrient Monitoring Plan.
- k. Attachment I – Contractor Affidavit Regarding Scrutinized Company List
- l. Attachment J – Foreign Country of Concern Attestation
- m. Attachment K – Human Trafficking Affidavit

Section 2. Statement of Work.

In consideration of the above recitals, and the funding assistance described below, the GRANTEE agrees to perform and complete the activities provided for in the **Statement of Work, Attachment A**. GRANTEE shall complete the Project in conformity with the contract documents and all attachments and other items incorporated by reference herein.

Section 3. Term and Extensions.

- a. The term of this Contract is from the date on which the last party has dated and executed the same (“Effective Date”) until June 30, 2028 (“Completion Date”), which includes the time needed for the **Nutrient Monitoring Plan, Attachment F**, if applicable.
- b. Any request for an extension of time beyond the Completion Date must be made in writing no less than forty-five (45) days prior to the contracted Completion Date. Timely requests to extend for up to one (1) year may be approved by the Natural Resources Management Department Director, or his/her designee; and up to two (2) years may be approved by the

County Manager, or designee. Timely requests to extend for longer than the County Manager's authorization to approve, may only be approved by the Board of County Commissioners.

c. Notwithstanding specific mention that certain provisions survive termination or expiration of this Contract, all provisions of this Contract that by their nature extend beyond the Completion Date, for example, delivery of a final progress report, will remain in full force and effect after the Completion Date as necessary to affect performance.

Section 4. Offer Limitations.

a. This Contract constitutes an offer until authorized, signed and returned to the COUNTY by the GRANTEE. This offer terminates sixty (60) days after receipt by the GRANTEE; provided, however, that the GRANTEE may submit a written request for extension of this time limit which may be approved by the County Manager or his/her designee.

b. If the Project, which is eligible for reimbursement under this Contract, does not begin within one hundred eighty (180) days of the Effective Date, this Contract will be subject to termination and the funds subject to reallocation.

Section 5. Project Management.

The Project Managers listed below shall be responsible for overall coordination and management of the Project. Either party may change its Project Manager upon three (3) business days' prior written notice to the other party. Written notice of change of address shall be provided within five (5) business days. All notices shall be in writing to the Project Managers at the addresses below and shall be sent by one of the following methods: (1) hand delivery; (2) U.S. certified mail; (3) national overnight courier; or (4) e-mail. Notices via certified mail are deemed delivered upon receipt. Notices via overnight courier are deemed delivered one (1) business day after having been deposited with the courier. Notices via e-mail are deemed delivered on the date received.

COUNTY

Aleah Ataman
Project Manager
Department of Natural Resources
2725 Judge Fran Jamieson Way, Building A
Viera, Florida 32940
321-633-2016 ext. 53344
Email: aleah.ataman@brevardfl.gov

GRANTEE

Todd Osborne
Senior Scientist
Indian River Clam Project, Inc.
2575 McGraw Avenue
Melbourne, FL 32934
352-256-3826
GRANTEE Email: osbornet@ufl.edu

Section 6. Deliverables.

a. The GRANTEE shall fully implement the Project, as described in the **Statement of Work, Attachment A**. The GRANTEE is responsible for the professional quality, technical accuracy, and timely completion of the Project. Both workmanship and materials shall be of good quality. Unless otherwise specifically provided for herein, the GRANTEE shall provide and pay for all materials, labor, and other facilities and equipment necessary to complete the Project.

b. The COUNTY'S Project Manager shall make a final acceptance inspection of the Project when completed and finished in all respects. Upon satisfactory completion of the Project, the GRANTEE will provide the COUNTY a written statement indicating that the Project has been completed in accordance with this Contract. Acceptance of the final payment by the GRANTEE shall constitute a release in full of all claims against the COUNTY arising from or by reason of this Contract.

c. Unless otherwise provided herein, the COUNTY does not assert an ownership interest in any of the deliverables under this Contract.

Section 7. Progress Reports and Performance Monitoring

a. The GRANTEE shall provide to the COUNTY Project update/status reports as provided in the **Statement of Work, Attachment A**. Reports will provide detail on the progress of the Project and outline any potential issues affecting completion or the overall schedule.

b. The GRANTEE shall use the COUNTY'S **Project Progress Report Form, Attachment B**. GRANTEE shall submit the Project Progress Reports to the COUNTY'S Project Manager within thirty (30) days after the closing date of each calendar quarter (March 31, June 30, September 30 and December 31).

c. Commencement of Construction. The GRANTEE shall notify the COUNTY once construction has started at the site.

d. For as long as the Project is operational, the COUNTY shall have the right to inspect the operation of the Project during normal business hours upon reasonable prior notice. The GRANTEE shall make available to the COUNTY any available data that is requested pertaining to the performance of the Project.

Section 8. Written Authorization

If the GRANTEE is not the property owner, the GRANTEE shall obtain written authorization from the property owner(s) where the site is to be constructed that authorizes and secures permission for the GRANTEE and the COUNTY to enter [the property/properties] to conduct periodic inspections and/or maintenance of the [site(s)] and access the property according to the **Nutrient Monitoring Plan, Attachment F**, if applicable, with reasonable advanced prior notice. This authorization must be obtained prior to beginning work and must contain an indemnification clause that extends to the COUNTY the ability to access the [property/site] where the Project will be constructed. As part of the authorization agreement, the GRANTEE shall include the following language:

The [property owner] hereby authorizes and permits the Brevard County Board of County Commissioners, its agents, employees, officers, directors, and those under its direction or agency, (the "COUNTY") to access the [property/site] to conduct periodic inspections of and/or maintenance for the [Project located on the property/site]. The COUNTY shall provide reasonable advanced notice to [the property owner] prior to any inspection or maintenance. As part of this authorization and permission to access the

[property/site], [the property owner] shall fully indemnify, defend, and hold the COUNTY harmless from and against any and all claims, suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to bodily injury, sickness, disease, death personal injury, damage to property or loss of use of any property or assets resulting therefore, resulting from or arising out of the performance of the services or products for which the COUNTY and/or the GRANTEE is providing to [the property owner].

Section 9. Notifications.

- a. *Commencement of Construction.* The GRANTEE shall notify the COUNTY'S Project Manager once construction has started at the site.
- b. *Completion of Construction.* The GRANTEE shall notify the COUNTY'S Project Manager once construction has been completed in order for surveyors to complete their survey and analyze the site.

Section 10. Amount of Funding.

- a. For satisfactory completion of the Project, the COUNTY shall pay the GRANTEE its "Eligible Tax Funding Cost Share" as stated in **Eligible Tax Funding Cost Share Form, Attachment E**. This amount shall be reduced correspondingly if additional matching funds for the Project are secured by GRANTEE. The contract amount may be increased by the appropriate grant amount if the COUNTY is able to secure funds from external revenue sources that are approved for allocation to this Project by the Board of County Commissioners, or its duly authorized representative.
- b. The COUNTY reimbursement grant amount is not subject to modification based upon price escalation in implementing the Project during the term of this Contract. The GRANTEE shall be responsible for payment of all additional costs necessary to ensure completion of the Project.
- c. During contract negotiations, the GRANTEE must submit the adopted budget for the Project, the amount of all secured grants for the Project, and an estimate of Project costs as defined in Section 10.e. The Eligible Tax Funding Cost Share shall be reduced as necessary to not exceed the balance of Project costs minus external matching funds for the Project.
- d. The GRANTEE shall notify the COUNTY'S Project Manager in writing upon receipt of any additional external funding for the Project not disclosed prior to execution of this Contract. The Eligible Tax Funding Cost Share shall be reduced as necessary so as not to exceed the balance of Project Costs minus external matching funds for the Project.
- e. "Project cost" is defined to include actual costs of constructing project facilities, including construction, construction management, construction QA/QC testing, land acquisition, engineering, design, permitting, permit fees, impact fees, and any other Project-specific costs authorized under the **Statement of Work, Attachment A**. Project cost does not include any costs incurred prior to the Effective Date, unless expressly authorized by the Statement of Work, nor any costs not included in the contracted Statement of Work.

f. For connections within unincorporated Brevard, connection fees may be paid directly to the Brevard County Utility Services Department. This fee will be deducted from the total grant available to the GRANTEE for reimbursement. This option must be detailed in the **Statement of Work, Attachment A**.

Section 11. Payment of Invoices. Proof of Solvency.

a. The GRANTEE may either submit an invoice upon completion of the Project or submit itemized invoices as per the **Statement of Work, Attachment A** on a monthly basis for reimbursable expenses by one of the following four methods: (1) By mail; (2) hand delivery; or (3) national overnight courier to the Brevard County Department of Natural Resource Management, Aleah Ataman, Project Manager, 2725 Judge Fran Jamieson Way, Building A, Viera, Florida 32940; or (4) By e-mail to aleah.ataman@brevardfl.gov and NRMD.Finance@brevardfl.gov.

b. If the GRANTEE selects to submit quarterly invoices, the GRANTEE must provide, as proof of its solvency, either:

1) an irrevocable letter of credit to the COUNTY, concurrent with the execution of this Contract in the amount of _____, the full cost of the Project. Said letter of credit shall be in favor of the COUNTY, issued by a bank acceptable to the COUNTY, in its sole discretion, and in form and substance acceptable to the COUNTY, in its sole discretion (the "Letter of Credit"), it being expressly understood and agreed that any draws on the Letter of Credit shall be for completion of the Project or repayment of funds provided to GRANTEE, as described in this Contract. The Letter of Credit shall provide for automatic annual renewals through that date which is sixty (60) days after the Completion Date of this Contract and any extensions thereof. In the event the Letter of Credit is not renewed by the issuing financial institution on or before twenty (20) days prior to the then-scheduled expiration date of the Letter of Credit, then the COUNTY shall have the right to draw the full amount of such Letter of Credit and to hold such amount as a cash bond to secure completion of the Project or repayment of funds provided to GRANTEE in the event the Project is not completed. Upon any default by GRANTEE and GRANTEE's failure to cure the same within any applicable cure period, the COUNTY shall be entitled to draw upon said Letter of Credit or cash bond by the issuance of the COUNTY'S sole written demand to the issuing financial institution or notice to GRANTEE if accessing the cash bond. Such draw shall be in an amount necessary to cure the default in question and if such amount cannot be readily determined by the COUNTY, then the full amount can be drawn by the COUNTY pending determination of said amount. If the amount of any such draw(s) shall ultimately exceed the amount of damages actually incurred by the COUNTY for the cost to complete the Project or repayment of funds provided to GRANTEE, as the result of GRANTEE'S default, then the COUNTY shall promptly refund any such excess to GRANTEE. Any such draw shall be without waiver of any rights the COUNTY

may have under this Contract or at law or in equity as a result of the GRANTEE's default; OR

2) financial records showing, to the COUNTY'S satisfaction, that GRANTEE has and will have at all times relative to this Contract, sufficient and adequate financial resources to satisfy its monetary and other obligations under this Contract. COUNTY'S acceptance of proof of GRANTEE'S solvency shall not be construed as a waiver of any rights the COUNTY may have under this Contract or law or in equity as a result of the GRANTEE's default; OR

3) the GRANTEE must certify that it has the financial capacity to perform and to continue to perform its obligations under the contract; the GRANTEE has no constructive or actual knowledge of an actual or potential legal proceeding being brought against the GRANTEE that could materially adversely affect the performance of this Agreement; and that entering into this Agreement is not prohibited by any contract, or order by a court of competent jurisdiction. Each GRANTEE shall certify it is financially stable by completing Attachment G CERTIFICATION OF FINANCIAL CONDITION. The COUNTY is requiring this certification to minimize potential issues from contracting with a GRANTEE that is financially unstable. From the date of execution to the expiration date of the Agreement, the vendors shall notify the COUNTY within thirty (30) days of an occurrence or condition that materially alters the truth of any statement made in this certification. The Project Manager may require additional re-certification of the GRANTEE's financial stability.

c. All invoices shall be submitted using **Reimbursement/Invoice Form, Attachment C**, and include the following information: (1) the COUNTY'S contract number; (2) the GRANTEE's name, address, and authorization to directly deposit payment into the GRANTEE's account; (3) the GRANTEE's invoice number and date of invoice; (4) the COUNTY'S Project Manager; (5) the GRANTEE's Project Manager; (6) supporting documentation as to cost and/or Project completion (as per the cost schedule and other requirements of the **Statement of Work, Attachment A**); and (7) **Project Progress Report Form, Attachment B**. Invoices that do not include the above-listed information shall be returned without action within ten (10) business days of receipt, stating the basis for rejection.

Reimbursement Address

Attn: Cari Wiggins
Indian River Clam Project, Inc.
2575 McGraw Avenue
Melbourne, FL 32934

d. Incremental payments shall be calculated as the fraction of Eligible Tax Funding Cost Share listed in the **Eligible Tax Funding Cost Share Form, Attachment E** (after adjustments per Sections 10.c. and/or d. in the Eligible Tax Funding Cost Share Form, Attachment E) divided by Project cost multiplied by the amount of the GRANTEE's Project Cost incurred during the respective incremental billing period. This percentage may be adjusted as needed if the project

is partially funded through other grant funding sources. Payments shall be made within forty-five (45) days of receipt of an approved invoice.

e. The invoices shall be submitted in detail sufficient for proper pre-audit and post-audit review. Invoices shall include a copy of contractor and supplier invoices to the GRANTEE and proof of payment. If necessary for audit purposes, the GRANTEE shall provide additional supporting information as required to document invoices.

f. GRANTEE shall be reimbursed for the actual cost of the Project, or the contracted amount, whichever is less, in accordance with Attachments A and E. The COUNTY shall not withhold any retainage from this reimbursement. COUNTY reimbursement is subject to annual budgetary limitation, if applicable.

g. The COUNTY'S fiscal year ends on September 30th. The COUNTY is required to account for all encumbered funds at that time. Submittal of an invoice as of September 30th satisfies this requirement. Regardless of whether the GRANTEE chooses monthly, quarterly, or annual invoices, if any expenses occur between a previous invoice and September 30th, the GRANTEE shall submit a description of the work completed on the Project through September 30th and a corresponding invoice for that reimbursement grant eligible amount achieved during that time interval.

Section 12. Final Invoice.

a. The final invoice must be submitted no later than forty-five (45) days after the GRANTEE'S final payment to its vendors for the Project or October 30th if the GRANTEE'S final payment is made between September 15th and September 30th.

b. Final Invoices that are submitted after the requisite date shall be subject to a penalty of ten percent (10%) of the invoice. This penalty may be waived by the COUNTY, in its sole judgment and discretion, upon a showing of special circumstances that prevent the timely submittal of the final invoice. The GRANTEE must request approval for delayed submittal of the final invoice not later than ten (10) days prior to the due date and state the basis for the delay.

Section 13. Payments Withheld.

The COUNTY may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect the COUNTY from loss as a result of: (1) defective work not remedied; (2) failure to maintain adequate progress in the Project; or (3) any other material breach of this Contract. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.

Section 14. Multi-Year Contracts.

a. For multi-fiscal year contracts, the COUNTY must budget the amount of funds that will be expended during each fiscal year as accurately as possible. Funds contracted for reimbursement beyond the COUNTY'S current fiscal year will be budgeted in subsequent fiscal years per the schedule specified in the Project Contract, as amended. The **Statement of Work, Attachment A**,

includes the parties' current schedule for completion of the work and projection of expenditures on a fiscal year basis (October 1 – September 30) ("Estimated Reimbursement Schedule").

Section 15. Liability, Indemnification, Sovereign Immunity, and Insurance.

- a. Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that respective party, its officers, employees and agents. The Grantee accepts all risks arising from construction or operation of the Project.

- b. The GRANTEE shall indemnify and hold harmless the COUNTY, and its officers and employees, from liabilities, damages, personal injuries (including death) penalties, fines, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful acts or omissions of the GRANTEE and persons employed or utilized by the GRANTEE in the performance of this Contract.

- c. The hold harmless and indemnification provided above shall obligate the GRANTEE to defend the COUNTY at the GRANTEE's own expense or to provide for such defense, at the option of the COUNTY, as the case may be, of any and all claims of liability and all suits and actions of every name and description (as described above) that may be brought against the COUNTY which may result under this Contract. In any and all such claims, lawsuits, etc. the COUNTY shall be permitted to choose legal counsel of its sole choice, the fees for which shall be subject to and included with this indemnification provided herein, as long as said fees are not greater than a rate deemed reasonable in Brevard County, Florida.

- d. In any and all claims against the COUNTY, and its officers and employees, the GRANTEE's indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation, or benefits payable by or for the GRANTEE, under workers' compensation acts, or other related policies or insurance. The parties acknowledge specific consideration has been exchanged for this indemnification provision. This indemnification shall survive the termination of this Contract.

- e. Nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available under the laws of the State of Florida, nor as a waiver of sovereign immunity of the COUNTY beyond the waiver provided for in Section 768.28, Florida Statutes, as may be amended. Nothing in this Contract is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. Nothing herein shall constitute a waiver of the COUNTY'S sovereign immunity protections. The COUNTY'S liability hereunder shall be subject to the protections of and limitations on damages set forth in Section 768.28, Florida Statutes.

- f. At its own expense, the GRANTEE shall acquire and maintain throughout the term of this Contract the following minimum levels of insurance including, but not limited to:

1. General Liability Insurance: General Liability Insurance, with combined single limits of not less than one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.
2. Workers' Compensation Coverage: Full and complete Workers' Compensation Coverage, as required by State of Florida law, shall be provided.
3. Auto Liability Insurance which includes coverage for all owned, non-owned and rented vehicles with a \$ 1,000,000 combined single limit for each occurrence.
4. Insurance Certificates: the GRANTEE shall provide the County with Certificate(s) of Insurance (COI) and applicable endorsement forms for all policies of insurance and renewals, as required herein, in an industry standard Acord form. The COI shall be endorsed to provide that the COUNTY is an additional insured under the General Liability, Workers' Compensation, and Auto Policies and that the COUNTY shall be notified in writing by the insurer of any reduction, cancellation, or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. A waiver of subrogation in lieu of additional insured status on the Workers' Compensation policy is acceptable. All insurance policies shall be issued by responsible companies who are licensed and authorized under the laws of the State of Florida. The GRANTEE shall notify the COUNTY in writing of any reduction, cancellation, or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.

Section 16. Funding Availability.

This Contract is at all times contingent upon funding availability, which may include a single source or multiple sources, including, but not limited to: (1) the Save Our Indian River Lagoon one-half cent surtax; (2) annual appropriations by the Florida Legislature; or (3) appropriations from other agencies or funding sources. Contracts that extend for a period of more than one Fiscal Year are subject to annual appropriation of funds in the sole discretion and judgment of the COUNTY for each succeeding Fiscal Year. Should the Project not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the COUNTY shall so notify the GRANTEE and this Contract shall be deemed terminated for convenience five (5) days after receipt of such notice, or within such additional time as the COUNTY may allow. For the purpose of this Contract, "Fiscal Year" is defined as the period beginning on October 1 and ending on September 30.

Section 17. Failure to Complete Project.

a. Should the GRANTEE fail to complete the Project and if grant funds have been paid to the GRANTEE, the COUNTY will draw funds from the Letter of Credit or cash bond pursuant to Section 11.b above to complete the Project or refund to the COUNTY all of the grant funds provided to the GRANTEE pursuant to this Contract, in its sole discretion.

b. With a recommendation from its Citizen Oversight Committee, the COUNTY, in its sole judgment and discretion, may determine that the GRANTEE has failed to complete the Project due to circumstances that are beyond the GRANTEE's control, due to termination of this Contract for reasons of funding availability, or due to a good faith determination that the

Project is no longer environmentally or economically feasible. In such event, the COUNTY may excuse the GRANTEE from the obligation to return funds provided hereunder.

c. If the Project has not been completed within thirty (30) days after the Completion Date, the GRANTEE shall provide the COUNTY with notice regarding its intention as to completion of the Project. The parties shall discuss the status of the Project and may mutually agree to revise the time for Project completion or the scope of the Project.

d. Force Majeure. GRANTEE will not be responsible for failure to carry out any terms of this Contract due to any one of the following circumstances beyond the control of the GRANTEE: (a) the operation and effect of rules, regulations, or orders promulgated by any commission, county, or governmental agency of the state of Florida or the United States; (b) a restraining order, injunction, or similar decree of any court of competent jurisdiction; (c) war; (d) flood; (e) earthquake; (f) fire; (g) severe wind storm or hurricane; (h) acts of public disturbance; (i) quarantine restrictions; (j) epidemic; (k) strikes; or (l) sabotage. The GRANTEE shall not be subject to any liability for failure to carry out any of the terms of this Contract to the extent that such failure shall be due to a Force Majeure event as defined herein. In such event, the GRANTEE shall be excused from the obligation to return funds provided herein if the parties can agree, in writing, to a revised completion date for the Project based on the circumstances.

Section 18. Termination.

a. If the GRANTEE materially fails to fulfill its obligations under this Contract, including any specific milestones established herein, the COUNTY may provide the GRANTEE written notice of the deficiency by forwarding a "Notice to Cure," citing the specific nature of the breach. The GRANTEE shall have thirty (30) days following receipt of the notice to cure the breach. If the GRANTEE fails to cure the breach within the thirty (30) day period, the COUNTY may issue a "Termination for Default Notice" terminating this Contract without further notice. In such event, the GRANTEE shall refund to the COUNTY all funds provided to the GRANTEE pursuant to this Contract within thirty (30) days of such termination. The COUNTY may also terminate this Contract upon ten (10) days written notice in the event of any material misrepresentations in the Project Proposal.

b. Delay or failure by the COUNTY to enforce any right, remedy or deadline hereunder shall not impair, or be deemed a waiver of, any such right, remedy or deadline, or impair the COUNTY'S rights or remedies for any subsequent breach or continued breach of this Contract.

c. This Contract may be terminated by either party for convenience upon ninety (90) days prior written notice to the other party. In the event the COUNTY terminates for convenience, GRANTEE shall be paid for work completed and costs incurred in good faith through the date of termination. In the event the GRANTEE terminates for convenience, COUNTY shall receive a full refund of the funds provided herein within thirty (30) days of the date of termination.

ADDITIONAL PROVISIONS

Section 19. Assignment.

The GRANTEE shall not assign this Contract, or any monies due hereunder, without the COUNTY'S prior written consent. The GRANTEE is solely responsible for fulfilling all work elements in any contracts awarded by the GRANTEE and payment of all monies due. No provision of this Contract shall create a contractual relationship between the COUNTY and any of the GRANTEE's contractors or subcontractors.

Section 20. Audit; Access to Records; Repayment of Funds.

a. Maintenance of Records. The GRANTEE shall maintain its books and records such that receipt and expenditure of the funds provided hereunder are shown separately from other expenditures in a format that can be easily reviewed. The GRANTEE shall keep the records of receipts and expenditures, copies of all reports submitted to the COUNTY, and copies of all invoices and supporting documentation for at least five (5) years after expiration of this Contract. In addition, the GRANTEE shall maintain records to demonstrate satisfaction of its obligation under subparagraph 17b. above.

b. Review and Auditing. In accordance with generally accepted governmental auditing standards, the COUNTY shall have access to and the right to examine any directly pertinent books and other records involving transactions related to this Contract. In the event of an audit, the GRANTEE shall maintain all required records until the audit is completed and all questions are resolved. The GRANTEE will provide proper facilities for access to and inspection of all required records.

c. Repayment of Funds. COUNTY funding shall be subject to repayment after expiration of this Contract if, upon audit examination, the COUNTY finds any of the following: (1) the GRANTEE has spent funds for purposes other than as provided for herein; (2) the GRANTEE has failed to perform a continuing obligation of this Contract; (3) the GRANTEE has received duplicate funds from the COUNTY or other external funding entity for the same purpose; (4) the GRANTEE has been advanced or paid unobligated funds; (5) the GRANTEE has been paid funds in excess of the amount the GRANTEE is entitled to receive under the Contract; and/or (6) the GRANTEE has received contributions amounting to more than one hundred percent (100%) of the Project cost through cumulative public agency grant or cost-share funding.

Section 21. Dispute Resolution.

The GRANTEE is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute involving performance of this Contract by submitting a written statement to the COUNTY'S Project Manager no later than ten (10) business days after the precipitating event. If not resolved by the COUNTY Project Manager within ten (10) business days, the COUNTY Project Manager shall forward the request to the County Manager's Office, which shall issue a written decision within ten (10) business days of receipt. This determination shall constitute final action of the COUNTY and may be subject to judicial review upon completion of the Project.

Section 22. Governing Law, Venue, Attorney's Fees, Waiver of Right to Jury Trial.

This Contract shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one

of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Contract: (1) Venue for any state or federal legal proceedings shall be in a court of competent jurisdiction in and for Brevard County; (2) Each party shall bear its own attorney's fees, including appeals; (3) For civil proceedings, the parties hereby consent to trial by the court and **WAIVE THE RIGHT TO JURY TRIAL**.

Section 23. Permits.

The GRANTEE shall comply with all applicable federal, state, and local laws and regulations in implementing the Project and shall include this requirement in all subcontracts pertaining to the Project. The GRANTEE shall obtain any and all governmental permits necessary to implement the Project. Any activity not properly permitted prior to implementation or completed without proper permits does not comply with this Contract and shall not be approved for reimbursement grant funding.

Section 24. Independent Contractors.

The parties to this Contract, their employees and agents, are independent contractors and not employees or agents of each other. Nothing in this Contract shall be interpreted to establish any relationship other than that of independent contractors during and after the term of this Contract. The GRANTEE is not a contractor of the COUNTY. The COUNTY is providing reimbursement grant funding to assist the GRANTEE in accomplishing the Project. The GRANTEE is solely responsible for accomplishing the Project and directing the means and methods by which the Project is accomplished. The GRANTEE is solely responsible for compliance with all labor, health care, and tax laws pertaining to the GRANTEE, its officers, agents, and employees.

Section 25. Public Records.

Records of the GRANTEE that are made or received in the course of performance of the Project may be public records that are subject to the requirements of Chapter 119, Florida Statutes. If the GRANTEE receives a public records request, the GRANTEE shall promptly notify the COUNTY'S Project Manager. Each party reserves the right to cancel this Contract for refusal by the other party to allow public access to all documents, papers, letters, or other materials related hereto and subject to the provisions of Chapter 119, Florida Statutes, as amended.

Section 26. Employment Eligibility Verification (E-Verify).

The GRANTEE:

- a. Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the GRANTEE during the term of this Contract; and
- b. Shall expressly require any subcontractors performing work or providing services pursuant to this contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term; and
- c. Agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the COUNTY consistent with the terms of the GRANTEE'S

- enrollment in the program. This includes maintaining a copy of proof of the GRANTEE'S and subcontractors' enrollment in the E-Verify Program; and
- d. Shall require any contractor to provide the GRANTEE with an affidavit stating that it does not employ, contract with, or subcontract with any unauthorized aliens, and
 - e. Nothing in this Section may be construed to allow intentional discrimination of any class protected by law.
 - f. Compliance with the terms of this section is made an express condition of this Contract and the COUNTY may treat a failure to comply as a material breach.

Section 27. Severability.

If any portion of this Contract is found to be invalid or unenforceable or if applicable law mandates a different interpretation or result, the remaining provisions will remain in effect and the parties will negotiate in good faith to substitute for such invalid, illegal, or unenforceable provision a mutually acceptable provision consistent with the original intention of the parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURES TO FOLLOW.]

IN WITNESS WHEREOF, the COUNTY has caused this Contract to be executed on the day and year written below in its name by its duly authorized representative, and GRANTEE has caused this Contract to be executed on the day and year written below in its name by its duly authorized representatives. This Contract may be executed in separate counterparts, which shall not affect its validity. Upon execution, this Contract constitutes the entire Contract of the parties and supersedes all other stipulations, proposals, representations, statements, or understandings, whether written or oral, regarding this subject matter. This Contract cannot be changed by any means other than written amendments referencing this Contract and signed by all parties.

Brevard County Board of County Commissioners

Indian River Clam Project, Inc.

By: 
Rob Feltner, Chairman

By: _____

Date: 8/7/25

Name: Cari Wiggins

Title: CEO

As Approved by the Board on February 11, 2025

Date: _____

Attest 
By: _____
Rachel Sadoff, Clerk

Reviewed for legal form and content by:


Heather A. Balsler, Assistant County Attorney

ATTACHMENT A STATEMENT OF WORK

PROJECT TITLE: Restoration of native clam communities in the Indian River Lagoon for improved water quality - Titusville

PROJECT LOCATION:

Titusville Lease Complex and surrounding waters centered at 28.519299°N, -80.737211°W. At this location, there will be several smaller parcels that will total 8 acres, identified at the time of the pre-deployment survey. However, a map with general areas of clam restoration is included in Appendix 1.

PROJECT BACKGROUND:

The Indian River Lagoon is in critical condition, and many resource management agencies and non-profits are supporting a myriad of projects and programs to find solutions to our water quality crisis. From muck dredging to septic to sewer conversion to restoring oysters and mangroves, these projects are addressing the fundamental problem of excess nitrogen and phosphorus; however, the often-underestimated clam has received relatively little attention. Clams have been a significant ecological entity in the Indian River Lagoon for centuries; however, due to their life cycle and ecology, they are rarely seen unless one is looking in the sediment to find them. An estimated 9.2 billion clams were removed from the IRL during the 80's and 90's when little regulation was in place on the open harvest of wild clams. In the early 2000's clam landings were at an all-time low, and the population teetered on collapse just prior to the super algal blooms of 2011 and beyond. Today, the Indian River Lagoon Clam Restoration Project, a consortium of scientists, sportsmen, private businesses, and conservationist are working to bring clams back in numbers that can aid in attenuating the algal blooms that keep our seagrasses from re-establishing. This group has already successfully repatriated 28 Mil adult clams and 20 Mil juvenile clams to IRL waters over the last five years. The effort invested in finding superior genetic resiliency in native hard clam varieties and the lessons learned by experimentation in out-planting these clams have provided this group with the tools and knowledge to maximize the effectiveness of restoration dollars. Like oyster restoration projects, this work leverages the natural life cycle of clams and their reproductive capacity to exponentially grow the effectiveness of their biofiltration activities.

PROJECT DESCRIPTION:

This project proposes to use new clam restoration techniques that have been tested over 20 months (Osborne et al. 2024) and have shown to be effective and significantly lower the cost of clam restoration activities. Using a drone, we will distribute 2-3mm clam seed at densities needed to achieve 1 Mil clams per acre over sandy bottom. This technique uses no netting or other protective gear and thus reduces environmental risk while also reducing labor costs for maintaining protective gear. Overall, this technique allows us to restore clams for less than half

the cost of our previous work. Seed clams will be distributed on approved grounds and monitored for the duration of the project period to quantify the survival and determine mass of N and P removed from the water column. Additionally, this approach helps build ecosystem function by providing much needed energy to the lower trophic levels that, in turn, support healthy fisheries.

This project will repatriate 24 mil clams to the IRL adjacent to Titusville (Project Zone A) in the Northern IRL with a target survival of 8 mil adult/reproductively capable clams. After one year these clams will be reproductively viable with spawning potential in the 100s of millions of larvae that can continue to colonize the IRL naturally.

TASKS and DELIVERABLES:

Task #1: Pre-deployment Survey

Task Description:

In the general area of Titusville, just south of NASA Causeway, several suitable locations for clam out-planting via drone have been identified. These areas are depicted in Appendix I and will be ground surveyed by the deployment team to set up boundary markers and assess sediment and water quality parameters prior to deployment activities (per methods in Appendix II). Predator population assessments will also be conducted via conch and crab trap deployment to gauge predator size and abundance. If found suitable for clam deployment activities, boundary markers will consist of field signage (and/or markers) where appropriate and at least one sign per the above signage agreement per parcel. If the sites in Titusville are not found to be suitable for clam deployment the site may be substituted via a substitution letter that is signed by the project managers at the IRL Clam Project and County SOIRL staff. Immediately prior to clam deployment, a survey for the existing clam population will be conducted per the methods described in Appendix II. The Titusville site may contain several parcels that combined will provide for the area to plant 24 mil juvenile clams. The proposed location and time of clam distribution will be approved by the County prior to deployment.

Task Deliverable:

Maps indicating the parcel boundaries, results of the sediment survey, predator survey and photos of activities will be delivered in electronic format to the County and included in quarterly and final reporting.

Task #2 Drone Deployment

Task Description:

Drone deployment will occur on a rotating basis when clam stock is available and weather / environmental conditions allow for optimal survival. Drone flights will deliver from 500k to 2Mil clams on any given mission and all mission conditions / parameters will be recorded and reported. Clam distribution density will be measured at the time of drone flights to capture

actual clam distribution densities on each parcel (methods included in Appendix II). All drone flights are scheduled with appropriate authorities and are flown by a licensed drone pilot following all applicable rules and regulations for electrically powered unmanned aircraft. Specific animal handling methods for drone deployment are described in Appendix III.

Task Deliverable:

Flight records, clam deployment densities and mission parameters will be provided in electronic format to the County. This information will also be summarized in the quarterly and final reports.

Task #3 Site Monitoring

Task Description:

To determine the success of the project, each deployment will be monitored for clam survival at six months post-deployment with additional assessments being conducted at quarterly intervals until the end of the project cycle for a total of five monitoring events at 6, 9, 12, 15, and 18 months. As clams are deployed at a small size, it is necessary for them to grow for several months before the first survival assessment is conducted to ensure easy identification and enumeration of surviving animals. The monitoring and assessment of growth and survival will be conducted using the methods described in Appendix II.

Task Deliverable:

Data files, interpretation and synthesis of findings will be delivered in electronic format to the County and included in quarterly and final reporting.

Task #4 Reporting

Task Description:

Short quarterly reports on project activities and task completion will be prepared and delivered to the County. Reports will include progress over the quarter in relation to all tasks. Submission of electronic files (Data, maps, pictures) will also be submitted at this time. The final report will include data interpretation and synthesis of project activities.

Task Deliverable:

Quarterly and final reports including pictures of progress made, data summaries, data interpretation, and synthesis of activities.

Estimated Timeline for Task Initiation and Completion

Task	Task Title	Task Start Date	Task End Date
1	Pre-deployment Survey	June 2025	August 2025
2	Drone Deployment	July 2025	December 2025
3	Site Monitoring	December 2025	June 2028
4	Reporting	August 2025	June 2028

Estimated Reimbursement Schedule:

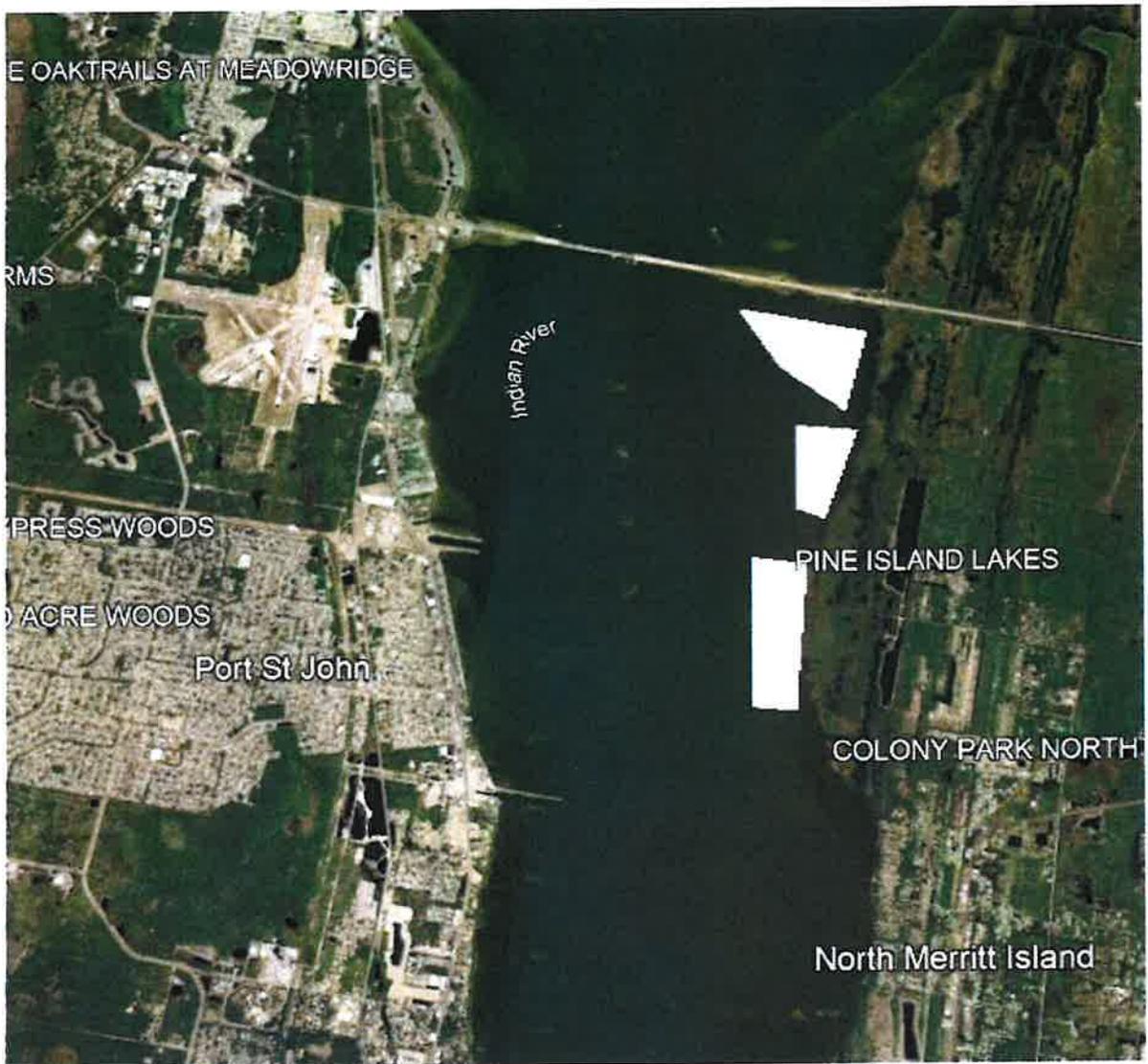
Project reimbursements will be requested quarterly (or occasionally more frequently if allowed when significant work is completed in a single quarter).

Task #	Quarter 4/2025	Quarter 1/2026	Quarter 2/2026	Quarter 3/2026	Quarter 4/2026	Quarter 1/2027	Quarter 2/2027
1	\$15,000	-	-	-	-	-	
2	\$40,000	\$120,000	\$32,000	-	-	-	
3	-	-	\$11,200	\$11,200	\$11,200	\$11,200	\$11,200
4	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$3,000

Project’s Status without Trust Funds (Adjust the highlighted section and delete the other options that do not apply):

This project is not included in the IRL Clam Project’s FY 2025-2026 budget, therefore without the Save Our Indian River Lagoon Funding the project would not have been executed in the near future.

Appendix I



Map of potential deployment sites (white polygons) for clams in the Titusville Lease Complex. These sites have been identified as suitable based upon several design criteria and will be ground-truthed and prepared for clam deployment under task 1. Image from Google Earth, 5/25.

Appendix II

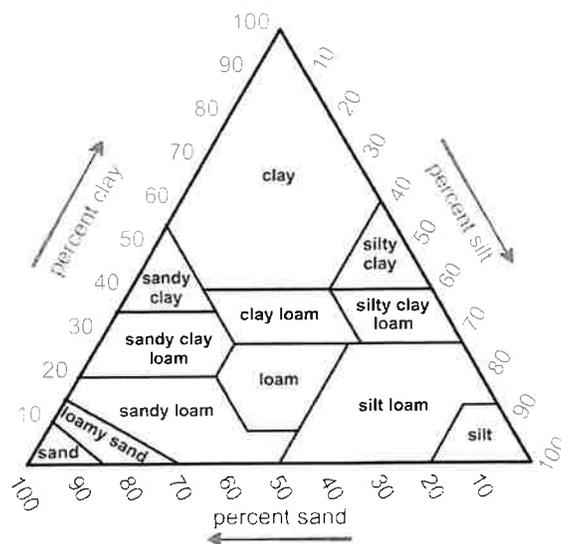
Monitoring and Assessment of Clam Out-planting by Drone

This standard operating procedure (SOP) is intended to define the monitoring techniques used in assessing the success of drone out-planting. In general, the drone is fairly reliable in its rate of spread and thus, quantitative assessments of survival (per unit area) are possible. The below method consists of direct measure of clams and clam shells in the sediment.

Pre- assessment of Site

Sediment conditions

- 1) Assessment of suitability for clam planting begins with the proper soil type. Juvenile hard clams prefer sand-dominated sediments with no less than 90% sand fraction as defined as mineral particles with a diameter ranging from 0.2-2.0 mm. Silt content of 10% or less and clay content of 5% or less is necessary. Organic matter content above 6% is not recommended for planting juvenile clams. See the USDA Textural Triangle below.
- 2) To sample the soil, use a coring device (cylinder core tube with rigid sides) to take a core sample of 10cm depth and a minimum of 4cm core diameter. Insert the coring device into the sediment to the desired depth and extract the apparatus.
- 3) Extrude the sample into a zip closure bag for transport to the laboratory. Although no analysis for this core requires preservation, it is recommended to keep cool to avoid decomposition of the sample and excessive odor.
- 4) Once returned to the lab, analyze the sample for bulk density, soil texture, and organic matter content (by loss on ignition).



USDA Textural Triangle for sediment particle size distribution determination.

Water Quality and Other Site Considerations

- 1) Review of available water quality data or collection of similar data may be required to assess suitability based upon additional criteria listed in the Table 1. below.
- 2) Use of St. Johns River Water Management District or IRLON data is suitable if stations are within reasonable distance of sites being evaluated.
- 3) Based on best available information and professional judgment, prioritize optimal and acceptable ranked sites. Marginal assessment on two or less criteria is acceptable, while an assessment of “unsuitable” on any criteria negates the site.

Table 1. Suitability criteria for restoration site assessment. Note: criteria are optimized for survival and reproductive success, not commercial harvest.

Characteristic	Optimal	Acceptable	Marginal	Unsuitable	Notes
Salinity (PSU)	>25	20-25	16-19	>16	Based annual average
Sediment PSD*	>/= 95% sand, shell present	>/= 95% sand	90-94% sand	>90% sand	
Sediment OM [‡]	<2%	2-4%	5-6%	7% or greater	OM drives H ₂ S production
Seagrass	0-50% coverage (or recent history of coverage)			No coverage history	
Depth (m)	1-2		0.5-1	<0.5	Must remain subtidal
Shoreline ^β	Stable/vegetated	Minorsly erosive	Moderately erosive/armored	Highly erosive or depositional	

*Particle size distribution based on USDA grain size fractions. [‡]organic matter as percent mass of sediment determined by loss on ignition. ^β if site is located within 20m of a shoreline.

Obstructions and debris

- 1) Survey planting areas and remove all manageable debris such as old markers, tires, etc.
- 2) Post NE, NW, SE, and SW corners of site with PVC markers. For larger sites (<2 acres) with aluminum marker posts with Do Not Disturb, Clam Restoration signage.

Existing Clam Population Survey

- 1) To determine the clam population status prior to distribution, spatial sampling with quantitative methods must be used in order to accurately assess any clams present. This step is required as a “pre-condition” measure that can be used to normalize clam survival and growth measures after distribution.
- 2) Following the principles of a stratified random sampling design, divide the distribution area into 3 similar spatial areas and repeat the following procedure 3 times in each section for a total of 9 samples.

- 3) Using a 0.25 m² quadrat, randomly place the quadrat (by any randomizing method) within the section and anchor the quadrat to the sediment surface with net pins so that it does not move from its location.
- 4) Using a hand trowel or similar tool, excavate sediment within the quadrat to a depth of 10cm (4 inches) and sieve all material through a 2mm sieve.
- 5) Enumerate all clams (live and dead). With calipers, measure a minimum of 10 live clams from hinge to lip with calipers (if there are 10 or fewer clams, measure them all and record length in mm).
- 6) Replace sediment and all clams and shells in the quadrat.

Deployment Density Determination

- 1) Immediately prior to drone flights, deploy 10 shallow collection trays (35.8 cm x 27.5cm) across the distribution area to capture dispersed clams. This procedure is necessary to determine planting spatial density and is required to calculate survival rates in future monitoring efforts.
- 2) To make trays float, use “pool noodles” or pipe insulation around the upper edge of the trays to maintain buoyancy.
- 3) Trays should also be tethered to small weights to maintain position in wind and waves.
- 4) Add approximately 4-5 cm of water to the tray to avoid clams bouncing out once they fall into the trays.
- 5) After drone deployment, collect the trays and enumerate the clams in each. The mean number of clams will represent the drone deployment density, which can vary from site to site based on weather conditions at deployment time.

Post-deployment Fate tracking

- 1) This procedure should be carried out 6 months post-deployment and then on a quarterly basis thereafter.
- 2) Following the same procedure for assessment of the *Existing Clam Population Survey*, determine clam density (number per m²), survival (as percent of dispersed clams), and growth (change in hinge to lip measurement).
- 3) To calculate clam density, multiply the number of live clams observed in the quadrat by 4 to get the number of clams per m². To calculate percent survival, divide the number of live clams observed in the quadrat by the mean drone deployment density.
- 4) To calculate growth as a percent, divide the mean hinge to lip measurement observed in the quadrat by the mean hinge to lip measurement of clams deployed by the drone.

Appendix III

Drone Planting Preparation Protocol

- 1) Seed should not be kept cold for more than 24 hrs.
- 2) Keep and transport seed in coolers with cold packs or ice on the bottom covered with towels so that seed is NEVER submerged in melt water.

- 3) Prior to drone flights, remove seed clams from the packaging sock and place in a dry tray to warm for 10- 15 minutes (in the SHADE)
- 4) Load clams in drone immediately before flight, no more than 10 minutes before mission initiation.

SAVE OUR INDIAN RIVER LAGOON
PROJECT PROGRESS REPORT FORM

Date: _____

Report Number: _____

Project Information

Project Name:			
Recipient Name:			
Contract Number:		County Project Manager Email:	
Nitrogen Reduction Benefit (lbs/yr)		County Project Manager Phone:	
Phosphorus Reduction Benefit (lbs/yr)		Recipient's Email:	
TSS Reduction Benefit (lbs/yr)		Recipient's Phone:	

Construction Schedule

Start Date (mm/dd/yy):	
Completion (mm/dd/yy):	

Reporting Period

Beginning Date (mm/dd/yy):	
Ending Date (mm/dd/yy):	

Budget

Total Budget:	
Expended To-date:	
Contract Amount:	

Expended This Period:	
Percent Budget Expended:	0%
Percent Cost Share:	0%

Estimated Reimbursement Schedule

Fiscal Year 1		
Reimbursement #	Anticipated Amount	Anticipated Date
1		
2		
3		
4		

Fiscal Year 2		
Reimbursement #	Anticipated Amount	Anticipated Date
1		
2		
3		
4		

Project Status (Include Overall Project % Complete)

--

Tasks/Milestones/Deliverables Scheduled for this Reporting Period or Within the Next 90 days:

Task Number	Tasks/Milestones/Deliverables	Start Date	Finish Date	Percent Complete	Projected Finish Date
1	Permitting			0%	
2	Engineering			0%	
3	Construction			0%	
				0%	
				0%	

Problems, Issues, Solutions, Anticipated deviations from schedule:

--

Attach an additional page of notes if necessary to explain reasons for lateness or unusual events or circumstances.

Attachment C – Detail Sheet

Save Our Indian River Lagoon Cost Share Program – Invoice for Reimbursement

RECIPIENT'S NAME:	
PROJECT NAME:	
COUNTY'S PROJECT MANAGER:	
AGREEMENT NO.:	
PERFORMANCE PERIOD FROM:	
PERFORMANCE PERIOD TO:	
PAYMENT REQUEST NO.:	
DATE OF REQUEST:	
TOTAL PROJECT COST:	
COST-SHARE PERCENTAGE:	
COST-SHARE AMOUNT:	
TOTAL COST-SHARE PREVIOUSLY REIMBURSED:	
CURRENT REIMBURSEMENT AMOUNT REQUESTED:	

NOTES:

ITEM NO.	VENDOR	DESCRIPTION OF SERVICES	CHECK DATE	CHECK NUMBER	INVOICE NUMBER	INVOICE AMOUNT	CURRENT REIMBURSEMENT AMOUNT REQUESTED
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
TOTALS:						\$ 0.00	\$ 0.00

Recipient's Certification of Payment Request

I, _____, on behalf of _____, do hereby certify for SOIRL Agreement No. _____ and Payment Request No. _____ that:

- The disbursement amount requested is for allowable costs for the project described in Attachment A of the Agreement.
- All costs included in the amount requested have been satisfactorily purchased, performed, received, and applied toward completing the project; such costs are documented by invoices or other appropriate documentation as required in the Agreement.
- All procurement for the amount requested was completed in a manner consistent with applicable law and contract requirements.
- If notified by the County of any restrictions on the use of local preference for this Agreement, the Recipient confirms that no local preference was used.
- The Recipient has paid such costs under the terms and provisions of contracts relating directly to the project; and the Recipient is not in default of any terms or provisions of the contracts.

Check all that apply:

- All permits and approvals required for the construction, which is underway, have been obtained.
- Construction up to the point of this disbursement is in compliance with the construction plans and permits.
- The Recipient's Grant Manager relied on certifications from the following professionals that provided services for this project during the time period covered by this Certification of Payment Request, and such certifications are included:

Professional Service Provider (Name / License No.)	Period of Service (mm/dd/yy – mm/dd/yy)

 Recipient's Grant Manager's Signature

 Print Name

 Telephone Number

 Recipient's Fiscal Agent

 Print Name

 Telephone Number

ATTACHMENT E

Recipient Name:	IRL Clam Project
Project Name:	Restoration of Native Clams in the IRL - Titusville
Agreement Number:	25-265

Estimated Project Cost-Share Table							
Task Number	Task Description	Task Cost	Grant 1 ()	Grant 2 ()	Grant 3 ()	Eligible Lagoon Tax Cost Share, Adjusted	Local Match
1	Pre-deployment Survey	\$ 15,000				\$ 15,000	\$ -
2	Drone Deployment	\$ 192,000				\$ 192,000	\$ -
3	Site Monitoring	\$ 56,000				\$ 56,000	\$ -
4	Reporting	\$ 9,000				\$ 9,000	\$ -
	Total	\$ 272,000	\$ -	\$ -	\$ -	\$ 272,000	\$ -

Save Our Indian River Lagoon Funding Eligibility Calculation	
Project Type	
Pounds of Nitrogen Reduction	1584
Eligible Cost Share per Pound (rounded to nearest dollar)	\$172
Eligible Tax Funding Cost Share	\$272,000
Reduction so Sum of Grants does not exceed Project Cost	\$ 0
Eligible Cost Share, Adjusted	\$ 272,000
Cost Share Percentage	100%

Attachment F

DISCLOSURE FORM

FOREIGN INFLUENCE ON CONTRACTS OR GRANTS HAVING A VALUE OF \$100,000 OR MORE

Summary of Form: In order for the County to comply with section 286.101, Florida Statutes, all prospective contractors and grant recipients seeking to contract with the County, or receive a grant from the County, where said contract or grant has a value of \$100,000 or more must disclose to the County (1) any current or prior interest of, (2) any contract with, or (3) any grant or gift received from a foreign country of concern (defined as the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, and the Syrian Arab Republic, or an agency or other entity under the significant control of such foreign country of concern) if such interest, contract, or grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract or grant or gift was received or in force at any time during the previous five years. The disclosure is specified below. Within one year before applying for any grant or proposing any Contract, such entity must provide a copy of such disclosure to the Department of Financial Services. Disclosure is not required in certain circumstances, outlined below. A Contract is any agreement for the direct benefit or use of any party to such agreement, including an agreement for the sale of commodities or services. A Gift is any transfer of money or property from one entity to another without compensation. A Grant is a transfer of money for a specified purpose, including a conditional gift. An interest in an entity means any direct or indirect investment in or loan to the entity valued at 5 percent or more of the entity's net worth or any form of direct or indirect control exerting similar or greater influence on the governance of the entity.

I. SECTION I. Please answer yes or no to each statement below:

YES / NO I AM BIDDING ON A CONTRACT/APPLYING FOR A GRANT WITH A POTENTIAL VALUE UNDER \$100,000. If yes, this disclosure form has been completed. Please sign and date at the bottom.

YES / NO I AM BIDDING ON A CONTRACT/APPLYING FOR A GRANT WITH A POTENTIAL VALUE OF OVER \$100,000. If yes, proceed to the next question.

YES / NO I HAVE MADE A FOREIGN INFLUENCE DISCLOSURE ONLINE WITH THE DEPARTMENT OF FINANCIAL SERVICES. If yes, please proceed to SECTION IV and provide the date of the disclosure, your name and address. Then sign and date at the bottom.

II. SECTION II. Please answer yes or no to the statement below:

YES / NO Bidder/Grantee has (1) a current or prior interest of, any contract with, or any grant or gift received from a foreign country of concern (defined as the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan Regime of Nicolas Maduro, and the Syrian Arab Republic, or an agency or other entity under the significant control of such foreign country of concern); and (2)

Attachment F

such interest, contract, or grant or gift has a value of \$50,000 or more; and (3) such interest existed, or such contract or grant or gift was received or in force at any time during the previous five years.

III. SECTION III. If you answered NO to SECTION II, you have completed this form. Please sign/date at the bottom. If you answered YES to SECTION II, then answer YES or NO to the following:

- YES / NO This is a proposal to sell commodities through an online procurement programs established pursuant to section 287.057(22), Florida Statutes.
- YES / NO This is a proposal from an entity that discloses foreign gifts or grants under section 1010.25 or section 286.101(2), Florida Statutes.
- YES / NO This is a proposal from a foreign source that, if granted or accepted, would be disclosed under section 286.101(2) or section 1010.25, Florida Statutes.
- YES / NO This is a proposal from a public or not-for-profit research institution with respect to research funded by any federal Agency.

IV. SECTION IV. If you answered YES to any question in SECTION III, you have completed this form. Please sign/date at the bottom. If you answered NO to all of the questions in SECTION III, then you must make the following disclosures online to the State of Florida Department of Financial Services before the County may contract with you or award you said grant. Please disclose the following:

Date Disclosure of the information below was made by Bidder/Grantee to the State of Florida Department of Financial Services online: _____

Name of Bidder/Grantee: _____

Mailing Address of Bidder/Grantee: _____

Value of the Contract/Grant or Gift: _____

Foreign Country of Concern or the Agency or other entity under the significant Control of such Foreign country of Concern: _____

Date of Termination of the contract or interest with the Foreign Country of Concern: _____

Date of Receipt of the Contract/Grant or Gift: _____

Name of the agent or controlled entity that is the source or interest holder: _____

Attachment F

I verify that the information provided on this form is true and correct, and that I am duly authorized to make said binding disclosures on behalf of myself or my Company, as applicable.

Signature: _____ Date: _____

Title: _____

STATE OF FLORIDA

COUNTY OF _____

Sworn to and subscribed before me by means of physical presence or online notarization, this ____ day of _____, _____, by (name of person making statement).

[Notary Seal]

Notary Public

Name typed, printed or stamped

My Commission Expires: _____

_____ Personally Known OR _____ Produced Identification

Type of Identification Produced _____

ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION

Agreement Number: _____

Grantee Name: _____

The undersigned hereby certifies that: [check all applicable boxes]

- The Grantee is in sound financial condition and, if applicable, has received an unqualified audit opinion for the latest audit of its financial statements.

Date of latest audit: _____ (If no audit within the past 18 months, explain the reason below.)

- The Grantee has no outstanding liabilities, including tax and judgment liens, to the Internal Revenue Service or any other government entity.
- The Grantee is current in all amounts due for payments of federal and state taxes and required employment-related contributions and withholdings.
- The Grantee is not the subject of any current litigation or findings of noncompliance under federal or state law.
- The Grantee has not been the subject of any past or current litigation, findings in any past litigation, or findings of noncompliance under federal or state law that may impact in any way its ability to fulfill the requirements of this Contract.
- He or she is authorized to make the foregoing statements on behalf of the Grantee.

Note: This shall constitute a continuing certification and Grantee shall notify the Project Manager within 30 days of any material change to any of the representations made herein.

If any one or more of the foregoing boxes is NOT checked, Grantee shall explain the reason(s) in the space below. Failure to include an explanation may result in Grantee being deemed non-responsive and its submission rejected in its entirety.

Financial Stability. As a condition of contract award, the Grantee must certify that it has the financial capacity to perform and to continue to perform its obligations under the Agreement; that Grantee has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Grantee that could materially adversely affect performance of this Agreement; and that entering into this Agreement is not prohibited by any contract, or order by any court of competent jurisdiction. Each Grantee shall certify it is financially stable by completing ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION. The County is requiring this certification to minimize potential issues from contracting with a Grantee that is financially unstable. From the date of the Certification to the expiration of the Agreement, the Grantee shall notify the County within thirty (30) days of any occurrence or condition that materially alters the truth of any statement made in this Certification. The Project Manager may require annual recertification of the Grantee's financial stability.

Signature

Date

Printed Name

Title

[This Certification must be signed by an individual authorized to speak for the Grantee]

**ATTACHMENT H
NUTRIENT MONITORING PLAN**

PROJECT NAME:

NUTRIENT MONITORING REQUIREMENTS:

- a. For projects with a nutrient monitoring component, a customized monitoring plan will be developed and included with the contract prior to execution. Measuring effectiveness is important for reporting progress toward total load reduction targets and for refining future project designs.
- b. The cost of the monitoring and related activities shall not be born by the GRANTEE or property owner.
- c. Monitoring data is public record and subject to information requests.
- d. As part of the monitoring plan, the property owner permits Brevard County and their assigns access.
- e. Conditional access shall be allowed for the duration of the project construction and up to twenty-four (24) months post construction unless otherwise extended in writing by the property owner.

ACCESS AGREEMENT:

If the GRANTEE is not the property owner, the GRANTEE shall obtain written authorization from the property owner(s) where the site is to be constructed that authorizes and secures permission for the GRANTEE and the COUNTY to enter [the property/properties] to conduct periodic sampling of the [site(s)] with reasonable advanced prior notice. This authorization must be obtained prior to beginning work and must contain an indemnification clause that extends to the COUNTY the ability to access the [property/site] where the Project will be constructed. As part of the authorization agreement, the GRANTEE shall include the following language:

The [property owner] hereby authorizes and permits the Brevard County Board of County Commissioners, its agents, employees, officers, directors, and those under its direction or agency, (the "COUNTY") to access the [property/site] to conduct periodic sampling as outlined in the nutrient monitoring plan for the [Project located on the property/site]. The COUNTY shall provide reasonable advanced notice to [the property owner] prior to any sampling. As part of this authorization and permission to access the [property/site], [the property owner] shall fully indemnify, defend, and hold the COUNTY harmless from and against any and all claims, suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to bodily injury, sickness, disease, death personal injury, damage to property or loss of use of any property or assets resulting therefore, resulting from or arising out of the performance of the services or products for which the COUNTY and/or the GRANTEE is providing to [the property owner].

Attach Copy of Nutrient Monitoring Plan

Attachment I

CONTRACTOR AFFIDAVIT REGARDING SCRUTINIZED COMPANY LIST

Awarded Contractor shall certify that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S. If the Contract is for more than \$1,000,000 the Contractor further certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S.

For Contracts of any amount, if the County determines the Contractor submitted a false certification under Section 287.135(5), F.S., or if the Contractor has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, the County shall either terminate the Contract after it has given the Contractor notice and an opportunity to demonstrate the County's determination of false certification was in error pursuant to Section 287.135(5)(a), F.S., or on a case-by-case basis the County may choose to maintain the Contract if the conditions of Section 287.135(4), F.S., are met. For Contracts \$1,000,000 and greater, if the County determines the Contractor submitted a false certification under Section 287.135(5), F.S., or if the Contractor has been placed on the Scrutinized Companies with Activities in the Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the County shall either terminate the Contract after it has given the Contractor notice and an opportunity to demonstrate the County's determination of false certification was in error pursuant to Section 287.135(5)(a), F.S., or on a case-by-case basis the County may choose to maintain the Contract if the conditions of Section 287.135(4), F.S., are met.

STATE OF FLORIDA

COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared

_____, who, being by me first duly sworn, made the following statement:

1. The Business address of _____ (name of Contractor) is _____.
2. My relationship to _____ (name of Contractor) is (relationship such as sole proprietor, partner, president, vice president).
3. I understand that "Boycott of Israel" has the same meaning as defined in Section 215.4725, F.S., and means refusing to deal, terminating business activities, or taking other actions to limit commercial relations with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner. A statement by a company that it is participating in a boycott of Israel, or that it has initiated a boycott in response to a request for a boycott of Israel or in compliance with, or in furtherance of, calls for a boycott of Israel, may be considered by the State Board of Administration to be evidence that a company is participating in a boycott of Israel. The term does not include restrictive trade practices or boycotts fostered or imposed by foreign countries against Israel.

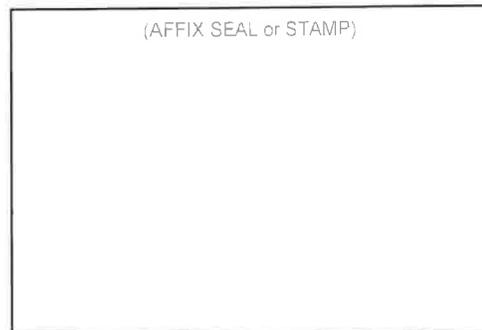
4. I understand that "business operations" means, for purposes specifically related to Cuba or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce.
5. _____ (name of Contractor) is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S., or is engaged in a boycott of Israel.
6. _____ (name of Contractor) is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, F.S.
7. _____ (name of Contractor) is not engaged in business operations in Cuba or Syria.

Signature

Sworn to and subscribed before me in the state and county first mentioned above on the _____ day of _____, 20____.

Notary Public

My commission expires:



**FOREIGN COUNTRY OF CONCERN ATTESTATION
(PUR 1355)**

This form must be completed by an officer or representative of an entity submitting a bid, proposal, or reply to, or entering into, renewing, or extending, a contract with the Brevard County Board of County Commissioners, a political subdivision of the State of Florida, which would grant the entity access to an individual's Personal Identifying Information. Capitalized terms used herein have the definitions ascribed in [Rule 60A-1.020, F.A.C.](#)

_____ (Name of entity) is not owned by the government of a "Foreign country of concern", as defined in section 287.138, Florida Statutes, is not organized under the laws of nor has its principal place of business in a foreign country of concern, and the government of a foreign country of concern does not have a controlling interest in the entity.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Printed Name:

Title:

Signature:

Date:

Attachment K

HUMAN TRAFFICKING AFFIDAVIT
CONTRACT # _____

In compliance with Section 787.06(13), Florida Statutes, this Affidavit must be completed by an officer or representative of a nongovernmental entity that is executing, renewing, or extending a contract with Brevard County, Florida, a political subdivision of the State of Florida (the "Governmental Entity").

The undersigned, on behalf of the entity listed below (the "Nongovernmental Entity"), hereby attests under penalty of perjury as follows:

1. I am over the age of 18 and I have personal knowledge of the matters set forth herein.
2. I am an officer or representative of _____, a non-governmental entity and I am authorized to provide this affidavit on behalf of such.
3. Nongovernmental Entity, and any of its subsidiaries or affiliates, do not use coercion for labor or services, as those terms are defined in Section 787.06, Florida Statutes, as may be amended from time to time.
4. If, at any time in the future, Nongovernmental Entity does use coercion for labor or services, Nongovernmental Entity will immediately notify Brevard County and no contracts may be executed, renewed, or extended between the parties.
5. I have read the foregoing affidavit and confirm that the facts stated in it are true, and are made for the benefit of, and reliance by Brevard County.

Nongovernmental Entity: _____

Authorized Signature: _____ **Date:** _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20____, by _____, as _____ on behalf of the Nongovernmental Entity. They are personally known to me or have produced _____ as identification.

(Affix Notary Stamp or Seal)

Notary Public Signature
Print, Type or Stamp Name of Notary: _____
My commission expires: _____

**SAVE OUR INDIAN RIVER LAGOON PROJECT COST-SHARE FUNDING AGREEMENT BETWEEN
BREVARD COUNTY, FLORIDA AND THE CITY OF PALM BAY, FLORIDA.**

AGREEMENT NUMBER: SOIRL 25-284

THIS AGREEMENT ("Agreement") is made and entered into the date of last signature below by and between Brevard County, Florida, a political subdivision of the State of Florida (hereinafter "COUNTY"), and the City of Palm Bay, Florida, a Florida municipal corporation organized and existing under the laws of the State of Florida (hereinafter "CITY").

RECITALS

WHEREAS, the COUNTY saw the urgent need to implement the "Save Our Indian River Lagoon Project Plan," with the aim to restore the Indian River Lagoon through financing, planning, constructing, maintaining, and operating capital improvements and capital maintenance projects and programs designed to improve water quality, fish, wildlife and marine habitat, remove muck and reduce pollution, as permitted under Section 212.055(2)(d)1., Florida Statutes; and

WHEREAS, pursuant to Section 212.055, Florida Statutes, the COUNTY is authorized to levy a discretionary infrastructure sales tax of one-half cent by ordinance enacted by a majority of the members of the Board of County Commissioners and approved by a majority of the electors of Brevard County voting in a referendum on the surtax; and

WHEREAS, the COUNTY promulgated and passed Brevard County Ordinance No. 2016-15, ("the Ordinance") imposing a one-half cent discretionary infrastructure sales tax for a period of ten (10) years from the date of levy, for the purposes expressed above, subject to approval of said surtax by a majority vote of those qualified electors of Brevard County voting in a referendum that was held on November 8, 2016; and

WHEREAS, it was contemplated that, if approved, said one-half cent discretionary infrastructure sales tax shall be imposed and collected County-wide, commencing on January 1, 2017, and continuing thereafter for a period of ten (10) years until December 31, 2026; and

WHEREAS, on November 8, 2016, a majority of those qualified electors of Brevard County voted in favor of the referendum, thereby authorizing the levy of the one-half cent surtax; and

WHEREAS, the COUNTY deems it in the best interest of all of the citizens and residents of Brevard County, Florida, that the proceeds of the one-half cent discretionary infrastructure sales tax be used to fund projects and programs designed to restore the Indian River Lagoon in the manner set forth in the Ordinance and its incorporated Save Our Indian River Lagoon Project Plan, including operations, maintenance and reasonable administrative costs of those projects and programs; and

WHEREAS, the project identified in the Statement of Work (“the Project”) has been included and approved by the Board of County Commissioners as part of the Save Our Indian River Lagoon Project Plan; and

WHEREAS, the COUNTY has determined that providing cost-share funding to the CITY for the purposes provided for herein will assist the COUNTY in effectively and efficiently implementing the Ordinance and its incorporated Save Our Indian River Lagoon Project Plan, as amended from time to time, and would be a proper expenditure of the monies reserved in the Save Our Indian River Lagoon Trust Fund;

NOW, THEREFORE, for value received, and in consideration of the following covenants, promises and provisions; the Parties agree as follows:

Section 1. Documents.

This Agreement incorporates all of the following:

- a. The Recitals set forth above;
- b. The terms of the Agreement set forth herein;
- c. Attachment A – Statement of Work;
- d. Attachment B – Project Progress Report Form;
- e. Attachment C – Reimbursement/Invoice Form;
- f. Attachment D – Recipient’s Certification of Payment Form;
- g. Attachment E – Eligible Tax Funding Cost Share Form; and
- h. Attachment F – Foreign Disclosure Form (for projects over \$100,000).

Section 2. Statement of Work.

In consideration of the above recitals, and the funding assistance described below, the CITY agrees to perform and complete the activities provided for in the **Statement of Work, Attachment A**. CITY shall complete the Project in conformity with the contract documents and all attachments and other items incorporated by reference herein.

Section 3. Term and Extensions.

- a. The term of this Agreement is from the date upon which the last party has dated and executed the same (“Effective Date”) until August 31, 2030 (“Completion Date”). CITY shall not commence the Project until any required submittals are received and approved. Time is of the essence for every aspect of this Agreement, including any time extensions.
- b. Any request for an extension of time beyond the Completion Date must be made in writing no less than forty-five (45) days prior to the contracted Completion Date. Timely requests to extend for up to one (1) year may be approved by the Natural Resources Management Department Director, or his/her designee; and up to two (2) years may be approved by the County Manager, or designee. Timely requests to extend for longer than the County Manager’s authorization to approve, may only be approved by the Board of County Commissioners.
- c. Notwithstanding specific mention that certain provisions survive termination or expiration of this Agreement, all provisions of this Agreement that by their nature extend beyond the

Completion Date, including by way of example without limitation, delivery of a final progress report, will remain in full force and effect after the Completion Date as necessary to affect performance.

Section 4. Offer Limitations.

a. This Agreement constitutes an offer until authorized, signed and returned to the COUNTY by the CITY. This offer terminates sixty (60) days after receipt by the CITY; provided, however, that the CITY may submit a written request for extension of this time limit which may be approved by the County Manager or his/her designee.

b. If the Project, which is eligible for reimbursement under this Agreement, does not begin within one hundred eighty (180) days of the Effective Date, or if the invoice for non-construction projects is not submitted within two hundred seventy (270) days of the Effective Date, this Agreement will be subject to termination and the funds subject to reallocation.

Section 5. Project Management.

The Project Managers listed below shall be responsible for overall coordination and management of the Project. Either party may change its Project Manager upon three (3) business days' prior written notice to the other party. Written notice of change of address shall be provided within five (5) business days. All notices shall be in writing to the Project Managers at the addresses below and shall be sent by one of the following methods: (1) hand delivery; (2) U.S. certified mail; (3) national overnight courier; or (4) e-mail. Notices via certified mail are deemed delivered upon receipt. Notices via overnight courier are deemed delivered one (1) business day after having been deposited with the courier. Notices via e-mail are deemed delivered on the date received.

COUNTY

Melanie Howarter
Project Manager
Department of Natural Resource Management
2725 Judge Fran Jamieson Way, Building A
Viera, Florida 32940
321-633-2016
Email: Melanie.Howarter@brevardfl.gov

CITY

Thomas Marinelli
Assistant Utilities Director
City of Palm Bay
250 Osmosis Drive
Palm Bay, FL 32907
321-468-6216
E-mail: Thomas.Marinelli@palmbayflorida.gov

a. The COUNTY'S Project Manager shall have sole responsibility for transmitting instructions, receiving information, and communicating the COUNTY'S policies and decisions regarding all matters pertinent to performance of the Project. The COUNTY'S Project Manager may authorize minor changes in the Project that the parties agree are not inconsistent with the purpose of the Project, and do not affect the COUNTY'S cost-share funding amount, the Project's nutrient reduction benefits, Completion Date, or otherwise significantly modify the terms of the Agreement.

b. Should additional funding be acquired from sources other than the Indian River Lagoon one-half cent surtax, the County Manager and City Manager are authorized to sign amendments to

this Agreement only if such additional funding: (1) reduces the Indian River Lagoon tax funding amount; and/or (2) reduces the CITY's cost-share amount.

Section 6. Deliverables.

- a. The CITY shall fully implement the Project, as described in the **Statement of Work, Attachment A**. The CITY is responsible for the professional quality, technical accuracy, and timely completion of the Project. Both workmanship and materials shall be of good quality. Unless otherwise specifically provided for herein, the CITY shall provide and pay for all materials, labor, and other facilities and equipment necessary to complete the Project.

- b. The COUNTY'S Project Manager shall make a final acceptance inspection of the project when completed and finished in all respects. Upon satisfactory completion of the Project, the CITY will provide the COUNTY a written statement indicating that the Project has been completed in accordance with this Agreement. Acceptance of the final payment by the CITY shall constitute a release in full of all claims against the COUNTY arising from or by reason of this Agreement.

- c. Unless otherwise provided herein, the COUNTY does not assert an ownership interest in any of the deliverables under this Agreement.

Section 7. Progress Reports and Performance Monitoring

- a. The CITY shall provide to the COUNTY Project update/status reports as provided in the **Statement of Work, Attachment A**. Reports will provide detail on progress of the Project and outline any potential issues affecting completion or the overall schedule.

- b. The CITY shall use the COUNTY'S **Project Progress Report Form, Attachment B**. CITY shall submit the Project Progress Reports to the COUNTY'S Project Manager within twenty (20) days after the closing date of each calendar quarter (March 31, June 30, September 30 and December 31).

- c. Commencement of Construction. The CITY shall notify the COUNTY once construction has started at the site.

- d. For as long as the Project is operational, the COUNTY shall have the right to inspect the operation of the Project during normal business hours upon reasonable prior notice. The CITY shall make available to the COUNTY any available data that is requested pertaining to the performance of the Project.

Section 8. Amount of Funding.

- a. For satisfactory completion of the Project, the COUNTY shall pay the CITY its "Eligible Tax Funding Cost Share" as stated in **Eligible Tax Funding Cost Share Form, Attachment E**. This amount shall be reduced correspondingly if additional matching funds for the Project are secured by the CITY. The contract amount may be increased by the appropriate grant amount if the COUNTY is able to secure funds from external revenue sources that are approved for

allocation to this Project by the Board of County Commissioners, or its duly authorized representative.

b. The CITY shall be responsible for payment of all additional costs beyond the cost-share amount necessary to ensure completion of the Project.

c. During contract negotiations, the CITY must submit the adopted budget for the project, the amount of all secured grants for the Project, and an estimate of Project costs as defined below in Section 8.e. The Eligible Tax Funding Cost Share shall be reduced as necessary to not exceed the balance of Project costs minus external matching funds for the Project.

d. The CITY shall notify the COUNTY'S Project Manager in writing upon receipt of any additional external funding for the Project not disclosed prior to execution of this Agreement. The Eligible Tax Funding Cost Share shall be reduced as necessary so as not to exceed the balance of Project Costs minus external matching funds for the Project.

e. "Project cost" is defined to include actual costs of constructing project facilities, including construction, construction management, construction QA/QC testing, land acquisition, engineering, design, permitting, permit fees, impact fees, and any other Project-specific costs authorized under the **Statement of Work, Attachment A**. Project cost does not include any costs incurred prior to the Effective Date, unless expressly authorized by the Statement of Work, nor any costs not included in the contracted Statement of Work.

f. The CITY is responsible for owning, operating and maintaining the Project for the typical operating life of the Project.

Section 9. Payment of Invoices.

a. The CITY shall submit itemized invoices as per the **Statement of Work, Attachment A** on a quarterly basis for reimbursable expenses by one of the following four methods by: (1) mail; (2) hand delivery; or (3) national overnight courier to the Brevard County Natural Resources Management Department, Melanie Howarter, Project Manager, 2725 Judge Fran Jamieson Way, Building A, Viera, Florida 32940; or (4) e-mail to Melanie.Howarter@brevardfl.gov. If a delivery method is not selected in this paragraph, the default invoicing basis will be quarterly increments and sent by mail to the Project Manager.

b. All invoices shall be submitted using **Reimbursement/Invoice Form, Attachment C**, and include the following information: (1) the COUNTY'S contract number; (2) the CITY'S name, address, and authorization to directly deposit payment into the CITY'S account; (3) the CITY'S invoice number and date of invoice; (4) the COUNTY'S Project Manager; (5) the CITY'S Project Manager; (6) supporting documentation as to cost and/or Project completion (as per the cost schedule and other requirements of the **Statement of Work, Attachment A**); and (7) **Project Progress Report Form, Attachment B**. Invoices that do not include the above-listed information shall be returned without action within ten (10) business days of receipt, stating the basis for rejection.

c. Incremental payments shall be calculated as the fraction of Eligible Tax Funding Cost Share listed in the **Eligible Tax Funding Cost Share Form, Attachment E** (after adjustments per Section 8c. and/or d.) divided by Project Cost multiplied by the amount of the City's Project Cost incurred during the respective incremental billing period. This percentage may be adjusted as needed if the project is partially funded through other grant funding sources. Payments shall be made within forty-five (45) days of receipt of an approved invoice.

d. The invoices shall be submitted in detail sufficient for proper pre-audit and post-audit review. Invoices shall include a copy of contractor and supplier invoices to the CITY and proof of payment. If necessary for audit purposes, the CITY shall provide additional supporting information as required to document invoices.

e. CITY shall be reimbursed for the actual cost of the Project, or the contracted amount, whichever is less. The COUNTY shall not withhold any retainage from this reimbursement. COUNTY reimbursement is subject to annual budgetary limitations and allocations, if applicable.

f. The COUNTY'S fiscal year ends on September 30th. The COUNTY is required to account for all encumbered funds at that time. Submittal of an invoice as of September 30th satisfies this requirement. Regardless of whether the CITY chooses monthly, quarterly, or annual invoices, if any expenses occur between a previous invoice and September 30th, the CITY shall submit a description of the work completed on the Project through September 30th and a corresponding invoice for that cost-share eligible amount achieved during that time interval.

Section 10. Final Invoice.

a. The final invoice must be submitted no later than forty-five (45) days after the City's final payment to its vendors for the Project or October 30th if the City's final payment is made between September 15th and September 30th.

b. Final Invoices that are submitted after the requisite date shall be subject to a penalty of ten percent (10%) of the invoice. This penalty may be waived by the COUNTY, in its sole judgment and discretion, upon a showing of special circumstances that prevent the timely submittal of the final invoice. The CITY must request approval for delayed submittal of the final invoice not later than ten (10) days prior to the due date and state the basis for the delay.

Section 11. Travel Expenses.

If the cost schedule for this Agreement includes a line item for travel expenses, travel expenses shall be drawn from the Project budget. Travel expenses are otherwise not compensable. If travel expenses are not included in the cost schedule, they are a cost of providing the service that is borne by the CITY.

Section 12. Payments Withheld.

The COUNTY may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect the COUNTY from loss as a result of: (1) defective work not remedied; (2) failure to maintain adequate

progress in the Project; or (3) any other material breach of this Agreement. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.

Section 13. Multi-Year Agreements.

a. For multi-fiscal year agreements, the COUNTY must budget the amount of funds that will be expended during each fiscal year as accurately as possible. Funds contracted for reimbursement beyond the COUNTY'S current fiscal year will be budgeted in subsequent fiscal years per the schedule specified in the Project Agreement, as amended. The **Statement of Work, Attachment A**, includes the parties' current schedule for completion of the work and projection of expenditures on a fiscal year basis (October 1 – September 30) ("Estimated Reimbursement Schedule").

b. If the CITY anticipates that expenditures will exceed the budgeted amount during any fiscal year, the CITY shall promptly notify the COUNTY'S Project Manager and provide a proposed revised work schedule and Annual Spending Plan that provides for completion of the work without increasing the Total Compensation. The last date for the COUNTY to receive this request is August 1 of the then-current fiscal year. Funds allocated in the current fiscal year that are not reimbursed in the current fiscal year due to slippage in the Project delivery schedule will be requested by COUNTY staff to roll forward to the next fiscal year as a Budget Amendment – (Regular), per BCC-21.

c. The COUNTY may in its sole discretion prepare a Budget Change Request incorporating the revised work schedule and Estimated Reimbursement Schedule as appropriate for changes in the Project schedule.

Section 14. Sovereign immunity, Liability, and Insurance.

To the extent provided by law, the CITY shall indemnify, defend, and hold harmless the COUNTY against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of the CITY, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with this Contract, to the extent and within the limitations of Section 768.28, Florida Statutes. The CITY accepts all risks arising from construction or operation of the Project. Nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available under the laws of the State of Florida, nor as a waiver of sovereign immunity of the COUNTY or CITY beyond the waiver provided for in Section 768.28, Florida Statutes, as may be amended. Nothing contained herein shall constitute agreement by the CITY to indemnify the COUNTY for the negligent acts or omissions of the COUNTY, its officers or employees. Nothing in this Contract is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. Each party shall acquire and maintain throughout the term of this Agreement such liability, workers' compensation, and automobile insurance as required by their current rules and regulations.

The selected contractor shall purchase and maintain general liability insurance in the amount of \$1,000,000/\$2,000,000 and auto liability insurance in the amount of \$500,000/\$1,000,000, and

Workers' Compensation to the State of Florida's limits. The selected contractor shall provide Certificates of Insurance to the City and COUNTY demonstrating that the aforementioned insurance requirements have been met prior to the commencement of work under this Contract and is responsible for ensuring it has the coverage required hereunder throughout the length of this contract. Insurance carriers providing coverage required herein must be licensed or authorized to conduct business in the State of Florida and must possess A.M. Best's Financial Strength Rating of A-Class VIII or better. The Certificates of Insurance shall indicate that the policies (except professional liability) have been endorsed to cover the COUNTY and the CITY as an additional insured (a waiver of subrogation in lieu of additional insured status on the Workers' Compensation policy is acceptable) and that these policies may not be canceled or modified without thirty (30) days prior written notice being issued by the insurer to the COUNTY. The CONTRACTOR is also responsible for providing the COUNTY with thirty (30) days prior written notice of any change or cancellation of the policies.

The selected contractor shall submit a certificate of insurance that meets these requirements to both the CITY and the BOCC before the commencement of the project. Where the City is indemnified under any agreement awarded to the selected subcontractor, the County shall also likewise be so indemnified by the subcontractor and the City shall provide written proof of such indemnification.

The parties acknowledge that specific consideration has been exchanged for this indemnification provision. This indemnification shall survive the termination of this Contract.

Section 15. Funding Availability.

a. This Agreement is at all times contingent upon funding availability, which may include a single source or multiple sources, including, but not limited to: (1) the Save Our Indian River Lagoon one-half cent surtax; (2) annual appropriations by the Florida Legislature; or (3) appropriations from other agencies or funding sources. Agreements that extend for a period of more than one Fiscal Year are subject to annual appropriation of funds in the sole discretion and judgment of the COUNTY for each succeeding Fiscal Year. Should the Project not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the COUNTY shall so notify the CITY and this Agreement shall be deemed terminated for convenience five (5) days after receipt of such notice, or within such additional time as the COUNTY may allow. For the purpose of this Agreement, "Fiscal Year" is defined as the period beginning on October 1 and ending on September 30.

b. The CITY agrees that any and all City funds budgeted (in the adopted or amended budget) for this Project that are saved by the CITY by virtue of reimbursement or allocation received pursuant to this cost-share agreement, shall be reallocated and expended by the CITY solely to other City, County or third party project(s) benefiting the restoration of the Indian River Lagoon within five (5) years of the Effective Date of this Agreement. Should the CITY choose to not expend such funds in the manner described above, the CITY shall transfer those funds to the COUNTY for deposit to the Save Our Indian River Lagoon Trust Fund. The CITY'S obligation under this paragraph shall survive the termination of this agreement.

Section 16. Failure to Complete Project.

- a. Should the CITY fail to complete the Project, the CITY shall refund to the COUNTY all of the funds provided to the CITY pursuant to this Agreement.

- b. With a recommendation from its Citizen Oversight Committee, the COUNTY, in its sole judgment and discretion, may determine that the CITY has failed to complete the Project due to circumstances that are beyond the CITY'S control, due to termination of this agreement for reasons of funding availability, or due to a good faith determination that the Project is no longer environmentally or economically feasible. In such event, the COUNTY may excuse the CITY from the obligation to return funds provided hereunder.

- c. If the Project has not been completed within thirty (30) days after the Completion Date, the CITY shall provide the COUNTY with notice regarding its intention as to completion of the Project. The parties shall discuss the status of the Project and may mutually agree to revise the time for Project completion or the scope of the Project. Failure to complete the Project within ninety (90) days after the Completion Date shall be deemed to constitute failure to complete the Project for the purposes of this provision.

- d. In the event the Project constitutes a portion of the total functional Project, this paragraph shall apply in the event the total functional Project is not completed. In such event, the 90-day timeframe provided herein shall commence upon the date scheduled for completion of the total functional Project at the time of execution of this Agreement, unless extended by mutual agreement of the parties. Paragraphs 17(a) and 17(b) shall survive the termination or expiration of this Agreement.

- e. Force Majeure. The failure to carry out any terms of this Agreement due to any one of the following circumstances beyond the control of the CITY: (a) the operation and effect of rules, regulations, or orders promulgated by any commission, county, or governmental agency of the state of Florida or the United States; (b) a restraining order, injunction, or similar decree of any court of competent jurisdiction; (c) war; (d) flood; (e) earthquake; (f) fire; (g) severe wind storm or hurricane; (h) acts of public disturbance; (i) quarantine restrictions; (j) epidemic; (k) strikes; or (l) sabotage. The CITY shall not be subject to any liability for failure to carry out any of the terms of this Agreement to the extent that such failure shall be due to a Force Majeure event as defined herein. In such event, the CITY shall be excused from the obligation to return funds provided herein if the parties can agree, in writing, to a revised completion date for the Project based on the circumstances.

Section 17. Termination.

- a. If the CITY materially fails to fulfill its obligations under this Agreement, including any specific milestones established herein, the COUNTY may provide the CITY written notice of the deficiency by forwarding a "Notice to Cure," citing the specific nature of the breach. The CITY shall have thirty (30) days following receipt of the notice to cure the breach. If the CITY fails to cure the breach within the thirty (30) day period, the COUNTY may issue a "Termination for Default Notice" terminating this Agreement without further notice. In such event, the CITY shall refund to the COUNTY all funds provided to the CITY pursuant to this Agreement within thirty

(30) days of such termination. The COUNTY may also terminate this Agreement upon ten (10) days written notice in the event of any material misrepresentations in the Project Proposal.

b. Delay or failure by the COUNTY to enforce any right, remedy or deadline hereunder shall not impair, or be deemed a waiver of, any such right, remedy or deadline, or impair the COUNTY'S rights or remedies for any subsequent breach or continued breach of this Agreement.

c. This Agreement may be terminated by either party for convenience upon ninety (90) days prior written notice to the other party. In the event the COUNTY terminates for convenience, the CITY shall be paid for work completed and costs incurred in good faith through the date of termination. In the event the CITY terminates for convenience, COUNTY shall receive a full refund of the funds provided herein within thirty (30) days of the date of termination.

ADDITIONAL PROVISIONS

Section 18. Assignment.

The CITY shall not assign this Agreement, or any monies due hereunder, without the COUNTY'S prior written consent. The CITY is solely responsible for fulfilling all work elements in any contracts awarded by the CITY and payment of all monies due. No provision of this Agreement shall create a contractual relationship between the COUNTY and any of the CITY'S contractors or subcontractors.

Section 19. Audit; Access to Records; Repayment of Funds.

a. Maintenance of Records. The CITY shall maintain its books and records such that receipt and expenditure of the funds provided hereunder are shown separately from other expenditures in a format that can be easily reviewed. The CITY shall keep the records of receipts and expenditures, copies of all reports submitted to the COUNTY, and copies of all invoices and supporting documentation for at least five (5) years after expiration of this Agreement. In addition, the CITY shall maintain records to demonstrate satisfaction of its obligation under subparagraph 15b. above.

b. Review and Auditing. In accordance with generally accepted governmental auditing standards, the COUNTY shall have access to and the right to examine any directly pertinent books and other records involving transactions related to this Agreement. In the event of an audit, the CITY shall maintain all required records until the audit is completed and all questions are resolved. The CITY will provide proper facilities for access to and inspection of all required records.

c. Repayment of Funds. COUNTY funding shall be subject to repayment after expiration of this Agreement if, upon audit examination, the COUNTY finds any of the following: (1) the CITY has spent funds for purposes other than as provided for herein; (2) the CITY has failed to perform a continuing obligation of this Agreement; (3) the CITY has received duplicate funds from the COUNTY or other external funding entity for the same purpose; (4) the CITY has been advanced or paid unobligated funds; (5) the CITY has been paid funds in excess of the amount the CITY is

entitled to receive under the Agreement; and/or (6) the CITY has received contributions amounting to more than one hundred percent (100%) of the Project cost through cumulative public agency cost-share funding.

Section 20. Dispute Resolution.

The CITY is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute involving performance of this Agreement by submitting a written statement to the COUNTY's Project Manager no later than ten (10) business days after the precipitating event. If not resolved by the COUNTY Project Manager within ten (10) business days, the COUNTY Project Manager shall forward the request to the County Manager's Office, which shall issue a written decision within ten (10) business days of receipt. This determination shall constitute final action of the COUNTY and may then be subject to judicial review upon completion of the Project.

Section 21. Governing Law, Venue, Attorney's Fees, Waiver of Right to Jury Trial.

This Agreement shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Agreement: (1) Venue for any state or federal legal proceedings shall be in a court of competent jurisdiction in and for Brevard County; (2) Each party shall bear its own attorney's fees, including appeals; (3) For civil proceedings, the parties hereby consent to trial by the court and **WAIVE THE RIGHT TO JURY TRIAL.**

Section 22. Permits.

The CITY shall comply with all applicable federal, state, and local laws and regulations in implementing the Project and shall include this requirement in all subcontracts pertaining to the Project. The CITY shall obtain any and all governmental permits necessary to implement the Project. Any activity not properly permitted prior to implementation or completed without proper permits does not comply with this Agreement and shall not be approved for cost-share funding.

Section 23. Independent Contractors.

The parties to this Agreement, their employees and agents, are independent contractors and not employees or agents of each other. Nothing in this Agreement shall be interpreted to establish any relationship other than that of independent contractors during and after the term of this Agreement. The CITY is not a contractor of the COUNTY. The COUNTY is providing cost-share funding as a cooperating governmental entity to assist the CITY in accomplishing the Project. The CITY is solely responsible for accomplishing the Project and directing the means and methods by which the Project is accomplished. The CITY is solely responsible for compliance with all labor, health care, and tax laws pertaining to the CITY, its officers, agents, and employees.

Section 24. Scrutinized Companies.

a. The CITY certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida Statutes, the COUNTY may immediately terminate this Agreement at its sole option if the CITY or its subcontractors are found to have

submitted a false certification; or if the CITY or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

b. If this Agreement is for more than one million dollars, the CITY certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, Florida Statutes, the COUNTY may immediately terminate this Agreement at its sole option if the CITY, its affiliates, or its subcontractors are found to have submitted a false certification; or if the CITY, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

c. The CITY agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

d. As provided in Section 287.135(8), Florida Statutes, if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

Section 25. Public Entity Crime.

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.

Section 26. Public Records.

Records of the CITY that are made or received in the course of performance of the Project may be public records that are subject to the requirements of Chapter 119, Florida Statutes. If the CITY receives a public records request, the CITY shall promptly notify the COUNTY'S Project Manager. Each party reserves the right to cancel this Agreement for refusal by the other party to allow public access to all documents, papers, letters, or other materials related hereto and subject to the provisions of Chapter 119, Florida Statutes, as amended.

Section 27. Royalties and Patents.

The CITY certifies that the Project does not, to the best of its information and belief, infringe on any patent rights. The CITY shall pay all royalties and patent and license fees necessary for performance of the Project and shall defend all suits or claims for infringement of any patent rights and save and hold the COUNTY harmless from loss to the extent allowed by Florida law.

Section 28. Employment Eligibility Verification (E-Verify):

The CITY:

- a. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CITY during the term of the contract; and
- b. shall expressly require any subcontractors performing work or providing services pursuant to this contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term; and
- c. agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the County consistent with the terms of the CITY'S enrollment in the program. This includes maintaining a copy of proof of the CITY'S and subcontractors' enrollment in the E-Verify Program; and
- d. compliance with the terms of this section is made an express condition of this Contract and the COUNTY may treat a failure to comply as a material breach; and
- e. shall require any contractor to provide the City with an affidavit stating that it does not employ, contract with, or subcontract with any unauthorized aliens; and
- f. nothing in this Section may be construed to allow intentional discrimination of any class protected by law.

Section 29. Severability.

If any portion of this Contract is found to be invalid or unenforceable or if applicable law mandates a different interpretation or result, the remaining provisions will remain in effect and the parties will negotiate in good faith to substitute for such invalid, illegal, or unenforceable provision a mutually acceptable provision consistent with the original intention of the parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURES TO FOLLOW.]

IN WITNESS WHEREOF, the COUNTY has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representative, and CITY has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representatives. This Agreement may be executed in separate counterparts, which shall not affect its validity. Upon execution, this Agreement constitutes the entire agreement of the parties, notwithstanding any stipulations, representations, agreements, or promises, oral or otherwise, not printed or inserted herein. This Agreement cannot be changed by any means other than written amendments referencing this Agreement and signed by all parties.

Brevard County, Florida

Palm Bay, Florida

By: 

By: _____

Date: OCT 14 2025

Name: Matthew Morton

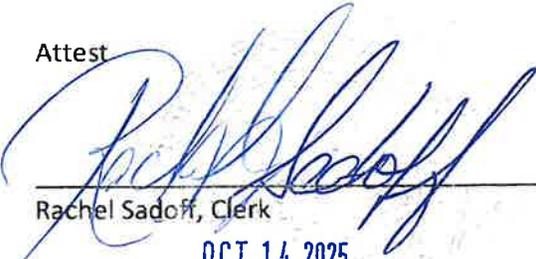
Rob Feltner, Chairman

Title: City Manager

As Approved by the Board on February 11, 2025

Date: _____

Attest



Rachel Sadoff, Clerk

Date: OCT 14 2025

Reviewed for legal form and content for Brevard County



Heather A. Balsler, Assistant County Attorney

ATTACHMENT A STATEMENT OF WORK

PROJECT TITLE: Sewer Available, Not Connected, (SANC) Property Connections (Phase 2)

PROJECT LOCATION: The proposed project area is dependent on the properties to be connected. SANC Phase 2 properties are generally located between Minton Rd SW and I-95 within the City of Palm Bay, FL. Approximate coordinates are 28.0049982°N, 80.6603049°W (center of proposed SANC area, obtained from Google Earth Pro).

PROJECT BACKGROUND: The proposed SANC phase was originally identified through a consulting engineer within the City of Palm Bay's Wastewater Treatment and Onsite Sewage Treatment and Disposal System BMAP Remediation Plan.

PROJECT DESCRIPTION: Phase 2 of SANC will convert approximately 551 residences from Onsite Treatment Disposal Systems (OSTDSs) to available sanitary sewer within their vicinity. The project will include construction of the following items:

- Abandonment of existing septic tanks
- New laterals from the homes to the new sanitary sewer under associated roadways
- All demolition, restoration, and other items necessary to construct the above items

TASKS and DELIVERABLES:

The City of Palm Bay agrees to include physical signage approved by the County at the site during the performance of the work. The signage shall contain the Brevard County Save Our Indian River Lagoon logo. The physical design of the sign shall allow space for the following text: "This project has been funded in part by the Save Our Indian River Lagoon ½ cent sales tax."

Task #1: Construction of Project

Task Description: The City will procure a contractor through the bidding process to construct the project.

Task Deliverable: The City will provide a copy of the letter sent to notify residents that connection to sewer is available. The City will provide a list of addresses connected to sewer along with the number of septic tanks abandoned per address. The City will provide a copy of sewer permits, Florida Department of Health/Florida Department of Environmental Protection proof of passing final septic abandonment inspection, and proof of passing final sewer inspection from the City of Palm Bay.

The County will provide a list of addresses that have previously been approved through the Save Our Indian River Lagoon Quick Connect Program. The City of Palm Bay will refer these property owners to the County.

Task	Task Title	Task Start Date	Task End Date
1	Construction of Project	07/1/25	8/31/2030

Estimated Reimbursement Schedule:

Project reimbursements will be requested quarterly.

Task #	Q1 FY26/27	Q2 FY26/27	Q3 FY26/27	Q4 FY26/27
1	\$101,062	\$101,062	\$101,062	\$101,062

Task #	Q1 FY27/28	Q2 FY27/28	Q3 FY27/28	Q4 FY27/28
1	\$101,062	\$101,062	\$101,062	\$101,062

Task #	Q1 FY28/29	Q2 FY28/29	Q3 FY28/29	Q4 FY28/29
1	\$101,062	\$101,062	\$101,062	\$101,062

Task #	Q1 FY29/30	Q2 FY29/30	Q3 FY29/30	Q4 FY29/30
1	\$101,062	\$101,062	\$101,062	\$101,062

Deliverables:

Quarterly and final reports including pictures of progress made or plans if pictures are not yet available.

This project is not included in the City's FY 2025-2026 budget, therefore without the Save Our Indian River Lagoon Funding the project would not have been executed in the near future.

Other:

SAVE OUR INDIAN RIVER LAGOON
PROJECT PROGRESS REPORT FORM

Date: _____

Report Number: _____

Project Information

Project Name:			
Recipient Name:			
Contract Number:		County Project Manager Email:	
Nitrogen Reduction Benefit (lbs/yr)		County Project Manager Phone:	
Phosphorus Reduction Benefit (lbs/yr)		Recipient's Email:	
TSS Reduction Benefit (lbs/yr)		Recipient's Phone:	

Construction Schedule

Start Date (mm/dd/yy):	
Completion (mm/dd/yy):	

Reporting Period

Beginning Date (mm/dd/yy):	
Ending Date (mm/dd/yy):	

Budget

Total Budget:	
Expended To-date:	
Contract Amount:	

Expended This Period:	
Percent Budget Expended:	0%
Percent Cost Share:	0%

Estimated Reimbursement Schedule

Fiscal Year 1		
Reimbursement #	Anticipated Amount	Anticipated Date
1		
2		
3		
4		

Fiscal Year 2		
Reimbursement #	Anticipated Amount	Anticipated Date
1		
2		
3		
4		

Project Status (Include Overall Project % Complete)

--

Tasks/Milestones/Deliverables Scheduled for this Reporting Period or Within the Next 90 days:

Task Number	Tasks/Milestones/Deliverables	Start Date	Finish Date	Percent Complete	Projected Finish Date
1	Permitting			0%	
2	Engineering			0%	
3	Construction			0%	
				0%	
				0%	

Problems, Issues, Solutions, Anticipated deviations from schedule:

--

Attach an additional page of notes if necessary to explain reasons for lateness or unusual events or circumstances.

Recipient's Certification of Payment Request

I, _____, on behalf of _____, do hereby certify for SOIRL Agreement No. _____ and Payment Request No. _____ that:

- The disbursement amount requested is for allowable costs for the project described in Attachment A of the Agreement.
- All costs included in the amount requested have been satisfactorily purchased, performed, received, and applied toward completing the project; such costs are documented by invoices or other appropriate documentation as required in the Agreement.
- All procurement for the amount requested was completed in a manner consistent with applicable law and contract requirements.
- If notified by the County of any restrictions on the use of local preference for this Agreement, the Recipient confirms that no local preference was used.
- The Recipient has paid such costs under the terms and provisions of contracts relating directly to the project; and the Recipient is not in default of any terms or provisions of the contracts.

Check all that apply:

- All permits and approvals required for the construction, which is underway, have been obtained.
- Construction up to the point of this disbursement is in compliance with the construction plans and permits.
- The Recipient's Grant Manager relied on certifications from the following professionals that provided services for this project during the time period covered by this Certification of Payment Request, and such certifications are included:

Professional Service Provider (Name / License No.)	Period of Service (mm/dd/yy – mm/dd/yy)

 Recipient's Grant Manager's Signature

 Print Name

 Telephone Number

 Recipient's Fiscal Agent

 Print Name

 Telephone Number

ATTACHMENT E

Recipient Name:	City of Palm Bay
Project Name:	Palm Bay Sewer Available Not Connected (Phase 2)
Agreement Number:	25-284

Estimated Project Cost-Share Table							
Task Number	Task Description	Task Cost	Grant 1 (FDEP LPA0603)	Grant 2	Grant 3	Eligible Lagoon Tax Cost Share, Adjusted	Local Match
1	Construction	\$ 6,616,992.00	\$ 5,000,000.00	\$ -	\$ -	\$ 1,616,992.00	\$ -
	Connection Fee	\$ 3,124,390.00	\$ -	\$ -	\$ -	\$ -	\$ 3,124,390.00
	Total	\$ 9,741,382.00	\$ 5,000,000.00	\$ -	\$ -	\$ 1,616,992.00	\$ 3,124,390.00

Save Our Indian River Lagoon Funding Eligibility Calculation	
Project Type	Septic to Sewer
Homes to Connect	551
Pounds of Nitrogen Reduction	1,011
Eligible Cost Share per Pound (rounded to nearest whole dollar)	\$ 1,599
Eligible Tax Funding Cost Share	\$ 1,616,992.00
Reduction so Sum of Grants does not exceed Project Cost	\$ 0
Eligible Cost Share, Adjusted	\$ 1,616,992.00
Cost Share Percentage	17%

Attachment F

DISCLOSURE FORM

FOREIGN INFLUENCE ON CONTRACTS OR GRANTS HAVING A VALUE OF \$100,000 OR MORE

Summary of Form: In order for the County to comply with section 286.101, Florida Statutes, all prospective contractors and grant recipients seeking to contract with the County, or receive a grant from the County, where said contract or grant has a value of \$100,000 or more must disclose to the County (1) any current or prior interest of, (2) any contract with, or (3) any grant or gift received from a foreign country of concern (defined as the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, and the Syrian Arab Republic, or an agency or other entity under the significant control of such foreign country of concern) if such interest, contract, or grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract or grant or gift was received or in force at any time during the previous five years. The disclosure is specified below. Within one year before applying for any grant or proposing any Contract, such entity must provide a copy of such disclosure to the Department of Financial Services. Disclosure is not required in certain circumstances, outlined below. A Contract is any agreement for the direct benefit or use of any party to such agreement, including an agreement for the sale of commodities or services. A Gift is any transfer of money or property from one entity to another without compensation. A Grant is a transfer of money for a specified purpose, including a conditional gift. An interest in an entity means any direct or indirect investment in or loan to the entity valued at 5 percent or more of the entity’s net worth or any form of direct or indirect control exerting similar or greater influence on the governance of the entity.

I. SECTION I. Please answer yes or no to each statement below:

YES / NO I AM BIDDING ON A CONTRACT/APPLYING FOR A GRANT WITH A POTENTIAL VALUE UNDER \$100,000. If yes, this disclosure form has been completed. Please sign and date at the bottom.

YES / NO I AM BIDDING ON A CONTRACT/APPLYING FOR A GRANT WITH A POTENTIAL VALUE OF OVER \$100,000. If yes, proceed to the next question.

YES / NO I HAVE MADE A FOREIGN INFLUENCE DISCLOSURE ONLINE WITH THE DEPARTMENT OF FINANCIAL SERVICES. If yes, please proceed to SECTION IV and provide the date of the disclosure, your name and address. Then sign and date at the bottom.

II. SECTION II. Please answer yes or no to the statement below:

YES / NO Bidder/Grantee has (1) a current or prior interest of, any contract with, or any grant or gift received from a foreign country of concern (defined as the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan Regime of Nicolas Maduro, and the Syrian Arab Republic, or an agency or other entity under the significant control of such foreign country of concern); and (2)

Attachment F

such interest, contract, or grant or gift has a value of \$50,000 or more; and (3) such interest existed, or such contract or grant or gift was received or in force at any time during the previous five years.

III. SECTION III. If you answered NO to SECTION II, you have completed this form. Please sign/date at the bottom. If you answered YES to SECTION II, then answer YES or NO to the following:

- YES / NO This is a proposal to sell commodities through an online procurement programs established pursuant to section 287.057(22), Florida Statutes.
- YES / NO This is a proposal from an entity that discloses foreign gifts or grants under section 1010.25 or section 286.101(2), Florida Statutes.
- YES / NO This is a proposal from a foreign source that, if granted or accepted, would be disclosed under section 286.101(2) or section 1010.25, Florida Statutes.
- YES / NO This is a proposal from a public or not-for-profit research institution with respect to research funded by any federal Agency.

IV. SECTION IV. If you answered YES to any question in SECTION III, you have completed this form. Please sign/date at the bottom. If you answered NO to all of the questions in SECTION III, then you must make the following disclosures online to the State of Florida Department of Financial Services before the County may contract with you or award you said grant. Please disclose the following:

Date Disclosure of the information below was made by Bidder/Grantee to the State of Florida Department of Financial Services online: _____

Name of Bidder/Grantee: _____

Mailing Address of Bidder/Grantee: _____

Value of the Contract/Grant or Gift: _____

Foreign Country of Concern or the Agency or other entity under the significant

Control of such Foreign country of Concern: _____

Date of Termination of the contract or interest with the Foreign Country of Concern: _____

Date of Receipt of the Contract/Grant or Gift: _____

Name of the agent or controlled entity that is the source or interest holder: _____

Attachment F

I verify that the information provided on this form is true and correct, and that I am duly authorized to make said binding disclosures on behalf of myself or my Company, as applicable.

Signature: _____ Date: _____

Title: _____

STATE OF FLORIDA

COUNTY OF _____

Sworn to and subscribed before me by means of physical presence or online notarization, this ____ day of _____, _____, by (name of person making statement).

[Notary Seal]

Notary Public

Name typed, printed or stamped

My Commission Expires: _____

_____ Personally Known OR _____ Produced Identification

Type of Identification Produced _____

**SAVE OUR INDIAN RIVER LAGOON PROJECT COST-SHARE FUNDING CONTRACT BETWEEN
BREVARD COUNTY, FLORIDA AND THE EAST COAST ZOOLOGICAL SOCIETY OF FLORIDA, INC.**

CONTRACT NUMBER: SOIRL 25-273

THIS CONTRACT (“Contract”) is made and entered into the date of last signature below by and between Brevard County, Florida, a political subdivision of the State of Florida (hereinafter the “COUNTY”), and the East Coast Zoological Society of Florida, Inc, a Florida non-profit agency organized and existing under the laws of the State of Florida (hereinafter the “NON-GOVERNMENTAL ORGANIZATION”).

RECITALS

WHEREAS, the COUNTY saw the urgent need to implement the “Save Our Indian River Lagoon Project Plan,” with the aim to restore the Indian River Lagoon through financing, planning, constructing, maintaining, and operating capital improvements and capital maintenance projects and programs designed to improve water quality, fish, wildlife and marine habitat, remove muck and reduce pollution, as permitted under Section 212.055(2)(d)1., Florida Statutes; and

WHEREAS, pursuant to Section 212.055, Florida Statutes, the COUNTY is authorized to levy a discretionary infrastructure sales tax of one-half cent by ordinance enacted by a majority of the members of the Board of County Commissioners and approved by a majority of the electors of Brevard County voting in a referendum on the surtax; and

WHEREAS, the COUNTY promulgated and passed Brevard County Ordinance No. 2016-15, (“the Ordinance”) imposing a one-half cent discretionary infrastructure sales tax for a period of ten (10) years from the date of levy, for the purposes expressed above, subject to approval of said surtax by a majority vote of those qualified electors of Brevard County voting in a referendum that was held on November 8, 2016; and

WHEREAS, it was contemplated that, if approved, said one-half cent discretionary infrastructure sales tax shall be imposed and collected County-wide, commencing on January 1, 2017, and continuing thereafter for a period of ten (10) years until December 31, 2026; and

WHEREAS, on November 8, 2016, a majority of those qualified electors of Brevard County voted in favor of the referendum, thereby authorizing the levy of the one-half cent surtax; and

WHEREAS, the COUNTY deems it in the best interest of all of the citizens and residents of Brevard County, Florida, that the proceeds of the one-half cent discretionary infrastructure sales tax be used to fund projects and programs designed to restore the Indian River Lagoon in the manner set forth in the Ordinance and its incorporated Save Our Indian River Lagoon Project Plan, including operations, maintenance and reasonable administrative costs of those projects and programs; and

WHEREAS, the project identified in the Statement of Work (“the Project”) has been included and approved by the Board of County Commissioners as part of the Save Our Indian River Lagoon Project Plan; and

WHEREAS, the COUNTY has determined that providing cost-share funding to the NON-GOVERNMENTAL ORGANIZATION for the purposes provided for herein will assist the COUNTY in effectively and efficiently implementing the Ordinance and its incorporated Save Our Indian River Lagoon Project Plan, as amended from time to time, and would be a proper expenditure of the monies reserved in the Save Our Indian River Lagoon Trust Fund.

NOW, THEREFORE, for value received, and in consideration of the following covenants, promises and provisions, the Parties agree as follows:

Section 1. Documents.

This Contract incorporates all of the following:

- a. The Recitals set forth above;
- b. The terms of the Contract set forth herein;
- c. Attachment A – Statement of Work;
- d. Attachment B – Project Progress Report Form;
- e. Attachment C – Reimbursement/Invoice Form;
- f. Attachment D – Recipient’s Certification of Payment Form;
- g. Attachment E – Eligible Tax Funding Cost Share Form; and
- h. Attachment F – Foreign Disclosure Form (for projects over \$100,000).

Section 2. Statement of Work.

In consideration of the above recitals, and the funding assistance described below, the NON-GOVERNMENTAL ORGANIZATION agrees to perform and complete the activities provided for in the **Statement of Work, Attachment A**. NON-GOVERNMENTAL ORGANIZATION shall complete the Project in conformity with the contract documents and all attachments and other items incorporated by reference herein.

Section 3. Term and Extensions.

a. The term of this Contract is from the date upon which the last party has dated and executed the same (“Effective Date”) until December 31, 2029 (“Completion Date”). NON-GOVERNMENTAL ORGANIZATION shall not commence the Project until any required submittals are received and approved. Time is of the essence for every aspect of this Contract, including any time extensions.

b. Any request for an extension of time beyond the Completion Date must be made in writing no less than forty-five (45) days prior to the contracted Completion Date. Timely requests to extend for up to one (1) year may be approved by the Natural Resources Management Department Director, or his/her designee; and up to two (2) years may be approved by the County Manager, or designee. Timely requests to extend for longer than the County Manager’s authorization to approve, may only be approved by the Board of County Commissioners.

c. Notwithstanding specific mention that certain provisions survive termination or expiration of this Contract, all provisions of this Contract that by their nature extend beyond the Completion Date, including by way of example without limitation, delivery of a final progress report, will remain in full force and effect after the Completion Date as necessary to affect performance.

Section 4. Offer Limitations.

a. This Contract constitutes an offer until authorized, signed and returned to the COUNTY by the NON-GOVERNMENTAL ORGANIZATION. This offer terminates sixty (60) days after receipt by the NON-GOVERNMENTAL ORGANIZATION; provided, however, that the NON-GOVERNMENTAL ORGANIZATION may submit a written request for extension of this time limit which may be approved by the County Manager or his/her designee.

b. If the Project, which is eligible for reimbursement under this Contract, does not begin within one hundred eighty (180) days of the Effective Date, or if the invoice for non-construction projects is not submitted within two hundred seventy (270) days of the Effective Date, this Contract will be subject to termination and the funds subject to reallocation.

Section 5. Project Management.

The Project Managers listed below shall be responsible for overall coordination and management of the Project. Either party may change its Project Manager upon three (3) business days' prior written notice to the other party. Written notice of change of address shall be provided within five (5) business days. All notices shall be in writing to the Project Managers at the addresses below and shall be sent by one of the following methods: (1) hand delivery; (2) U.S. certified mail; (3) national overnight courier; or (4) e-mail. Notices via certified mail are deemed delivered upon receipt. Notices via overnight courier are deemed delivered one (1) business day after having been deposited with the courier. Notices via e-mail are deemed delivered on the date received.

COUNTY

Aleah Ataman
Environmental Specialist
Department of Natural Resources
2725 Judge Fran Jamieson Way, Building A
Viera, Florida 32940
321-633-2016
Email: Aleah.Ataman@BrevardFL.gov

NON-GOVERNMENTAL ORGANIZATION

Ashley Rearden
Restoration Office Manager
Brevard Zoo
8225 N Wickham Road
Melbourne, FL 32940
321-254-9453 ext. 284
E-mail: ARearden@BrevardZoo.org

a. The COUNTY'S Project Manager shall have sole responsibility for transmitting instructions, receiving information, and communicating the COUNTY'S policies and decisions regarding all matters pertinent to performance of the Project. The COUNTY'S Project Manager may authorize minor changes in the Project that the parties agree are not inconsistent with the purpose of the Project, and do not affect the COUNTY'S cost-share funding amount, the Project's nutrient reduction benefits, Completion Date, or otherwise significantly modify the terms of the Contract.

b. Should additional funding be acquired from sources other than the Indian River Lagoon one-half cent surtax, the County Manager and the authorized NON-GOVERNMENTAL ORGANIZATION representative are authorized to sign amendments to this Contract only if such additional funding: (1) reduces the Indian River Lagoon tax funding amount; and/or (2) reduces the NON-GOVERNMENTAL ORGANIZATION'S cost-share amount.

Section 6. Deliverables.

- a. The NON-GOVERNMENTAL ORGANIZATION shall fully implement the Project, as described in the **Statement of Work, Attachment A**. The NON-GOVERNMENTAL ORGANIZATION is responsible for the professional quality, technical accuracy, and timely completion of the Project. Both workmanship and materials shall be of good quality. Unless otherwise specifically provided for herein, the NON-GOVERNMENTAL ORGANIZATION shall provide and pay for all materials, labor, and other facilities and equipment necessary to complete the Project.
- b. The COUNTY'S Project Manager shall make a final acceptance inspection of the Project when completed and finished in all respects. Upon satisfactory completion of the Project, the NON-GOVERNMENTAL ORGANIZATION will provide the COUNTY a written statement indicating that the Project has been completed in accordance with this Contract. Acceptance of the final payment by the NON-GOVERNMENTAL ORGANIZATION shall constitute a release in full of all claims against the COUNTY arising from or by reason of this Contract.
- c. Unless otherwise provided herein, the COUNTY does not assert an ownership interest in any of the deliverables under this Contract.

Section 7. Progress Reports and Performance Monitoring

- a. The NON-GOVERNMENTAL ORGANIZATION shall provide to the COUNTY Project update/status reports as provided in the **Statement of Work, Attachment A**. Reports will provide details on the progress of the Project and outline any potential issues affecting completion or the overall schedule.
- b. The NON-GOVERNMENTAL ORGANIZATION shall use the COUNTY'S **Project Progress Report Form, Attachment B**. NON-GOVERNMENTAL ORGANIZATION shall submit the Project Progress Reports to the COUNTY'S Project Manager within twenty (20) days after the closing date of each calendar quarter (March 31, June 30, September 30 and December 31).
- c. Commencement of Construction. The NON-GOVERNMENTAL ORGANIZATION shall notify the COUNTY once construction has started at the site.
- d. For as long as the Project is operational, the COUNTY shall have the right to inspect the operation of the Project during normal business hours upon reasonable prior notice. The NON-GOVERNMENTAL ORGANIZATION shall make available to the COUNTY any available data that is requested pertaining to the performance of the Project.

Section 8. Written Authorization

The NON-GOVERNMENTAL ORGANIZATION shall obtain written authorization from the property owner(s) where the site is to be constructed that authorizes and secures permission

for the NON-GOVERNMENTAL ORGANIZATION and the COUNTY to enter the subject property/properties to conduct periodic inspections and/or maintenance of the site(s) with reasonable advanced prior notice. This authorization must be obtained prior to beginning work and must contain an indemnification clause that extends to the COUNTY the ability to access the property and/or site where the Project will be constructed. As part of the authorization agreement, the NON-GOVERNMENTAL ORGANIZATION shall include the following language:

The [property owner] hereby authorizes and permits Brevard County, Florida, its agents, employees, officers, directors, and those under its direction or agency, (the "COUNTY") to access the [property/site] to conduct periodic inspections of and/or maintenance for the [Project located on the property/site]. The COUNTY shall provide reasonable advanced notice to [the property owner] prior to any inspection or maintenance. As part of this authorization and permission to access the [property/site], [the property owner] shall fully indemnify, defend, and hold the COUNTY harmless from and against any and all claims, suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to bodily injury, sickness, disease, death personal injury, damage to property or loss of use of any property or assets, resulting from or arising out of the performance of the services or products for which the COUNTY and/or the NON-GOVERNMENTAL ORGANIZATION is providing to [the property owner].

Section 9. Notifications.

- a. *Commencement of Construction.* The NON-GOVERNMENTAL ORGANIZATION shall notify the COUNTY'S Project Manager once construction has started at the site.
- b. *Completion of Construction.* The NON-GOVERNMENTAL ORGANIZATION shall notify the COUNTY'S Project Manager once construction has been completed in order for surveyors to complete their survey and analyze the site.

Section 10. Amount of Funding.

- a. For satisfactory completion of the Project, the COUNTY shall pay the NON-GOVERNMENTAL ORGANIZATION its "Eligible Tax Funding Cost Share" as stated in **Eligible Tax Funding Cost Share Form, Attachment E**. This amount shall be reduced correspondingly if additional matching funds for the Project are secured by the NON-GOVERNMENTAL ORGANIZATION. The contract amount may be increased by the appropriate grant amount if the COUNTY is able to secure funds from external revenue sources that are approved for allocation to this Project by the Board of County Commissioners, or its duly authorized representative.
- b. The NON-GOVERNMENTAL ORGANIZATION shall be responsible for payment of all additional costs beyond the cost-share amount necessary to ensure completion of the Project.
- c. During contract negotiations, the NON-GOVERNMENTAL ORGANIZATION must submit the adopted budget for the Project, the amount of all secured grants for the Project, and an estimate of Project costs as defined in Section 10.e. The Eligible Tax Funding Cost Share shall be

reduced as necessary to not exceed the balance of Project costs minus external matching funds for the Project.

d. The NON-GOVERNMENTAL ORGANIZATION shall notify the COUNTY'S Project Manager in writing upon receipt of any additional external funding for the Project not disclosed prior to execution of this Contract. The Eligible Tax Funding Cost Share shall be reduced as necessary so as not to exceed the balance of Project Costs minus external matching funds for the Project.

e. "Project cost" is defined to include actual costs of constructing project facilities, including construction, construction management, construction QA/QC testing, land acquisition, engineering, design, permitting, permit fees, impact fees, and any other Project-specific costs authorized under the **Statement of Work, Attachment A**. Project cost does not include any costs incurred prior to the Effective Date, unless expressly authorized by the Statement of Work, nor any costs not included in the contracted Statement of Work.

f. The NON-GOVERNMENTAL ORGANIZATION is responsible for owning, operating and maintaining the Project for the typical operating life of the Project.

Section 11. Payment of Invoices.

a. The NON-GOVERNMENTAL ORGANIZATION shall submit itemized invoices as per the **Statement of Work, Attachment A** on a quarterly basis for reimbursable expenses by one of the following four methods by: (1) mail; (2) hand delivery; or (3) national overnight courier to the Brevard County Natural Resources Management Department, Aleah Ataman, Project Manager, 2725 Judge Fran Jamieson Way, Building A, Viera, Florida 32940; or (4) e-mail to Aleah.Ataman@brevardfl.gov. If a delivery method is not selected in this paragraph, the default invoicing basis will be quarterly increments and sent by mail to the Project Manager.

b. All invoices shall be submitted using **Reimbursement/Invoice Form, Attachment C**, and include the following information: (1) the COUNTY'S contract number; (2) the NON-GOVERNMENTAL ORGANIZATION's name, address, and authorization to directly deposit payment into the NON-GOVERNMENTAL ORGANIZATION's account; (3) the NON-GOVERNMENTAL ORGANIZATION's invoice number and date of invoice; (4) the COUNTY'S Project Manager; (5) the NON-GOVERNMENTAL ORGANIZATION's Project Manager; (6) supporting documentation as to cost and/or Project completion (as per the cost schedule and other requirements of the **Statement of Work, Attachment A**); and (7) **Project Progress Report Form, Attachment B**. Invoices that do not include the above-listed information shall be returned without action within ten (10) business days of receipt, stating the basis for rejection.

Reimbursement Address

East Coast Zoological Society of Florida, Inc.
8225 N Wickham Road
Melbourne, FL 32940

c. Incremental payments shall be calculated as the fraction of Eligible Tax Funding Cost Share listed in the **Eligible Tax Funding Cost Share Form, Attachment E** (after adjustments per

Sections 10.c. and/or d.) divided by Project cost multiplied by the amount of the NON-GOVERNMENTAL ORGANIZATION's Project Cost incurred during the respective incremental billing period. This percentage may be adjusted as needed if the project is partially funded through other grant funding sources. Payments shall be made within forty-five (45) days of receipt of an approved invoice.

d. The invoices shall be submitted in detail sufficient for proper pre-audit and post-audit review. Invoices shall include a copy of contractor and supplier invoices to the NON-GOVERNMENTAL ORGANIZATION and proof of payment. If necessary for audit purposes, the NON-GOVERNMENTAL ORGANIZATION shall provide additional supporting information as required to document invoices.

e. NON-GOVERNMENTAL ORGANIZATION shall be reimbursed for the actual cost of the Project, or the contracted amount, whichever is less. The COUNTY shall not withhold any retainage from this reimbursement. COUNTY reimbursement is subject to annual budgetary limitations and allocations, if applicable.

f. The COUNTY'S fiscal year ends on September 30th. The COUNTY is required to account for all encumbered funds at that time. Submittal of an invoice as of September 30th satisfies this requirement. Regardless of whether the NON-GOVERNMENTAL ORGANIZATION chooses monthly, quarterly, or annual invoices, if any expenses occur between a previous invoice and September 30th, the NON-GOVERNMENTAL ORGANIZATION shall submit a description of the work completed on the Project through September 30th and a corresponding invoice for that cost-share eligible amount achieved during that time interval.

Section 12. Final Invoice.

a. The final invoice must be submitted no later than forty-five (45) days after the NON-GOVERNMENTAL ORGANIZATION's final payment to its vendors for the Project or October 30th if the NON-GOVERNMENTAL ORGANIZATION's final payment is made between September 15th and September 30th.

b. Final Invoices that are submitted after the requisite date shall be subject to a penalty of ten percent (10%) of the invoice. This penalty may be waived by the COUNTY, in its sole judgment and discretion, upon a showing of special circumstances that prevent the timely submittal of the final invoice. The NON-GOVERNMENTAL ORGANIZATION must request approval for delayed submittal of the final invoice not later than ten (10) days prior to the due date and state the basis for the delay.

Section 13. Travel Expenses.

If the cost schedule for this Contract includes a line item for travel expenses, travel expenses shall be drawn from the Project budget. Travel expenses are otherwise not compensable. If travel expenses are not included in the cost schedule, they are a cost of providing the service that is borne by the NON-GOVERNMENTAL ORGANIZATION.

Section 14. Payments Withheld.

The COUNTY may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect the COUNTY from loss as a result of: (1) defective work not remedied; (2) failure to maintain adequate progress in the Project; or (3) any other material breach of this Contract. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.

Section 15. Multi-Year Contracts.

a. For multi-fiscal year contracts, the COUNTY must budget the amount of funds that will be expended during each fiscal year as accurately as possible. Funds contracted for reimbursement beyond the COUNTY'S current fiscal year will be budgeted in subsequent fiscal years per the schedule specified in the Project Contract, as amended. The **Statement of Work, Attachment A**, includes the parties' current schedule for completion of the work and projection of expenditures on a fiscal year basis (October 1 – September 30) ("Estimated Reimbursement Schedule").

b. If the NON-GOVERNMENTAL ORGANIZATION anticipates that expenditures will exceed the budgeted amount during any fiscal year, the NON-GOVERNMENTAL ORGANIZATION shall promptly notify the COUNTY'S Project Manager and provide a proposed revised work schedule and Annual Spending Plan that provides for completion of the work without increasing the Total Compensation. The last date for the COUNTY to receive this request is August 1 of the then-current fiscal year. Funds allocated in the current fiscal year that are not reimbursed in the current fiscal year due to slippage in the Project delivery schedule will be requested by COUNTY staff to roll forward to the next fiscal year as a Budget Amendment – (Regular), per BCC-21.

c. The COUNTY may in its sole discretion prepare a Budget Change Request incorporating the revised work schedule and Estimated Reimbursement Schedule as appropriate for changes in the Project schedule.

Section 16. Liability, Indemnification, Sovereign Immunity and Insurance.

a. Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that respective party, its officers, employees, and agents. The NON-GOVERNMENTAL ORGANIZATION accepts all risks arising from construction or operation of the Project.

b. The NON-GOVERNMENTAL ORGANIZATION shall indemnify and hold harmless the COUNTY, and its officers and employees, from liabilities, damages, personal injuries (including death) penalties, fines, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful acts or omissions of the NON-GOVERNMENTAL ORGANIZATION and persons employed or utilized by the NON-GOVERNMENTAL ORGANIZATION in the performance of this Contract.

c. The hold harmless and indemnification provided above shall obligate the NON-GOVERNMENTAL ORGANIZATION to defend the County at the NON-GOVERNMENTAL

ORGANIZATION's expense or to provide for such defense, at the option of the COUNTY, as the case may be, of any and all claims of liability and all suits and actions of every name and description (as described above) that may be brought against the COUNTY which may result under this Contract. In any and all such claims, lawsuits, etc., the COUNTY shall be permitted to choose legal counsel of its sole choice, the fees for which shall be subject to and included with this indemnification provided herein, as long as said fees are not greater than a rate deemed reasonable in Brevard County, Florida.

- d. In any and all claims against the COUNTY, and its officers and employees, the NON-GOVERNMENTAL ORGANIZATION's indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for the NON-GOVERNMENTAL ORGANIZATION, under workers' compensation acts, or other related policies or insurance. The parties acknowledge specific consideration has been exchanged for this indemnification provision. This indemnification shall survive the termination of this Contract.
- e. Nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available under the laws of the State of Florida, nor as a waiver of sovereign immunity of the COUNTY beyond the waiver provided for in Section 768.28, Florida Statutes, as may be amended. Nothing in this Contract is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. Nothing herein shall constitute a waiver of the COUNTY'S sovereign immunity protections. The COUNTY'S liability obligations hereunder shall be subject to the protections of and limitations on damages set forth in Section 768.28, Florida Statutes.
- f. At its own expense, the NON-GOVERNMENTAL ORGANIZATION shall acquire and maintain throughout the term of this Contract the following minimum levels of insurance including, but not limited to:
 - (i) General Liability Insurance: General Liability Insurance, with combined single limits of not less than one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.
 - (ii) Workers' Compensation Coverage: Full and complete Workers' Compensation Coverage, as required by State of Florida law, shall be provided.
 - (iii) Insurance Certificates: the NON-GOVERNMENTAL ORGANIZATION shall provide the County with Certificate(s) of Insurance (COI) and applicable endorsement forms for all policies of insurance and renewals, as required herein, in an industry standard Acord form. The COI shall be endorsed to provide that the COUNTY is an additional insured under the General Liability and Workers Compensation Policies and that the COUNTY shall be notified in writing by the insurer of any reduction, cancellation, or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. A waiver of subrogation in lieu of additional insured status on the Workers' Compensation policy is acceptable. All insurance policies shall be

issued by responsible companies who are licensed and authorized under the laws of the State of Florida. The NON-GOVERNMENTAL ORGANIZATION shall notify the COUNTY in writing of any reduction, cancellation, or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.

Section 17. Funding Availability.

a. This Contract is at all times contingent upon funding availability, which may include a single source or multiple sources, including, but not limited to: (1) the Save Our Indian River Lagoon one-half cent surtax; (2) annual appropriations by the Florida Legislature; or (3) appropriations from other agencies or funding sources. Contracts that extend for a period of more than one Fiscal Year are subject to annual appropriation of funds in the sole discretion and judgment of the COUNTY for each succeeding Fiscal Year. Should the Project not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the COUNTY shall so notify the NON-GOVERNMENTAL ORGANIZATION and this Contract shall be deemed terminated for convenience five (5) days after receipt of such notice, or within such additional time as the COUNTY may allow. For the purpose of this Contract, "Fiscal Year" is defined as the period beginning on October 1 and ending on September 30.

b. The NON-GOVERNMENTAL ORGANIZATION agrees that any and all NON-GOVERNMENTAL ORGANIZATION funds budgeted (in the adopted or amended budget) for this Project that are saved by the NON-GOVERNMENTAL ORGANIZATION by virtue of reimbursement or allocation received pursuant to this cost-share Contract, shall be reallocated and expended by the NON-GOVERNMENTAL ORGANIZATION solely to other NON-GOVERNMENTAL ORGANIZATION, COUNTY or third-party project(s) benefiting the restoration of the Indian River Lagoon within five (5) years of the Effective Date of this Contract. Should the NON-GOVERNMENTAL ORGANIZATION choose to not expend such funds in the manner described above, the NON-GOVERNMENTAL ORGANIZATION shall transfer those funds to the COUNTY for deposit to the Save Our Indian River Lagoon Trust Fund. The NON-GOVERNMENTAL ORGANIZATION's obligation under this paragraph shall survive the termination of this Contract.

Section 18. Failure to Complete Project.

a. Should the NON-GOVERNMENTAL ORGANIZATION fail to complete the Project, the NON-GOVERNMENTAL ORGANIZATION shall refund to the COUNTY all of the funds provided to the NON-GOVERNMENTAL ORGANIZATION pursuant to this Contract.

b. With a recommendation from its Citizen Oversight Committee, the COUNTY, in its sole judgment and discretion, may determine that the NON-GOVERNMENTAL ORGANIZATION has failed to complete the Project due to circumstances that are beyond the NON-GOVERNMENTAL ORGANIZATION's control, due to termination of this Contract for reasons of funding availability, or due to a good faith determination that the Project is no longer environmentally or economically feasible. In such event, the COUNTY may excuse the NON-GOVERNMENTAL ORGANIZATION from the obligation to return funds provided hereunder.

c. If the Project has not been completed within thirty (30) days after the Completion Date, the NON-GOVERNMENTAL ORGANIZATION shall provide the COUNTY with notice regarding its

intention as to completion of the Project. The parties shall discuss the status of the Project and may mutually agree to revise the time for Project completion or the scope of the Project. Failure to complete the Project within ninety (90) days after the Completion Date shall be deemed to constitute failure to complete the Project for the purposes of this provision.

d. In the event the Project constitutes a portion of the total functional project, this paragraph shall apply in the event the total functional project is not completed. In such event, the 90-day timeframe provided herein shall commence upon the date scheduled for completion of the total functional project at the time of execution of this Contract, unless extended by mutual agreement of the parties. Sections 18.a. and b. shall survive the termination or expiration of this Contract.

e. Force Majeure. NON-GOVERNMENTAL ORGANIZATION will not be responsible for failure to carry out any terms of this Contract due to any one of the following circumstances beyond the control of the NON-GOVERNMENTAL ORGANIZATION: (a) the operation and effect of rules, regulations, or orders promulgated by any commission, county, or governmental agency of the state of Florida or the United States; (b) a restraining order, injunction, or similar decree of any court of competent jurisdiction; (c) war; (d) flood; (e) earthquake; (f) fire; (g) severe wind storm or hurricane; (h) acts of public disturbance; (i) quarantine restrictions; (j) epidemic; (k) strikes; or (l) sabotage. The NON-GOVERNMENTAL ORGANIZATION shall not be subject to any liability for failure to carry out any of the terms of this Contract to the extent that such failure shall be due to a Force Majeure event as defined herein. In such event, the NON-GOVERNMENTAL ORGANIZATION shall be excused from the obligation to return funds provided herein if the parties can agree, in writing, to a revised completion date for the Project based on the circumstances.

Section 19. Termination.

a. If the NON-GOVERNMENTAL ORGANIZATION materially fails to fulfill its obligations under this Contract, including any specific milestones established herein, the COUNTY may provide the NON-GOVERNMENTAL ORGANIZATION written notice of the deficiency by forwarding a "Notice to Cure," citing the specific nature of the breach. The NON-GOVERNMENTAL ORGANIZATION shall have thirty (30) days following receipt of the notice to cure the breach. If the NON-GOVERNMENTAL ORGANIZATION fails to cure the breach within the thirty (30) day period, the COUNTY may issue a "Termination for Default Notice" terminating this Contract without further notice. In such event, the NON-GOVERNMENTAL ORGANIZATION shall refund to the COUNTY all funds provided to the NON-GOVERNMENTAL ORGANIZATION pursuant to this Contract within thirty (30) days of such termination. The COUNTY may also terminate this Contract upon ten (10) days written notice in the event of any material misrepresentations in the Project Proposal.

b. Delay or failure by the COUNTY to enforce any right, remedy or deadline hereunder shall not impair, or be deemed a waiver of, any such right, remedy or deadline, or impair the COUNTY'S rights or remedies for any subsequent breach or continued breach of this Contract.

c. This Contract may be terminated by either party for convenience upon ninety (90) days

prior written notice to the other party. In the event the COUNTY terminates for convenience, NON-GOVERNMENTAL ORGANIZATION shall be paid for work completed and costs incurred in good faith through the date of termination. In the event the NON-GOVERNMENTAL ORGANIZATION terminates for convenience, COUNTY shall receive a full refund of the funds provided herein within thirty (30) days of the date of termination.

ADDITIONAL PROVISIONS

Section 20. Assignment.

The NON-GOVERNMENTAL ORGANIZATION shall not assign this Contract, or any monies due hereunder, without the COUNTY'S prior written consent. The NON-GOVERNMENTAL ORGANIZATION is solely responsible for fulfilling all work elements in any contracts awarded by the NON-GOVERNMENTAL ORGANIZATION and payment of all monies due. No provision of this Contract shall create a contractual relationship between the COUNTY and any of the NON-GOVERNMENTAL ORGANIZATION's contractors or subcontractors.

Section 21. Audit; Access to Records; Repayment of Funds.

a. Maintenance of Records. The NON-GOVERNMENTAL ORGANIZATION shall maintain its books and records such that receipt and expenditure of the funds provided hereunder are shown separately from other expenditures in a format that can be easily reviewed. The NON-GOVERNMENTAL ORGANIZATION shall keep the records of receipts and expenditures, copies of all reports submitted to the COUNTY, and copies of all invoices and supporting documentation for at least five (5) years after expiration of this Contract. In addition, the NON-GOVERNMENTAL ORGANIZATION shall maintain records to demonstrate satisfaction of its obligation under subparagraph 17b. above.

b. Review and Auditing. In accordance with generally accepted governmental auditing standards, the COUNTY shall have access to and the right to examine any directly pertinent books and other records involving transactions related to this Contract. In the event of an audit, the NON-GOVERNMENTAL ORGANIZATION shall maintain all required records until the audit is completed and all questions are resolved. The NON-GOVERNMENTAL ORGANIZATION will provide proper facilities for access to and inspection of all required records.

c. Repayment of Funds. COUNTY funding shall be subject to repayment after expiration of this Contract if, upon audit examination, the COUNTY finds any of the following: (1) the NON-GOVERNMENTAL ORGANIZATION has spent funds for purposes other than as provided for herein; (2) the NON-GOVERNMENTAL ORGANIZATION has failed to perform a continuing obligation of this Contract; (3) the NON-GOVERNMENTAL ORGANIZATION has received duplicate funds from the COUNTY or other external funding entity for the same purpose; (4) the NON-GOVERNMENTAL ORGANIZATION has been advanced or paid unobligated funds; (5) the NON-GOVERNMENTAL ORGANIZATION has been paid funds in excess of the amount the NON-GOVERNMENTAL ORGANIZATION is entitled to receive under the Contract; and/or (6) the NON-GOVERNMENTAL ORGANIZATION has received contributions amounting to more than one hundred percent (100%) of the Project cost through cumulative public agency cost-share funding.

Section 22. Dispute Resolution.

The NON-GOVERNMENTAL ORGANIZATION is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute involving performance of this Contract by submitting a written statement to the COUNTY'S Project Manager no later than ten (10) business days after the precipitating event. If not resolved by the COUNTY Project Manager within ten (10) business days, the COUNTY Project Manager shall forward the request to the County Manager's Office, which shall issue a written decision within ten (10) business days of receipt. This determination shall constitute final action of the COUNTY and may be subject to judicial review upon completion of the Project.

Section 23. Governing Law, Venue, Attorney's Fees, Waiver of Right to Jury Trial.

This Contract shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Contract: (1) Venue for any state or federal legal proceedings shall be in a court of competent jurisdiction in and for Brevard County; (2) Each party shall bear its own attorney's fees, including appeals; (3) For civil proceedings, the parties hereby consent to trial by the court and **WAIVE THE RIGHT TO JURY TRIAL.**

Section 24. Permits.

The NON-GOVERNMENTAL ORGANIZATION shall comply with all applicable federal, state, and local laws and regulations in implementing the Project and shall include this requirement in all subcontracts pertaining to the Project. The NON-GOVERNMENTAL ORGANIZATION shall obtain any and all governmental permits necessary to implement the Project. Any activity not properly permitted prior to implementation or completed without proper permits does not comply with this Contract and shall not be approved for cost-share funding.

Section 25. Independent Contractors.

The parties to this Contract, their employees and agents, are independent contractors and not employees or agents of each other. Nothing in this Contract shall be interpreted to establish any relationship other than that of independent contractors during and after the term of this Contract. The NON-GOVERNMENTAL ORGANIZATION is not a contractor of the COUNTY. The COUNTY is providing cost-share funding as a cooperating governmental entity to assist the NON-GOVERNMENTAL ORGANIZATION in accomplishing the Project. The NON-GOVERNMENTAL ORGANIZATION is solely responsible for accomplishing the Project and directing the means and methods by which the Project is accomplished. The NON-GOVERNMENTAL ORGANIZATION is solely responsible for compliance with all labor, health care, and tax laws pertaining to the NON-GOVERNMENTAL ORGANIZATION, its officers, agents, and employees.

Section 26. Scrutinized Companies.

a. The NON-GOVERNMENTAL ORGANIZATION certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida Statutes, the COUNTY may immediately terminate this Contract at its sole option if the NON-

GOVERNMENTAL ORGANIZATION or its subcontractors are found to have submitted a false certification; or if the NON-GOVERNMENTAL ORGANIZATION or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Contract.

b. If this Contract is for more than one million dollars, the NON-GOVERNMENTAL ORGANIZATION certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, Florida Statutes, the COUNTY may immediately terminate this Contract at its sole option if the NON-GOVERNMENTAL ORGANIZATION, its affiliates, or its subcontractors are found to have submitted a false certification; or if the NON-GOVERNMENTAL ORGANIZATION, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Contract.

c. The NON-GOVERNMENTAL ORGANIZATION agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract.

d. As provided in Section 287.135(8), Florida Statutes, if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

Section 27. Public Entity Crime.

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.

Section 28. Public Records.

Records of the NON-GOVERNMENTAL ORGANIZATION that are made or received in the course of performance of the Project may be public records that are subject to the requirements of Chapter 119, Florida Statutes. If the NON-GOVERNMENTAL ORGANIZATION receives a public records request, the NON-GOVERNMENTAL ORGANIZATION shall promptly notify the COUNTY'S Project Manager. Each party reserves the right to cancel this Contract for refusal by the other party to allow public access to all documents, papers, letters, or other materials related hereto and subject to the provisions of Chapter 119, Florida Statutes, as amended.

Section 29. Royalties and Patents.

The NON-GOVERNMENTAL ORGANIZATION certifies that the Project does not, to the best of its

information and belief, infringe on any patent rights. The NON-GOVERNMENTAL ORGANIZATION shall pay all royalties and patent and license fees necessary for performance of the Project and shall defend all suits or claims for infringement of any patent rights and save and hold the COUNTY harmless from loss to the extent allowed by Florida law.

Section 30. Employment Eligibility Verification (E-Verify).

The NON-GOVERNMENTAL ORGANIZATION:

- a. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the NON-GOVERNMENTAL ORGANIZATION during the term of the Contract; and
- b. shall expressly require any subcontractors performing work or providing services pursuant to this contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term; and
- c. agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the COUNTY consistent with the terms of the NON-GOVERNMENTAL ORGANIZATION's enrollment in the program. This includes maintaining a copy of proof of the NON-GOVERNMENTAL ORGANIZATION's and subcontractors' enrollment in the E-Verify Program; and
- d. shall require any contractor to provide the NON-GOVERNMENTAL ORGANIZATION with an affidavit stating that it does not employ, contract with, or subcontract with any unauthorized aliens, and
- e. nothing in this Section may be construed to allow intentional discrimination of any class protected by law.
- f. Compliance with the terms of this section is made an express condition of this Contract and the COUNTY may treat a failure to comply as a material breach.

Section 31. Severability.

If any portion of this Contract is found to be invalid or unenforceable or if applicable law mandates a different interpretation or result, the remaining provisions will remain in effect and the parties will negotiate in good faith to substitute for such invalid, illegal, or unenforceable provision a mutually acceptable provision consistent with the original intention of the parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURES TO FOLLOW.]

IN WITNESS WHEREOF, the COUNTY has caused this Contract to be executed on the day and year written below in its name by its duly authorized representative, and NON-GOVERNMENTAL ORGANIZATION has caused this Contract to be executed on the day and year written below in its name by its duly authorized representatives. This Contract may be executed in separate counterparts, which shall not affect its validity. Upon execution, this Contract constitutes the entire Contract of the parties and supersedes all other stipulations, proposals, representations, statements, or understandings, whether written or oral, regarding this subject matter. This Contract cannot be changed by any means other than written amendments referencing this Contract and signed by all parties.

Brevard County, Florida
By: Thad Altman

Thad Altman, Chair

Brevard County Board of County Commissioners

As Approved by the Board on February 11, 2025

East Coast Zoological Society of Florida, Inc.

By: _____

Name: Keith Winsten

Title: Executive Director

Date: _____

Attest

By: Rachel M. Sadoff
Rachel M. Sadoff, Clerk

Reviewed for legal form and content for Brevard County

Heather A. Balsar
Heather A. Balsar, Assistant County Attorney

ATTACHMENT A STATEMENT OF WORK

PROJECT TITLE: Brevard Zoo Central Indian River Lagoon Oyster Project 5 #273

PROJECT LOCATION: Central Basin of the Indian River Lagoon

PROJECT BACKGROUND: Brevard Zoo's Restore Our Shores (ROS) is a community-based program that umbrellas multiple projects focused on lagoon restoration and education that, since 2009, has helped gather over 70,000 volunteers into an active cohort of lagoon restoration advocates. The Restore Our Shores program is currently working to install oyster reefs throughout the Indian River Lagoon.

PROJECT DESCRIPTION: Brevard Zoo will construct 37,602 square feet of oyster projects in the Central section of the IRL. The designs will be site specific and will be reviewed by the County prior to submittal of permit applications and approved by the County before construction begins. Brevard Zoo will consult with the County to determine whether live oysters need to be added to each specific location prior to construction. The zoo will conduct the necessary site evaluations, complete the designs for the project, obtain permits, and construct the oyster projects, with the assistance of volunteers and community partners.

TASKS and DELIVERABLES:

The Brevard Zoo agrees to include physical signage approved by the County at the site during the performance of the work. The signage shall contain the Brevard County Save Our Indian River Lagoon logo. The physical design of the sign shall allow space for the following text: "This project has been funded in part by the Save Our Indian River Lagoon ½ cent sales tax."

Task #1: Site Evaluation

Task Description: Brevard Zoo will complete all site evaluations needed to proceed to the design and permitting processes. This includes but is not limited to the following: an initial site visit to examine fetch, depth, salinity, presence of oysters, sediment composition, and any surrounding considerations; a sea grass survey; any necessary follow up visits; communications with the landowner and contract negotiations.

Deliverable: Letter of Commitment or Letter of Support from all property owners, if applicable.

Task #2 Design

Task Description: Brevard Zoo will complete the designs for these oyster projects and share with the county, prior to submittal of permit applications. This task will also include preparing the drawings that will be needed to secure all permits. The proposed designs will be site specific and will be approved by the County prior to construction. The zoo will consult with the County to determine whether live oysters need to be added to each specific location as part of their construction.

Deliverable: Sketch of designs and site evaluations.

Task #3 Permitting

Task Description: Brevard Zoo will obtain all necessary permits for the completion of this project, both from Army Corps of Engineers and the State agency, which will either be St. Johns River Water Management District or Florida Department of Environmental Protection, depending on the decision of the agencies mentioned for each site. The zoo will submit copies of all said permits to the County. When permits address monitoring, success criteria, and/or removal contingencies, they will be reviewed by County prior to permit submittal and finalization.

Deliverable: Copy of all permits.

Task #4 Construction

Task Description: Brevard Zoo will construct the oyster projects in accordance with the final designs and required permits. This will be a multi-pronged process that can be broken into four steps: material

acquisition, material preparation, staging, and installation. Material acquisition will be completed in the form of the collection of shell from participating restaurants and a local shucking house, as well as the purchase of all other necessary materials. Material preparation includes coordinating the construction, palletizing and storing of the materials needed for these reefs, whether done in house or with the assistance of volunteers or community partners. Staging includes the mobilization of the necessary materials from the storage location to the build sites. Installation includes placing the materials in the correct locations in the water and securing them in accordance with the designs and permits. The finished product will be 37,602 square feet of oyster reef in the Central basin of the IRL. Live oysters will be added to all areas deemed appropriate after consulting with the County. Brevard Zoo will accomplish these tasks with the assistance of volunteers and community partners.

Deliverable: Pictures of installations and GPS Coordinates of the completed reefs.

Task	Task Title	Task Start Date	Task End Date
1	Site Evaluation	4/1/26	8/31/29
2	Design	4/1/26	12/31/29
3	Permitting	4/1/26	12/31/29
4	Construction:	4/1/26	12/31/29
4 a	Material Acquisition	4/1/26	12/31/29
4 b	Material Preparation	4/1/26	12/31/29
4 c	Staging	4/1/26	12/31/29
4 d	Installation	7/1/26	12/31/29

Estimated Reimbursement Schedule: Project reimbursements will be requested quarterly.

Note that quarters go by the County fiscal year so 1st quarter is Oct.-Dec., 2nd quarter is Jan.-Mar., 3rd quarter is Apr.-Jun., 4th quarter is Jul.-Sept..

Task	Q4 25-26	Q1 26-27	Q2 26-27	Q3 26-27	Q4 26-27	Q1 27-28			
Project as described in SOW	\$100,000	\$50,000	\$200,000	\$200,000	\$100,000	\$64,400			

Deliverables: Quarterly and final reports including pictures of progress made, or plans if pictures are not yet available.

Project’s Status without Trust Funds (Adjust the highlighted section and delete the other options that do not apply):

This project is not included in the zoo’s FY 2025 budget, therefore without the Save Our Indian River Lagoon Funding the project would not have been executed in the near future.

SAVE OUR INDIAN RIVER LAGOON
PROJECT PROGRESS REPORT FORM

Date: _____

Report Number: _____

Project Information

Project Name:			
Recipient Name:			
Contract Number:		County Project Manager Email:	
Nitrogen Reduction Benefit (lbs/yr)		County Project Manager Phone:	
Phosphorus Reduction Benefit (lbs/yr)		Recipient's Email:	
TSS Reduction Benefit (lbs/yr)		Recipient's Phone:	

Construction Schedule

Start Date (mm/dd/yy):	
Completion (mm/dd/yy):	

Reporting Period

Beginning Date (mm/dd/yy):	
Ending Date (mm/dd/yy):	

Budget

Total Budget:	
Expended To-date:	
Contract Amount:	

Expended This Period:	
Percent Budget Expended:	0%
Percent Cost Share:	0%

Estimated Reimbursement Schedule

Fiscal Year 1		
Reimbursement #	Anticipated Amount	Anticipated Date
1		
2		
3		
4		

Fiscal Year 2		
Reimbursement #	Anticipated Amount	Anticipated Date
1		
2		
3		
4		

Project Status (Include Overall Project % Complete)

--

Tasks/Milestones/Deliverables Scheduled for this Reporting Period or Within the Next 90 days:

Task Number	Tasks/Milestones/Deliverables	Start Date	Finish Date	Percent Complete	Projected Finish Date
1	Permitting			0%	
2	Engineering			0%	
3	Construction			0%	
				0%	
				0%	

Problems, Issues, Solutions, Anticipated deviations from schedule:

--

Attach an additional page of notes if necessary to explain reasons for lateness or unusual events or circumstances.

Attachment C -- Detail Sheet

Save Our Indian River Lagoon Cost Share Program -- Invoice for Reimbursement

RECIPIENT'S NAME:	
PROJECT NAME:	
COUNTY'S PROJECT MANAGER:	
AGREEMENT NO.:	
PERFORMANCE PERIOD FROM:	
PERFORMANCE PERIOD TO:	
PAYMENT REQUEST NO.:	
DATE OF REQUEST:	
TOTAL PROJECT COST:	
COST-SHARE PERCENTAGE:	
COST-SHARE AMOUNT:	
TOTAL COST-SHARE PREVIOUSLY REIMBURSED:	
CURRENT REIMBURSEMENT AMOUNT REQUESTED:	

NOTES:

ITEM NO.	VENDOR	DESCRIPTION OF SERVICES	CHECK DATE	CHECK NUMBER	INVOICE NUMBER	INVOICE AMOUNT	CURRENT REIMBURSEMENT AMOUNT REQUESTED
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
TOTALS:						\$ 0.00	\$ 0.00

Recipient's Certification of Payment Request

I, _____, on behalf of _____, do hereby certify for SOIRL Agreement No. _____ and Payment Request No. _____ that:

- The disbursement amount requested is for allowable costs for the project described in Attachment A of the Agreement.
- All costs included in the amount requested have been satisfactorily purchased, performed, received, and applied toward completing the project; such costs are documented by invoices or other appropriate documentation as required in the Agreement.
- All procurement for the amount requested was completed in a manner consistent with applicable law and contract requirements.
- If notified by the County of any restrictions on the use of local preference for this Agreement, the Recipient confirms that no local preference was used.
- The Recipient has paid such costs under the terms and provisions of contracts relating directly to the project; and the Recipient is not in default of any terms or provisions of the contracts.

Check all that apply:

- All permits and approvals required for the construction, which is underway, have been obtained.
- Construction up to the point of this disbursement is in compliance with the construction plans and permits.
- The Recipient's Grant Manager relied on certifications from the following professionals that provided services for this project during the time period covered by this Certification of Payment Request, and such certifications are included:

Professional Service Provider (Name / License No.)	Period of Service (mm/dd/yy – mm/dd/yy)

 Recipient's Grant Manager's Signature

 Print Name

 Telephone Number

 Recipient's Fiscal Agent

 Print Name

 Telephone Number

ATTACHMENT E

Recipient Name:	Brevard Zoo
Project Name:	Brevard Zoo Central Indian River Lagoon Oyster Project 5
Agreement Number:	273

Estimated Project Cost-Share Table							
Task	Task Description	Task Cost	Grant 1	Grant 2	Grant 3	Eligible Lagoon Tax Cost Share, Adjusted	Local Match
1	Project as Described in	\$714,400.00					
	Total	\$ 714,400.00	\$ -	\$ -	\$ -	\$714,400.00	

Funding Eligibility Calculation	
Project Type	Oyster Reef
BMP Type (If stormwater)	
Pounds of Nitrogen Reduction	1,504
Eligible Cost Share per Pound	\$ 475
Eligible Tax Funding Cost Share	\$ 714,400.00
Reduction so Sum of Grants does not exceed Project Cost	\$ -
Eligible Lagoon Tax Cost Share, Adjusted	\$ 714,400.00
Percent Cost Share to be contributed by the Lagoon Tax	100%

Attachment F

DISCLOSURE FORM

FOREIGN INFLUENCE ON CONTRACTS OR GRANTS HAVING A VALUE OF \$100,000 OR MORE

Summary of Form: In order for the County to comply with section 286.101, Florida Statutes, all prospective contractors and grant recipients seeking to contract with the County, or receive a grant from the County, where said contract or grant has a value of \$100,000 or more must disclose to the County (1) any current or prior interest of, (2) any contract with, or (3) any grant or gift received from a foreign country of concern (defined as the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, and the Syrian Arab Republic, or an agency or other entity under the significant control of such foreign country of concern) if such interest, contract, or grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract or grant or gift was received or in force at any time during the previous five years. The disclosure is specified below. Within one year before applying for any grant or proposing any Contract, such entity must provide a copy of such disclosure to the Department of Financial Services. Disclosure is not required in certain circumstances, outlined below. A Contract is any agreement for the direct benefit or use of any party to such agreement, including an agreement for the sale of commodities or services. A Gift is any transfer of money or property from one entity to another without compensation. A Grant is a transfer of money for a specified purpose, including a conditional gift. An interest in an entity means any direct or indirect investment in or loan to the entity valued at 5 percent or more of the entity’s net worth or any form of direct or indirect control exerting similar or greater influence on the governance of the entity.

I. SECTION I. Please answer yes or no to each statement below:

YES / NO I AM BIDDING ON A CONTRACT/APPLYING FOR A GRANT WITH A POTENTIAL VALUE UNDER \$100,000. If yes, this disclosure form has been completed. Please sign and date at the bottom.

YES / NO I AM BIDDING ON A CONTRACT/APPLYING FOR A GRANT WITH A POTENTIAL VALUE OF OVER \$100,000. If yes, proceed to the next question.

YES / NO I HAVE MADE A FOREIGN INFLUENCE DISCLOSURE ONLINE WITH THE DEPARTMENT OF FINANCIAL SERVICES. If yes, please proceed to SECTION IV and provide the date of the disclosure, your name and address. Then sign and date at the bottom.

II. SECTION II. Please answer yes or no to the statement below:

YES / NO Bidder/Grantee has (1) a current or prior interest of, any contract with, or any grant or gift received from a foreign country of concern (defined as the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan Regime of Nicolas Maduro, and the Syrian Arab Republic, or an agency or other entity under the significant control of such foreign country of concern); and (2)

Attachment F

such interest, contract, or grant or gift has a value of \$50,000 or more; and (3) such interest existed, or such contract or grant or gift was received or in force at any time during the previous five years.

III. SECTION III. If you answered NO to SECTION II, you have completed this form. Please sign/date at the bottom. If you answered YES to SECTION II, then answer YES or NO to the following:

- YES / NO This is a proposal to sell commodities through an online procurement programs established pursuant to section 287.057(22), Florida Statutes.
- YES / NO This is a proposal from an entity that discloses foreign gifts or grants under section 1010.25 or section 286.101(2), Florida Statutes.
- YES / NO This is a proposal from a foreign source that, if granted or accepted, would be disclosed under section 286.101(2) or section 1010.25, Florida Statutes.
- YES / NO This is a proposal from a public or not-for-profit research institution with respect to research funded by any federal Agency.

IV. SECTION IV. If you answered YES to any question in SECTION III, you have completed this form. Please sign/date at the bottom. If you answered NO to all of the questions in SECTION III, then you must make the following disclosures online to the State of Florida Department of Financial Services before the County may contract with you or award you said grant. Please disclose the following:

Date Disclosure of the information below was made by Bidder/Grantee to the State of Florida Department of Financial Services online: _____

Name of Bidder/Grantee: _____

Mailing Address of Bidder/Grantee: _____

Value of the Contract/Grant or Gift: _____

Foreign Country of Concern or the Agency or other entity under the significant

Control of such Foreign country of Concern: _____

Date of Termination of the contract or interest with the Foreign Country of Concern:

Date of Receipt of the Contract/Grant or Gift: _____

Name of the agent or controlled entity that is the source or interest holder:

Attachment F

I verify that the information provided on this form is true and correct, and that I am duly authorized to make said binding disclosures on behalf of myself or my Company, as applicable.

Signature: _____ Date: _____

Title: _____

STATE OF FLORIDA

COUNTY OF _____

Sworn to and subscribed before me by means of physical presence or online notarization, this ____ day of _____, _____, by (name of person making statement).

[Notary Seal]

Notary Public

Name typed, printed or stamped

My Commission Expires: _____

_____ Personally Known OR _____ Produced Identification

Type of Identification Produced _____

**AGREEMENT TO FURNISH PROFESSIONAL
CONSULTING SERVICES FOR:**

CONTRACT RFQ-6-24-10

TASK ORDER 25-10712-002-DSR-SOIRL

**TITUSVILLE EAST & WEST MUCK PROJECT
PRE-DESIGN INVESTIGATION**

THIS TASK ORDER is entered into the date of last signature below by and between Geosyntec Consultants (Geosyntec), hereinafter referred as the ENGINEER, and the Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida, hereinafter referred to as the COUNTY.

WHEREAS, on August 16, 2024, the ENGINEER and the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY entered into an AGREEMENT, wherein the ENGINEER agreed to furnish engineering services to the COUNTY as referred to in the AGREEMENT, and

WHEREAS, under SECTION 2 of the PROFESSIONAL SERVICES CONTRACT, the ENGINEER agrees to provide certain professional engineering services which shall be implemented by TASK ORDERS,

NOW, THEREFORE, the parties do mutually agree as follows:

Summary

This task order will allow Geosyntec to perform a Pre-Design Study for the Titusville East & West Muck project area located in the Indian River Lagoon on the east and west sides of the Intracoastal Waterway (ICW), and adjacent to the south side of the Titusville railroad bridge that connects the mainland to Merritt Island. The project area encompasses approximately 80 acres of lagoon bottom containing an estimated 1,074,000 cubic yards of muck, including 704,000 CY in the east area and 370,000 CY in the west area. The primary objective of this task order is to collect additional data to further support the alternatives recommended in the project-specific Alternatives Assessment, developed under Task Order No. 1, and to identify a single alternative for design. This study will collect the remaining field data and complete pre-design evaluations necessary to advance the project toward final design of a preferred restoration approach, such as sand capping or confined aquatic disposal (CAD) with ecological enhancement.

The Pre-Design Study includes eight major phases:

1. **Project Technical and Coordination Meetings** – Conduct internal coordination, project management, and virtual meetings with County staff to review field investigation results and report development.
2. **Muck Thickness Measurements** – Collect approximately 111 additional muck-depth measurements to refine sediment extent and update volumetric estimates.

3. **Sand Sourcing Study** – Visit and sample up to two potential sand sources (e.g., FIND DMMA sites or commercial borrow pits) to evaluate availability, quality, and transport logistics for potential sand capping or fill.
4. **Geotechnical Investigation** – Conduct Cone Penetration Testing (CPT) and vibracore sampling to characterize subsurface conditions and evaluate muck stability and consolidation properties.
5. **Dredged Material Treatability Testing** – Perform polymer jar and consolidation testing on muck samples to evaluate dewatering and sediment handling options.
6. **Initial Cap Stability Modeling** – Perform desktop analyses to assess stability and erosion potential of proposed sand caps under hydrodynamic and propeller-induced forces.
7. **Geotechnical and Analytical Evaluation Technical Memorandum** – Interpret all field and laboratory data to support cap design, slope stability, and consolidation recommendations.
8. **Pre-Design Study Report** – Prepare a comprehensive report summarizing all findings and providing recommendations for feasible restoration alternatives, including thin-layer sand capping and confined aquatic disposal (CAD) with ecological capping.

Geosyntec will use the expertise of Applied Ecology, Inc. (AEI) as support in the data evaluation. The following deliverables will be provided electronically in draft and final form as applicable:

- **Phase 1 – Project Technical and Coordination Meetings:**
Finalized PowerPoint slide decks for the Post-Field Investigation Summary and Pre-Design Study Report Development meetings.
- **Phase 2 – Muck Thickness Measurements:**
Draft and final Muck Thickness Memorandum, including figures and updated muck volume estimates.
- **Phase 3 – Sand Sourcing Study:**
Draft and final PE-signed Sand Source Technical Memorandum summarizing site inspections, laboratory results, cost and transport evaluations, and County-requested revisions.
- **Phase 4 – Geotechnical Investigation:**
Field notes and photographic log documenting sampling activities and progress.
- **Phase 5 – Dredged Material Treatability Testing:**
Laboratory memorandum summarizing polymer jar test and consolidation results.
- **Phase 6 – Cap Stability Modeling:**
Draft and final Cap Stability Modeling Memorandum, including desktop modeling, propeller scour analysis, and cap design considerations.
- **Phase 7 – Geotechnical and Analytical Evaluation:**
Draft and final PE-signed Geotechnical Evaluation Memorandum, including consolidation modeling, slope stability, and lift recommendations.
- **Phase 8 – Pre-Design Study Report:**
Draft and final PE-signed Pre-Design Study Report incorporating County review comments and summarizing all findings.

Section I, Scope of Work

See Exhibit A

Section II, Schedule

See Exhibit A

Section III, Deliverables

See Exhibit A

Section IV, Compensation

For the scope of work described in Section I of this agreement, compensation from the COUNTY to the ENGINEER shall be on a fixed fee, not to exceed, basis of **\$719,688.37** as indicated in Exhibit A, unless authorized by a written Change Order executed by the COUNTY. Upon submittal of deliverables as described in Section III of this agreement, the COUNTY will be invoiced only for actual work delivered. The COUNTY shall pay such invoices in accordance with Florida's Prompt Payment Act. The COUNTY reserves the right to refuse payment for or deduct from any invoice, fees for incomplete or defective work. The following is a summary of the fee breakdown:

A. Engineering Services

Phase 1. Project Technical Meetings and Internal Coordination	\$40,924.55
Phase 2. Data Assimilation	\$59,177.84
Phase 3. Alternatives Assessment and Site Visit	\$41,756.84
Phase 4. Geotechnical Investigation	\$334,774.82
Phase 5. Dredged Material Settling Testing	\$58,128.54
Phase 6. Initial Cap Stability Modeling	\$56,260.11
Phase 7. Geotechnical and Analytical Evaluation Technical Memorandum	\$87,073.91
Phase 8. Pre-Design Study Report	\$41,591.76
TOTAL FIXED FEE NOT TO EXCEED	\$719,688.37

Section V, Other Terms and Conditions

All the terms and conditions of the AGREEMENT, and any amendments thereto, shall apply to this Task Order as fully set out herein unless such terms and conditions are specifically superseded by the Terms and Conditions of this Task Order. It is hereby acknowledged that this Task Order is prepared based upon the master contract approved by the COUNTY on August 16, 2024, for engineering services between the ENGINEER and COUNTY. As such, this Task Order is subject to all conditions and stipulations contained in said AGREEMENT, as amended.

PURSUANT TO FLORIDA STATUTE SECTION 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT OF TAYLOR ENGINEERING, INC. MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.

Section VI, Effective Date and Authorized to Proceed

This Task Order shall be effective on the date specified in the Notice to Proceed from the COUNTY'S designated representative. This task order will expire on September 30, 2026, unless otherwise extended through a subsequent change order.

Section VII. Authority

The Parties warrant that the person signing this Task Order has all the requisite authority necessary to bind the Party they represent.

IN WITNESS WHEREOF, the parties hereto set their hands and seals the date and year above written.

BREVARD COUNTY, FLORIDA

By: Thad Altman

Print: Thad Altman

Title: Chair

Date: 12/2/2025

As approved by the Board on: February 11, 2025

Attest
By: Rachel M. Sadoff
Rachel M. Sadoff, Clerk
Date: DEC 03 2025

Geosyntec Consultants, Inc

By: _____

Print: _____

Title: _____

Date: _____

LICENSE AND RIGHT-OF-WAY CONSENT AGREEMENT
(FPL License #31233-ND-2025)

THIS LICENSE AND RIGHT-OF -WAY CONSENT AGREEMENT ("License") is made this ____ day of _____, 2025 ("**Effective Date**") by and between Florida Power & Light Company, a Florida corporation ("**Licensor**"), whose mailing address is 700 Universe Blvd., B2A/JB, Juno Beach, Florida 33408-0420, and Brevard County, a political subdivision of the State of Florida, ("**Licensee**"), whose mailing address is 2725 Judge Fran Jamieson Way, Building A, Room 219, Viera, Florida 32940.

WITNESSETH

WHEREAS, Licensor is the owner in fee simple of that certain real property located in Brevard County, Florida, more particularly shown and described on **Exhibit A** attached hereto and incorporated herein by this reference ("**Licensed Premises**");

WHEREAS, Licensor is the owner and holder of those certain easements recorded in Official Record Book 5799, Page 6855, Official Record Book 5809, Page 786, and Official Record Book 5841, Page 2466 all of the Public Records of Brevard County, Florida (collectively, the "**Easements**"), which Easements encumber that certain real property located in Brevard County, Florida, more particularly shown and described on **Exhibit B** attached hereto and incorporated herein by this reference ("**Easement Area**");

WHEREAS, Licensee desires to use the Licensed Premises and Easement Area as stated herein and Licensor desires to allow such use of the Licensed Premises and consent to Licensee's use of the Easement Area granted by the Easements upon the terms and conditions hereinafter set forth in this License.

NOW, THEREFORE, in consideration of the mutual benefits, covenants, agreements and promises contained in this License, the License Fee set forth below, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

TERMS, CONDITIONS, AND PROVISIONS

1. **Recitals**. The foregoing recitals are true and correct and incorporated herein by this reference.
2. **Use and Consent**. Licensor hereby grants to Licensee and Licensee hereby accepts from Licensor, a non-exclusive license to use the Licensed Premises solely as an access road for truck travel between the public right-of-way and a parcel owned by the St. Johns River Water Management District ("**SJRWMD**"), but not for any other purpose whatsoever, upon the terms and conditions set forth in this License. Licensor hereby consents to Licensee using the Easement Area granted under the Easements solely as an access road for truck travel between the public right-of-way and a parcel owned by the SJRWMD, but not for any other purpose whatsoever, upon the terms and conditions set forth in this License; provided however, as a condition to such consent, Licensee agrees to obtain all necessary rights from the owners of the Easement Area to use the Easement Area for Licensee's permitted use hereunder since Licensor does not own the Easement Area. For purposes of this License, the Licensed Premises and Easement Area shall be collectively referred to as the "**Lands**". In addition to the terms and conditions set forth in this License, Licensee must use the Lands in accordance with the additional terms and conditions set forth in attached **Exhibit C**. Licensee shall obtain at its sole cost and expense, all applicable federal, state, and local permits required in connection with Licensee's allowed use of the Lands and provide copies of each such permit to Licensor, and at all times, Licensee shall comply with all requirements of all federal, state, and local laws, ordinances, rules and regulations applicable or pertaining to the use of the Lands by Licensee pursuant to this License.
3. **Term**. This License is for a term of two (2) years commencing on the Effective Date and ending on the second (2nd) anniversary of the Effective Date ("**Term**"), unless earlier terminated as provided by this License, or otherwise extended by mutual written agreement of Licensor and Licensee.
4. **License Fee**. During the Term, Licensee shall pay Licensor the sums set forth below in the "License Fee Due Date / Payment Amount" schedule, ("**License Fee**"), in lawful currency of the United States of America in the form of a regular bank check, cashier's check or money order. The first annual License Fee payment shall be due upon the Effective Date of this License and the second annual License Fee shall be due on or before November 1, 2026. License Fee payments shall be mailed to the following address:

FPL
General Mail Facility
Miami, Florida 33188-0001

<u>License Fee Due Date</u>	<u>Payment Amount</u>
Effective Date	\$5,000.00
November 1, 2026	\$10,000.00

5. **Licensor's Rights**. Licensee agrees to never claim any interest or estate of any kind or extent whatsoever to or in the Lands by virtue of this License or the occupancy or use hereunder. Licensee's use of the Lands shall always be subordinate to Licensor's rights to and in the Lands. Licensor hereby reserves the right to enter upon the Lands at any time and for any purposes and Licensee shall notify its employees, agents, contractors, subcontractors, licensees, and invitees accordingly. Licensor, its employees and contractors are not and shall not be responsible or liable for any injury, damage or loss to Licensee resulting from Licensor's use and/or Licensee's use of the Lands. Licensor may at its sole discretion, install and/or permit others to install facilities upon, over and/or under the surface of the Lands at any time and from time to time during the Term.

6. **Conditions and Restrictions on Use**.

- (a) Licensee shall, at its sole cost and expense, comply with all laws, rules, and regulations of all governmental authorities having jurisdiction over the Lands or use of the Lands. Licensee shall employ all land management practices standard in the county and/or counties in which the Lands are located according to the purpose for which this License is granted and for the protection of the Lands. Licensee shall not designate or use the Lands to satisfy or comply with any minimum required parking code. Licensee shall not within the Lands, construct or erect any permanent or temporary building, structure, fixture, fence, shelter, attachment or improvement without the prior written consent of Licensor. All work to be performed by Licensee upon the Lands shall be in accordance with detailed plans and specifications to be prepared by Licensee and submitted to Licensor for Licensor's prior written approval thereof. Licensee shall not commence any work on the Lands unless and until such plans and specifications have been approved in writing by Licensor. Licensee shall pay directly on its own behalf for all costs and expenses associated with the construction and maintenance of all improvements and facilities that it constructs, operates and maintains upon the Lands. All fences, gates, lighting systems and irrigation systems installed by Licensee shall be electrically grounded according to Licensor's specifications. Licensee shall not cause or allow any waste of the Lands and shall not remove soil, import soil or alter the existing surface elevation of the Lands without first obtaining Licensor's prior written consent, which Licensor may grant or withhold in its sole discretion. Licensee shall not commit or allow any waste or damage to be committed on any portion of the Lands and shall keep the Lands in clean, safe and sanitary condition and in good repair and condition during the Term, as may be extended. Licensee shall pay for all utility and other services furnished to or for Licensee upon the Lands.
- (b) Licensee shall not use the Lands in any manner which, in the sole opinion of Licensor, might interfere with Licensor's use of the Lands or might cause a hazardous condition to exist. Licensee acknowledges that electrical equipment and appurtenances including, but not limited to, utility poles, overhead and underground wires, cables, conduits, circuits, insulators, transformers, guy wires and guy wire anchors (collectively "**Licensor Facilities**"), are installed or may be installed over, upon and under the surface of the Lands by Licensor and/or by others and are conductors of high-voltage electricity. Licensee understands that contact with or disturbance of any of these Licensor Facilities may cause a condition hazardous to persons and/or property. Licensee shall exercise extraordinary precautions to prevent injury or damage to persons and/or property that could result from contact with or disturbance of Licensor Facilities. Licensee shall notify its employees, agents, contractors, subcontractors, licensees and invitees of the existence of Licensor Facilities when working in the vicinity of Licensor Facilities. Licensee hereby acknowledges the receipt and required execution of the Form 360, a copy of which is attached hereto as **Exhibit D**, prior to the commencement of any construction activities within the Lands.
- (c) Licensee shall not install any improvements within twenty-five (25) feet of Licensor Facilities, unless Licensee first obtains prior written approval from Licensor. Licensee shall not cause or allow anything to exceed fourteen (14) feet in height above the surface of the Lands, nor allow any equipment capable of extending greater than fourteen (14) feet above the surface of the Lands to be brought upon the Lands, except that this provision shall not apply to equipment and items brought onto the Lands by Licensor or Licensor's employees, agents, and contractors. Licensee shall utilize effective dust control measures to

prevent contamination of high-voltage circuit insulators. Licensor shall have the right, but no form of obligation, to inspect the Lands to determine if Licensee is in compliance with all terms, conditions and provisions of this License.

7. Environmental.

- (a) Licensee agrees that no hazardous substance, as the term is defined in Section 101 (14) of the Comprehensive Environmental Response Compensation and Liability Act ("**CERCLA**") (42 USC Section 9601 [14]), petroleum products, liquids or flammables shall be placed upon, under, transported across, or stored upon the Lands, which restricts, impairs, interferes with, or hinders the use of the Lands by Licensor or the exercise by Licensor of any of its rights thereto.
- (b) After the Effective Date, Licensee may perform a Phase I and/or Phase II environmental site assessment as per ASTM criteria to investigate the existing environmental condition of the Licensed Premises (and with the Easement Area with permission of the fee simple owner of the Easement Area) that is the subject of this License. The performance or the failure to perform an environmental site assessment does not relieve the Licensee from compliance with any other provision of this section of this License. Licensee shall maintain copies of any local, state or federal permits, licenses or other authorizations required for any and all of its activities on the Lands and present copies of such permits, licenses or other authorizations to Licensor and to any local, state and federal governmental agency official that requests to see the same. Licensee, at Licensee's sole cost and expense, shall perform all conditions required under any and all ground and surface water permits issued to Licensee (if any) in connection with the Lands, including all maintenance and reporting obligations.
- (c) Licensee shall not create or contribute to any Environmental Contamination, Unauthorized or Unpermitted Wetland Impacts, Unpermitted Groundwater Wells, Illegal Use of Ground or Surface Waters or any Other Environmental Impacts (individually and collectively referred to as "**Environmental Conditions**") as a result of its use of the Lands.
 - (1) Environmental Contamination is defined as any spilling or discharge of any chemical constituent by the Licensee to the environment that results in any pollution, seepage or contamination of the groundwater, surface water, soil, or any other environmental media, on or from the Lands, above the federal, state or local regulatory levels; including: (i) for groundwater: Chapters 62-777, Table I, 62-520, or 62-550 of the Florida Administrative Code ("**FAC**"); (ii) for surface waters: Chapters 62-777, Table I, or 62-302 of the FAC; and (iii) for soils: Chapters 62-777, FAC, Table II; or above natural background levels.
 - (2) Wetland Impacts are defined as activities impacting areas defined as "**wetland**" under the following: (i) federal law (for example, Section 404 of the Clean Water Act); (ii) federal rules (for example, current approved Army Corps of Engineers ("**ACOE**") Delineation Manual); (iii) federal guidance; (iv) state law (for example, Section 373.019(22), Florida Statutes); (v) state rules (for example, Chapter 62-340, FAC); (vi) state guidance; (vii) case law as formulated that further explains wetland jurisdictional criteria; (viii) local law (for example, county ordinances; (ix) local guidance; or (x) local policy. Unauthorized or Unpermitted Wetland Impacts shall mean the failure to obtain all required federal, state and local permits to impact the wetland or undertaking any action or activity in violation of any such permits. Some examples of permits needed to impact the wetland are the county environmental resources management permits, the State of Florida Department of Environmental Protection or Water Management district permits, and the Federal ACOE permits.
 - (3) Unpermitted Groundwater Wells means the installation or the use of an existing groundwater well without obtaining the appropriate state and local permits for the well installation and/or well pumping for use of groundwater or surface water in the area.
 - (4) Illegal Use of Ground or Surface Waters means the withdrawal or use of either ground water or surface water without obtaining any required consumptive use or water use permits from the SJRWMD or in violation of any consumptive use or water use permit issued by the SJRWMD.
 - (5) Other Environmental Impacts, include, but are not limited to: failure to apply pesticides consistent with labeling instructions; failure to dispose of pesticide containers as per label instructions; failure to have licensed and trained personnel applying pesticides; failure to properly manage pesticide mix/load sites

to avoid pesticide release to soils or surface waters in quantities or concentrations other than that specified on the label application instructions; or any violations of Federal Insecticide, Fungicide, and Rodenticide Act, or its state law equivalent; or any violations of the Florida Department of Agriculture and Consumer Services rules or Best Management Practices for the activities contemplated by this License.

- (d) If the Licensee causes any Environmental Conditions to occur because of the performance of activities contemplated by this License, Licensee shall notify Licensor immediately upon discovery. Licensee acknowledges that the failure to deliver such notification may cause Licensor to file a damage claim against Licensee and confers to Licensor the right to terminate this License as set forth below in Section 9. Within seventy-two (72) hours of discovering such Environmental Conditions, Licensee shall, at its sole cost and expense, correct such condition or situation; provided that the Licensor retains the right to enter upon the Licensed Premises (and the Easement Area with the permission of the fee simple owner of the Easement Area) and correct any such condition or situation at any time. Any release notifications required to be submitted to federal, state or local regulatory agencies, because of the actions of Licensee pursuant to this License or any other notifications based on Environmental Conditions, shall be coordinated with Licensor.
- (e) If Licensee, or its employees, contractors, subcontractors or anyone else working at the direction of Licensee causes Environmental Conditions on the Lands, or causes contamination that originates on the Lands, Licensee, on its own behalf and on behalf of its shareholders, officers, directors, employees, servants, agents, and affiliates, shall and hereby does forever hold harmless, indemnify, and release Licensor, and its shareholders, officers, directors, employees, servants, agents and affiliates (collectively, "Licensor Entities") of and from all claims, demands, costs, loss of services, compensation, actions or investigations on account of or in any way growing out of the Environmental Conditions, and from any and all known and unknown, foreseen and unforeseen damages, and the consequences thereof, resulting from the Environmental Conditions, including but not limited to, restoration of the Lands to the condition it existing prior to the occurrence of the Environmental Conditions.

8. **Right to Cure.** Licensor, at its sole discretion, may remove or cause to be removed by it or by its employees, agents, contractors, subcontractors, licensees, and invitees, any and all objects, materials, debris, or structures that could create a condition hazardous to persons or property or interfere with Licensor's use of the Lands or with Licensor Facilities. All costs incurred and/or expended by Licensor pursuant to this section which are caused by Licensee, its employees, agents, contractors, subcontractors, licensees, and invitees, are and shall be the sole obligation of Licensee, who shall reimburse Licensor immediately upon demand. If any of Licensee's activities or Licensee's use of the Lands results in an interruption of electric utility service, then Licensee shall reimburse Licensor for all costs related to each such interruption, including, but not limited to Licensor's lost revenue and costs to restore electric utility service.

9. **Termination.** Licensor may terminate this License (which includes revoking Licensor's consent to Licensee to use the Easement Area) at any time and for any reason or no reason upon giving Licensee at least ninety (90) days prior written notice of such termination and in such case, Licensor shall refund to Licensee, any advance License Fee paid by Licensee to Licensor for the period of time, if any, that Licensee is unable to use the Lands due to Licensor's early termination of the Term. Licensee may terminate this License at any time and for any reason or no reason by giving Licensor at least ninety (90) days prior written notice of such termination; however in such case, Licensee shall not be entitled to a refund of any advance License Fee paid or any License Fee due and payable for any period of time that Licensee does not actually use or is unable to use the Lands as a result of Licensee's early termination of this License. Licensor may immediately terminate this License at any time if Licensor, in its sole discretion, determines that Licensee and/or its employees, agents, contractors, subcontractors, licensees, or invitees have violated and/or failed to comply with any term, condition or provision of this License and such failure continues for five (5) days after receipt of notice thereof from Licensor, and in such event, any advance License Fee and/or other payments paid by Licensee to Licensor or due and payable to Licensor hereunder shall be retained by Licensor as liquidated damages, it being understood and agreed that the damages incurred by Licensor if Licensee fails to perform hereunder may not be ascertained with mathematical precision as of the Effective Date. This License shall terminate automatically upon the dissolution of the Licensee or if Licensee shall become insolvent or bankrupt.

10. **Surrender.** Upon expiration or earlier termination of this License, Licensee shall vacate and leave the Lands in as good a condition as existed prior to the Effective Date, reasonable wear and tear excepted. Upon expiration or earlier termination of this License, Licensee shall remove all personal property and improvements placed upon the Lands by Licensee and shall repair and restore and save Licensor harmless from all damage caused by such

removal. If any or all such personal property and improvements placed upon the Lands by Licensee is not so removed by Licensee within the above prescribed five (5) day time period, then Licensor shall have the right, but not the obligation, to take possession of and appropriate unto itself, without any payment or offset thereof, any personal property and improvements placed upon the Lands by Licensee or any other entity acting on behalf of Licensee. Licensor shall have the right, but not the obligation, to effect removal of such personal property, improvements and items at Licensee's sole cost and expense, the amount of which Licensee agrees to reimburse to Licensor immediately upon Licensor's demand.

11. **No Encumbrances.** Licensee expressly covenants and agrees that the Lands shall not be subject to any encumbrance by any mortgage, lien, financial instrument or other agreement outside of or in addition to this License, nor shall the Licensed Premises be liable to satisfy any indebtedness that may result from Licensee's operation or activity.

12. **Indemnity.** Licensee shall exercise its privileges herein at its sole risk and agrees, to the extent permitted by law and subject to the limitations set forth in Section 768.28, Florida Statutes, if applicable, to indemnify and save harmless Licensor and Licensor Entities, from all liability, loss, cost, and expense, including attorneys' fees, which may be sustained by Licensor Entities, to any person, natural or artificial, by reason of the death of or injury to any person or damage to any property, arising from or in connection with the use of the Licensed Premises by Licensee, and its employees, agents, contractors, subcontractors, licensees, and invitees, except when due to or caused by the negligence of Licensor or Licensor Entities. Except when due to or caused by the negligence of Licensor or Licensor Entities, to the extent permitted by law and subject to the limitations set forth in Section 768.28, Florida Statutes, and from legally available funds, Licensee agrees to defend, at its sole cost and expense, but at no cost and expense to Licensor Entities, any and all suits or actions instituted against Licensor Entities for the imposition of such liability, loss, cost, and expense arising from the use of the Licensed Premises by Licensee and its employees, agents, contractors, subcontractors, licensees, and invitees.

13. **Insurance.** At all times, during the Term, Licensee shall have and maintain, or shall cause Licensee's contractor to have and maintain, at Licensee's (or at Licensee's contractor's, as applicable) sole cost and expense, with insurer(s) rated "A-, VII" or higher by A.M. Best's Key Rating Guide, (i) Commercial General Liability insurance with minimum limits of \$5,000,000 for bodily injury or death of a person(s) and property damage per occurrence. The limits may be evidenced with a combination of primary and excess/umbrella insurance and (ii) Workers' Compensation insurance coverage as mandated by the applicable laws of the State of Florida. Said policies shall be endorsed to insure against obligations assumed by Licensee or Licensee's contractor, as applicable, in the indemnity herein, and to be primary and non-contributory to any coverage maintained by Licensor. Each party releases and waives and will require its insurer release and waive all rights of subrogation against the other for any damage to or loss of property owned by the waiving party. The certificate of insurance shall name Licensor as both an additional insured and certificate holder. An ACORD or similar certificate of insurance shall be furnished to Licensor evidencing that said policy of insurance is in force and will not be canceled or non-renewed so as to affect the interests of the other until thirty (30) days prior written notice has been furnished to Licensor. Upon request, copies of said policy will be furnished to Licensor. Licensee understands and agrees that the use of the Lands is expressly contingent upon acceptance and compliance with the provisions contained herein.

14. **No Transfer.** Licensee shall not, without the prior written consent of Licensor, allow any other entity or party to occupy or use the Lands or in any way transfer, assign, lease, sublease, license, sublicense or in any other manner, convey this License to any entity or party not specifically named herein by Licensor as a party to this License. Licensee shall not hypothecate this License, nor enter into any license, concession agreement, mortgage, contract or other agreement which conflicts with or is contradictory to the terms and provisions of this License.

15. **Holding Over.** If Licensee continues to occupy and/or use the Lands, or any part thereof, after the expiration or earlier termination of this License, then no tenancy, ownership or other legal interest in the Lands to the benefit of Licensee shall result therefrom, but such holding over shall be an unlawful detainer and all parties occupying and/or using the Lands shall be subject to immediate eviction and removal, and Licensee shall upon demand pay to Licensor, as liquidated damages, a sum equal to \$250 per day for each day during any and all period(s) which Licensee and/or its employees, agents, contractors, subcontractors, licensees, and invitees fail to vacate the Lands after the date upon which this License becomes expired or terminated.

16. **Subordination by Licensee.** This License is made expressly subject and subordinate at all times to any and all mortgages, deeds of trust, ground or underlying licenses affecting the Lands which have been executed and delivered, or which may at any time hereafter be executed and delivered, and any and all extensions and renewals

thereof and substitutions therefore and modifications and amendments thereof, and to any and all advances made or to be made under or upon said mortgages, deeds of trust, ground or underlying licenses. Licensee agrees to execute any reasonable instrument(s) which the Licensor may deem necessary or desirable to effect the subordination of this License to any or all such mortgages, deeds of trust, ground or underlying licenses which do not diminish, alter or change Licensee's rights hereunder.

17. **Waiver of Jury Trial.** LICENSEE KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY AND ALL RIGHT(S) IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED UPON, OR ARISING FROM, UNDER, OR IN CONNECTION WITH THIS LICENSE, OR ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER ORAL OR WRITTEN) OR ACTION OF LICENSEE.

18. **Attorneys' Fees.** In the event of any litigation arising between the parties under this License, each party shall be responsible for its own reasonable attorneys' fees and paralegals' fees and court costs at all trial and appellate levels. This paragraph shall survive expiration or termination of this License.

19. **Applicable Law and Venue.** This License, including each and all of its terms, conditions and provisions, is governed by and interpreted according to the laws of the State of Florida. All legal matters arising out of, or in connection with this License are and shall be subject to a court of competent jurisdiction within the State of Florida. The parties agree that jurisdiction to adjudicate any case or controversy involving this License shall exclusively be in the state courts located in County wherein the Lands are located. If any term, condition or provision, or any part thereof, is found by a Florida court to be unlawful, void or unenforceable, then that term, condition, provision or part thereof shall be deemed severable and will not affect the validity and enforceability of any of the remaining terms, conditions and provisions of this License.

20. **Time and Entire Agreement.** Time is of the essence, and no extension of time shall be deemed granted unless made in writing and executed by both Licensor and Licensee. This instrument constitutes the entire agreement between the parties hereto and relative to the License, and any agreement or representation which is not expressly set forth herein and covered hereby is null and void. All amendments, modifications, changes, alterations and supplements to this License must be in writing and executed by both Licensor and Licensee in order to be deemed valid and enforceable. If Licensor fails or elects to not enforce Licensee's breach of any term, condition or provision of this License, then Licensor's failure or election to not enforce Licensee's breach shall not be deemed a waiver of Licensor's right to enforce one or more subsequent breaches of the same or any other term, condition or provision of this License.

21. **Notices.** All notices associated with and related to this License shall be deemed to have been served upon the date and time received by Licensor or Licensee at the addresses set forth in the Preamble by government postal service, private delivery service or by electronic email. Either party may, at any time, designate in writing a substitute address for the address first written above, and thereafter notices shall be directed to such substituted address.

22. **Recording.** Neither this License, nor any memorandum or document related hereto may be recorded in any official public record.

23. **Headings and Gender.** All headings in this License are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this License. In construing this License, the singular shall be held to include the plural, the plural shall include the singular, and the use of any gender shall include every other and all genders.

24. **Construction.** This License shall not be construed more strictly against one party than against the other, merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both parties have contributed substantially and materially in the negotiation and preparation of this License, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this License or any exhibits, schedules, addendums or amendments hereto.

25. **Counterparts.** This License may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute a single instrument. For the purposes of this License, a facsimile or electronic signature shall be deemed to have the effect of an original to the party so delivering such signature, and signatures delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, shall be given the same legal force and effect as original signatures.

26. **Authority**. The parties represent and warrant that the individuals and entities executing below have authority to execute this License, bind the respective entities hereto, and perform their obligations hereunder.

[Signatures on Next Page]

Exhibit A

The Licensed Premises is comprised of that certain portion of Brevard County, parcel identification number 30G-38-01-HJ-*-94, depicted below and containing a total of approximately 4.4+/- acres.

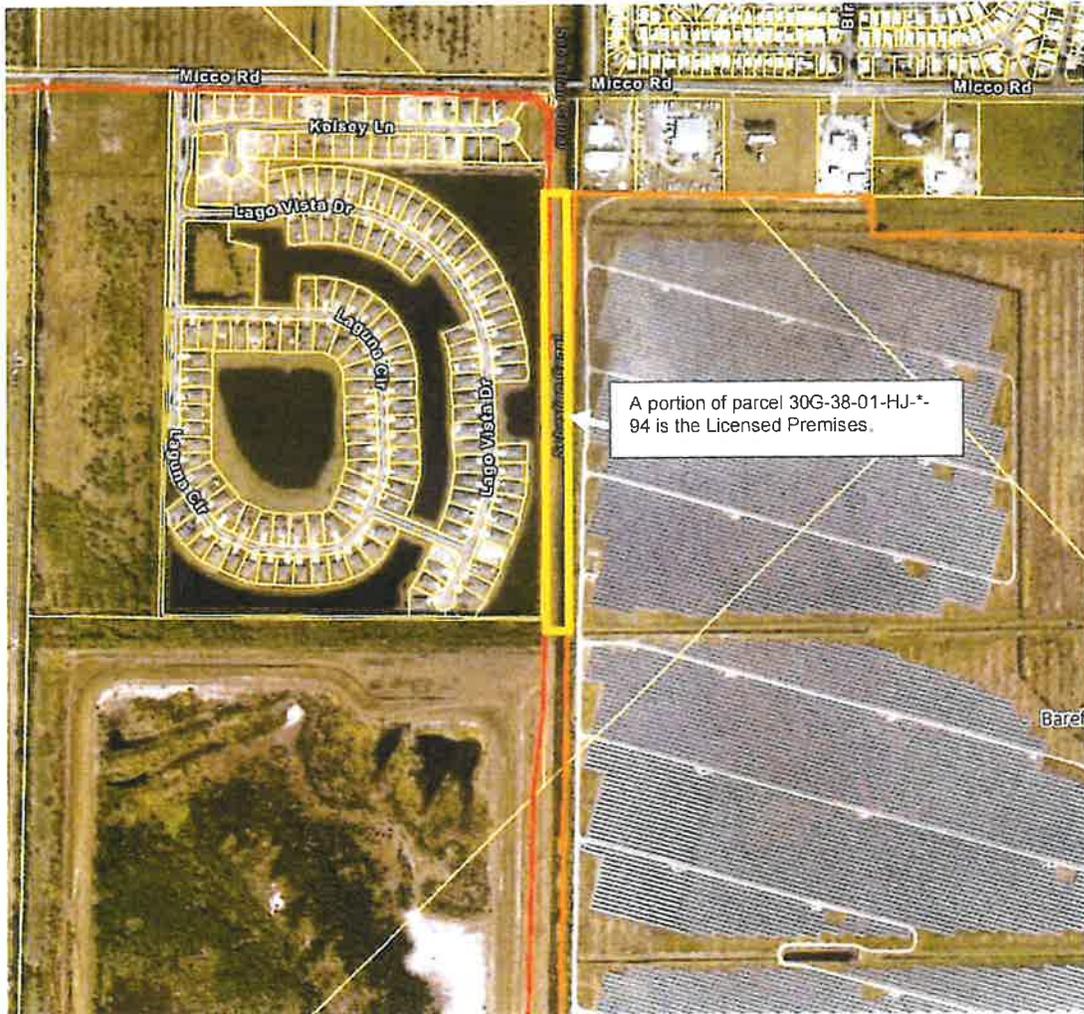


Exhibit C

Additional Terms and Conditions for Use of the Lands

Figure 2 - Southernmost Portion of FPL & SJRWMD Access Roads

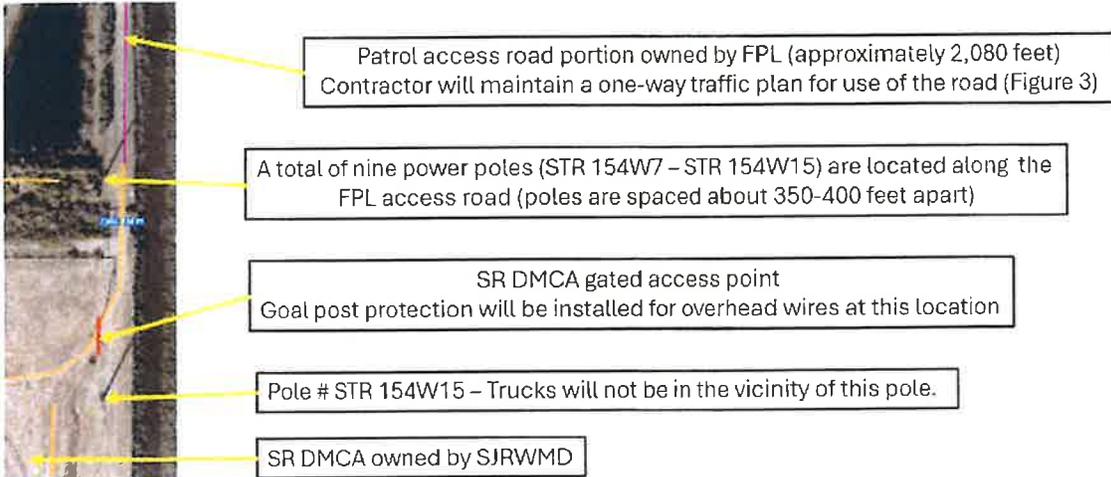


Figure 1 - Northernmost Portion of SJRWMD & FPL Access Roads

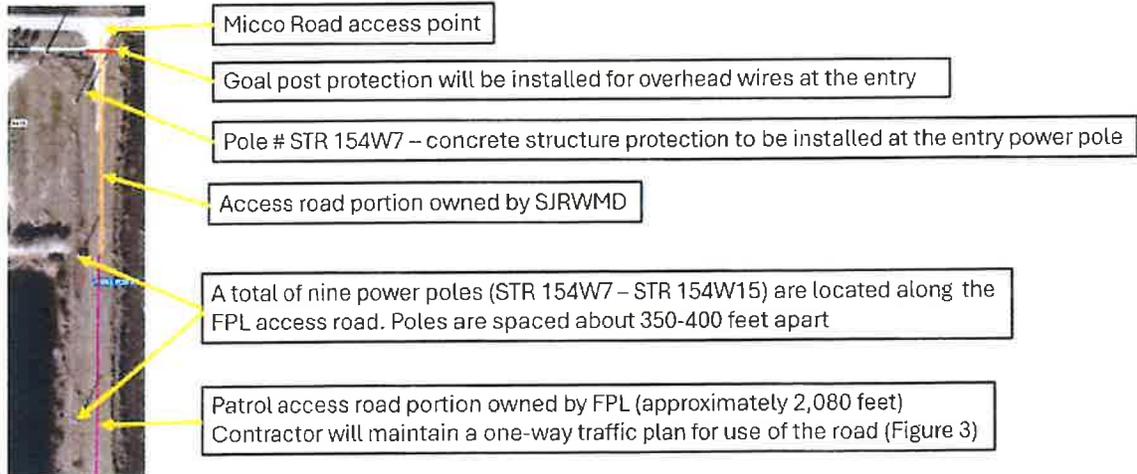
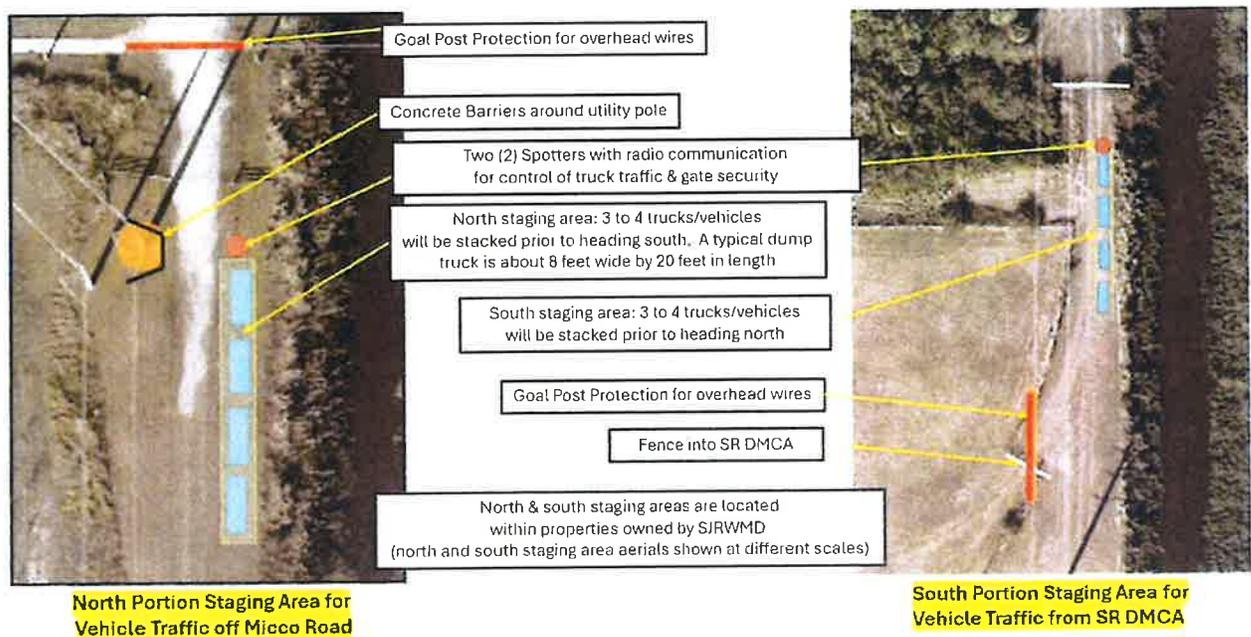
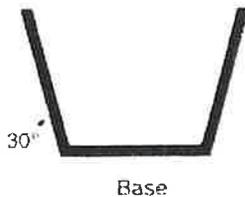


Figure 3- Traffic Control Plan for One-Way Road Use



- Licensee, at Licensee's sole cost and expense, shall install three (3) concrete structures at STR 154W7, arranged in approximately the configuration shown.



- Each structure will be a Type K Concrete Barrier System.
- Licensee, at Licensee's sole cost and expense, shall provide two (2) goal-post protections for overhead wires at both ends near structure numbers 154W7 and 154W15. Figure 3 above highlights the locations of both the Type K Structure barriers and the goal posts in Orange. Goal post protection shall follow FPL guidelines and shall limit the height of any vehicle entering or leaving the site to a maximum height of 14 feet above existing ground elevation.
- Licensee, at Licensee's sole cost and expense, shall ensure that the concrete barriers and goal posts will be installed prior to permitting any heavy trucks on the Lands.
- Licensee, at Licensee's sole cost and expense, shall provide pre- and post-condition videos for road conditions within the Lands.
- Licensee, at Licensee's sole cost and expense, shall maintain and/or restore the road on the Lands to its current or better condition to the reasonable satisfaction of Licensor. Access road base material used for

maintenance/repair shall be lime rock meeting a minimum LBR 100 value, properly graded and compacted. If cap/cover stone is required, FDOT No. 4 stone shall be used (not No. 57).

- Any disturbed areas outside of the access road and within the Lands shall be restored by Licensee, at Licensee's sole cost and expense, immediately with Bahia sod (not seed/mulch).
- Erosion and turbidity controls will be implemented by Licensee, at Licensee's sole cost and expense, as necessary.
- No parking or overnight staging is permitted upon the Lands by Licensee, and crossing the berm outside of the Lands by Licensee is prohibited.
- One-way traffic plan shall be enforced as outlined in Figure 3 above.
- Any dredged material inadvertently deposited on the road will be promptly removed by Licensee, at Licensee's sole cost and expense, using tools and vehicles stored at the SR DMCA.
- Dirt or mud shall be cleaned from trucks traversing the Lands as needed to minimize dirt tracked onto roadways.
- Dust control may be implemented by Licensee, at Licensee's sole cost and expense, as needed to ensure safe operation and minimize impacts to surrounding properties. A dedicated water buffalo will be utilized to provide on-site water supply for dust suppression and equipment support.
- Licensee's construction and truck activities are limited to daylight hours.
- Licensee must make sure there are gates precluding access to the road upon the Lands and these gates are closed/locked when not in use or being actively monitored while the roadway is in use.
- Licensee shall make sure that the general public does not have access in and out of this road during the Term of this License.
- Gates will be closed by Licensee by daisy chain interlocking Licensee lock into FPL's lock chain.
- General Public will not be allowed to enter the area/road at any time.
- During light road use (baseline sampling, monitor well sampling and other preconstruction reconnaissance activities), the gate will be immediately closed and locked upon entry onto the premises, and the same upon exiting the premises.
- During construction activities, when use will be heavier, there will be Licensee staff dedicated to manning the gate to allow only official entry onto the road and premises.
- All road construction materials (including gravel for repairs or maintenance) must be sampled and tested by Licensee, at Licensee's sole cost and expense, prior to placement to ensure compliance with Licensor's clean fill standards shown on Exhibit E. Sampling results require written approval from Licensor's Environmental Services Department before any such materials can be brought onto the Lands.

Exhibit D

Form 360



NOTIFICATION OF FPL FACILITIES

Customer Agency _____
 Developer/Contractor Name _____
 Location of Project _____
 FPL Representative _____
 Developer/Contractor Representative _____

Date of Meeting/Contact _____
 Project Number Name _____
 City _____
 Phone _____
 FPL Work Request # / Internal Order # _____

FPL calls your attention to the fact that there may be energized, high-voltage electric lines, both overhead and underground, located in the area of this project. It is imperative that you visually survey the area and that you also take the necessary steps to identify all overhead and underground facilities prior to commencing construction to determine whether the construction of any proposed improvements will bring any person, tool, machinery, equipment or object closer to FPL's power lines than the OSHA-prescribed limits. If not, you must either redesign your project to allow it to be built safely given the pre-existing power line location, or make arrangements with FPL to either de-energize and ground our facilities, or relocate them, possibly at your expense. You must do this before allowing any construction near the power lines. It is impossible for FPL to know or predict whether or not the contractors or subcontractors and their employees will operate or use cranes, digging apparatus or other mobile equipment, or handle materials or tools in dangerous proximity to such power lines during the course of construction and if so when and where. Therefore, it becomes necessary for any contractor or subcontractor or their employees to operate or handle cranes, digging apparatus, drag nets, mobile equipment, or any other equipment, tools or materials in such a manner that they might come closer to underground or overhead power lines than is permitted by local, state or federal regulations; you and any such contractor or subcontractor must notify FPL in writing of such planned operation prior to the commencement thereof and make all necessary arrangements with FPL in order to carry out the work in a safe manner. Any work in the vicinity of the electric lines should be suspended until these arrangements are finalized and implemented.

The National Electrical Safety Code ("NESC") prescribes minimum clearances that must be maintained. If you build your structure so that those clearances cannot be maintained, you may be required to compensate FPL for the relocation of our facilities to comply with those clearances. As such, you should contact FPL prior to commencing construction near pre-existing underground or overhead power lines to make sure that your proposed improvement does not impinge upon the NESC clearances.

It is your responsibility and the responsibility of your contractors and subcontractors on this project to diligently fulfill the following obligations:

1. Make absolutely certain that all persons responsible for operating or handling cranes, digging apparatus, drag nets, mobile equipment or any equipment, tool, or material capable of contacting a power line, are in compliance with all applicable state and federal regulations, including but not limited to U.S. Department of Labor OSHA Regulations, while performing their work.
2. Make sure that all cranes, digging apparatus, drag nets, mobile equipment, and all other equipment or materials capable of contacting a power line have attached to them any warning signs required by U.S. Department of Labor OSHA Regulations.
3. Post and maintain proper warning signs and advise all employees, new and old alike, of their obligation to keep themselves, their tools, materials and equipment away from power lines per the following OSHA minimum approach distances (refer to OSHA regulations for restrictions):

*Power Line Voltages	**Personnel and Equipment	Cranes and Derricks	Travel Under Overhead Power Lines (on construction sites, no job)
24, 250 volts	10 Feet	10 Feet	4 Feet - Equipment, 14 Feet - Cranes and Derricks
751 - 50,000 volts	10 Feet	10 Feet	4 Feet
69,000 volts	11 Feet	10 Feet	6 Feet
115,000 volts	13 Feet	15 Feet	10 Feet
138,000 volts	13 Feet	15 Feet	10 Feet
161,000 volts	14 Feet	15 Feet	10 Feet
230,000 volts	15 Feet	20 Feet	10 Feet
500,000 volts	25 Feet	25 Feet	15 Feet

*When uncertain of the voltage, maintain a distance of 20 feet for voltage up to 350,000 volts and 50 feet for voltages greater than 350,000 volts.
 **For persons approaching insulated overhead conductors less than 750 volts, avoid contact. Maintain 10 feet to bare energized conductors less than 750 volts. For qualified personnel and insulated aerial lift equipment meeting requirements of 29 CFR 1910.333, distances may be reduced to those shown in 29 CFR 1910.333 Table 5-6.

4. An excavator is required to contact the Sunshine State One Call of Florida, phone number 1-800-432-4772, or 811, a minimum of two working days (excluding weekends) in advance of commencement of excavation to ensure facilities are located accurately.
5. Conduct all operations and excavations in accordance with the Florida Statute 356 of the Underground Facilities Damage Prevention & Safety Act and a local city and county ordinances that may apply.
6. When an excavation is to take place within a tolerance zone, an excavator shall use increased caution to protect underground facilities. The protection requires hand digging, probing, soft digging, vacuum method, or similar procedures to identify underground facilities.

A copy of this notification must be provided by you to each contractor and subcontractor on this project to be shared with their submittal and employees prior to commencing work on this project.

 Means by which this notification was provided to customer and/or contractor

 Address

 FPL Representative Signature

 Date

 Former Developer/Contractor Representative Signature
 Form 360 Rev. 01/24/2024

 City



EXHIBIT E

MEMORANDUM

TO: Brevard County Natural Resources Department (Licensee)
FROM: Randall M. Keyser, P.G., FPL Environmental Services
DATE: November 6, 2025
SUBJECT: Clean Fill Material Requirements for FPL Owned Access Patrol Road off Micco Rd.

PURPOSE

FPL requires that all fill material imported to the subject property qualifies as "clean fill" and satisfies applicable regulatory criteria. Fill material includes soil, rock, sand, earth, marl, clay, and stone used for maintenance purposes. The process outlined below ensures that Brevard County uses only clean fill, protects the environment and FPL's property interests, and minimizes future regulatory risk.

REGULATORY FRAMEWORK

Brevard County must utilize Florida Department of Environmental Protection ("FDEP") Soil Cleanup Target Levels ("SCTLs") to evaluate all proposed fill material. Per Section 376.30701, Florida Statutes, and Rule Chapters 62-777 and 62-780, Florida Administrative Code ("F.A.C."), SCTLs establish conservative default cleanup criteria for approximately 500 constituents, including naturally occurring elements in Florida soils.

Fill material brought onto the subject property must meet the more stringent of either the residential or leachability SCTLs for all applicable constituents listed in Chapter 62-777, F.A.C. Failure to meet these criteria may create future environmental liability for FPL. Brevard County shall sample and perform analytical testing on representative samples of fill material prior to transport onto FPL-owned property. Use of Construction and Demolition (C&D) material is prohibited.

SCREENING PROCESS

Considering the above, the following process is required prior to importing fill onto the subject property:

Sample Collection and Analysis

Fill material does not require testing for every constituent in Chapter 62-777, F.A.C. Instead, samples shall be collected and analyzed for the clean fill parameters listed in Exhibit A. If site history (of the source material) indicates the potential presence of other constituents, they shall be included in the analysis. Sample collection shall follow DEP-SOP-001/01 3000 per Chapter 62-160, F.A.C.



Sampling Frequency:

Volume of Soil (cubic yards)	Weight of Soil (Tons)	Number of Samples
200	<280	1
200 to <1,000	280 to <1,400	3
1,000 to <2,000	1,400 to <2,800	5
Each additional 1,000 cubic yards	Each additional 1,400 tons	1

All samples shall be analyzed by a National Environmental Laboratory Accreditation Conference (NELAC) accredited laboratory.

Results Review

If laboratory results indicate any parameter exceeding the applicable SCTLs in Chapter 62-777, F.A.C., Brevard County shall not transport the fill material onto FPL property.

SUMMARY

Brevard County shall follow this process for all proposed fill material to ensure a consistent, protective approach to material acceptance decisions. Contact the FPL Environmental Services Department with questions or concerns.



Exhibit A

RESIDENTIAL AND LEACHABILITY SOIL CLEANUP TARGET LEVELS (SCTLs)

(Per DEP Chapter 62-777, F.A.C. Updated 04/11/2005)

ONSTITUENT	RESIDENTIAL STANDARD (mg/kg)	LEACHABILITY (mg/kg) Based on GW criteria
Arsenic	2.1	May need to do SPLP analysis
Barium	120.0	1600
Cadmium	82.0	7.5
Chromium	210.0	38
Lead	400.0	May need to do SPLP analysis
Selenium	440.0	5.2
Silver	410.0	17
TRPH	460	340
PCBs	(Total <0.5)	(Total <17)
PCB-1016	0.5	
PCB-1221	0.5	
PCB-1232	0.5	
PCB-1242	0.5	
PCB-1248	0.5	
PCB-1254	0.5	
PCB-1260	0.5	
PAHs		
Acenaphthene	2400	2.1
Acenaphthylene	1800	27
Anthracene	21000	2500
Benzo(a)anthracene	#	0.8
Benzo(a)pyrene	0.1	8
Benzo(b)fluoranthene	#	2.4
Benzo(g,h,i)perylene	2500	32,000
Benzo(k)fluoranthene	#	24
Chrysene	#	77
Dibenz(a,h)anthracene	#	0.7
Fluoranthene	3200	1200
Fluorene	2600	160
1-Methylnaphalene	200	3.1
2-Methylnaphalene	210	8.5
Naphthalene	55	1.2
Phenanthrene	2200	250
Pyrene	2400	880
Indeno(1,2,3-c,d)Pyrene	#	6.6

Note: # - Site concentrations for carcinogenic polycyclic aromatic hydrocarbons must be converted to Benzo(a)pyrene equivalents before comparison with the appropriate direct exposure SCTL for Benzo(a)pyrene using the approach described in the February 2005 'Final Technical Report: Development of Cleanup Target Levels (CTLs) for Chapter 62-777, F.A.C.

SPLP = Synthetic Precipitation Leaching Procedure

EAU GALLIE MUCK REMOVAL PROJECT AREA A1

NATURAL RESOURCES

B-6-25-24

ATTACHMENT E

CONTRACT AND CERTIFICATE

This section includes the following forms that must be executed by the selected Contractor upon notification by the County:

- Contract
- Certificate

These forms DO NOT need to be submitted with the Bid.

CONTRACT

THIS CONTRACT made and entered by and between Brevard County, Florida, a political subdivision of the State of Florida (hereinafter County"), and Waterfront Property Services, LLC dba Gator Dredging, party of the second part (hereinafter "Contractor").

WITNESSETH: The parties hereto, for the consideration hereinafter set forth, mutually agree as follows:

1. SCOPE OF THE WORK

- 1.1 The Contractor shall furnish all labor, materials, equipment, machinery, tools, apparatus, and transportation and perform all the work on and as described in the Construction Drawings, Specifications, and Contract Documents entitled:

**Eau Gallie Muck Removal Project – Area 1A
BID NO. B-6-25-24, Issued for Construction
(IFC)**

As Prepared by AtkinsRéalis, acting as, and in the Contract Documents entitled as the County's Engineer of Record, and shall do everything required by these Contract Documents.

A non-mandatory pre-bid meeting was held on December 12, 2024 to allow potential bidders to request supplementary project details. Additionally, three addenda were issued during bid procurement to provide further project clarification. Brevard County entered bid negotiations with Gator Dredging after the bid opening date. The Construction Drawings, Specifications, and Contract Documents have been amended to reflect all issued project clarification and negotiation details. The resulting IFC documents have been issued and shall be followed.

The project Schedule of Values has been amended based on final bid negotiations between Brevard County and Gator Dredging and is included with the Example Application and Certification for Payment.

Project Description:

The project includes dredging, dewatering and disposal of approximately 138,830 cubic yards (CY) of organic sediments from the Eau Gallie Dredge Area A1 as described herein and the Technical Specifications, and as depicted in the Project Drawings.

The IFC Project Drawings reflect three Pay Sections with a combined material volume of 138,830 CY as follows:

86,856 CY from Pay Section X – Shallow Face
25,174 CY from Pay Section Y – Deep Face West
26,800 CY from Pay Section Z – Deep Face East

Three alternate bid items shown on the project Schedule of Values are NOT included in the current Schedule of Values. These alternate bid items are as follows: additional muck dredging including associated work items within Pay Section Z for 42,007 CY, 34,940 CY, and 31,835 CY, respectively.

The project was awarded based on the lowest responsive total bid amount including all alternate Pay Sections. As a result of negotiations, approximately 138,830 CY of muck will be removed to remain within the project budget and comply with Save Our Indian River Lagoon (SOIRL) Project Plan requirements. The dredging shall be accomplished by hydraulic dredging methods.

County is providing a site located on the Florida Inland Navigation District (FIND) property Dredge Material Management Area (DMMA) BV-52 along US-1 Highway. Contractor will have full use of the DMMA without charge but will be responsible for the removal and the ultimate disposition of the dredged material and the restoration of the DMMA at the completion of the project. County is also providing a site located in the St. Johns River Water Management District (SJRWMD), the Sebastian River Dredge Material Containment Area (DMCA), hereinafter "Property", for Contractor to use without charge, subject to the conditions herein described in paragraphs 5.1 and 5.2, for final disposal of all dewatered material.

Contractor is responsible for developing various plans for review and approval by County and the County's Engineer of Record, AtkinsRéalis, that include the proposed dredging, dewatering and spoil handling, and disposal methods and comply with all applicable Federal, state, and local permits and regulations, and SJRWMD Intergovernmental Agreement Micco Water Management Area, FIND Lease and referenced documents, and FPL's License and Right-of-Way Consent Agreement with Brevard County. Some details of the required agreements are found within the Technical Specifications, and full agreements will be provided to the contractor. Other conditions and specifications relevant to this project are provided in detail as part of the Bid Documents, and revised negotiation documents such as the Construction Drawings and Price Sheet.

2. THE CONTRACT SUM AND TERM

- 2.1 The County shall pay to the Contractor for the faithful performance of the Contract, in lawful money of the United States, and subject to additions and deductions as provided in the Contract Documents – Exhibit A (Construction Drawings and Technical Specifications).
- 2.2 Based upon the price shown in the amended Proposal heretofore submitted to the County by the Contractor, a copy of said amended Proposal being a part of these Contract Documents, the aggregate amount of this Contract is the sum of: \$18,293,701.50 for Base Bid – See Exhibit B.
- 2.3 The terms of this Contract shall be effective for four (4) years from the date of 'Notice of Award'. Bid prices shall remain firm for three (3) years after executing this Contract. The Contractor may have an opportunity to request an annual price adjustment for the third year of the Contract. A request for a price adjustment must be submitted in writing no later than ninety (90) calendar days before the annual anniversary to the Purchasing Manager and the Department Director. This request for price adjustment must include a written justification for an adjustment. Purchasing Services will notify the Contractor in writing sixty (60) days before the Contract expiration as to the County's intent to renew the Contract.

3. COMMENCEMENT AND COMPLETION OF WORK

- 3.1 The Contractor shall commence work within 30 calendar days after issuance of Notice to Proceed.
- 3.2 The Contractor shall prosecute the work with faithfulness and diligence and shall cause substantial completion of the work not later than (730) calendar days after the issuance of Notice to Proceed and cause final completion of the work within sixty (60) days after substantial completion.

- 3.3 Prior to commencing the work, the Contractor shall execute, deliver to the County, and record in the public records of Brevard County, required payment and performance bonds in substantially the same format provided herein.
- 3.4 Prior to commencement of work the Contractor shall submit a work plan to the County and County's Engineer of Record that provides details as described in the SJRWMD and FIND Use Agreements, Regulatory Authorizations, amended Technical Specifications, and amended Drawings.

4. CONTRACTOR'S ACCEPTANCE OF CONDITIONS

- 4.1 The Contractor hereby agrees that the project sites have been carefully examined and that sufficient observations have been made such that Contractor is completely familiar with all site conditions and requirements as they relate to the work described in these amended Contract Documents, and assumes full responsibility, therefore.
- 4.2 The provisions of this Contract shall control any inconsistent provisions contained in the specifications. All amended Drawings and Specifications have been read and carefully considered by the Contractor, who understands and agrees to their sufficiency for the work to be done. It is expressly agreed that under no circumstances, conditions or situations, shall this Contract be more strongly construed against the County than against the Contractor and the Surety.
- 4.3 Any ambiguity or uncertainty in the amended Drawings or Specifications shall be interpreted and construed by the County or County's Engineer of Record and the decision shall be final and binding upon all parties.
- 4.4 It is distinctly understood and agreed that the passing, approval and acceptance of any part of the work or material by the County, the County's Engineer of Record, or by any agent or representative of the County or County's Engineer of Record as in compliance with the terms of this Contract and of the amended Drawings and Specifications covering said work, shall not operate as a waiver by the County of strict compliance with the terms of this Contract, and/or the amended Drawings and Specifications covering said work; and the County may require the Contractor and the surety to repair, replace, restore and/or make the work comply strictly, and in all things, with this Contract and the amended Drawings and Specifications. All of said work and/or materials which within a period of one year from and after the date of the passing, approval, and/or acceptance of any such work or material, are found to be defective or to fail in any way to comply with this Contract or with the amended Drawings and Specifications shall be reconstructed as directed by the County. This provision shall not apply to materials or equipment

normally expected to deteriorate or wear out and become subject to normal repair and replacement before their condition is discovered. The Contractor shall not be required to do normal maintenance work under the guaranteed provisions. Failure on the part of the Contractor and the Surety to immediately repair or replace any such defective materials and workmanship shall entitle the County, in the County's sole discretion, to replace or repair the same and, after notice, recover the reasonable cost of such replacement and repair from the Contractor and the Surety, who shall in any event be jointly and severally liable to the County for all damage, loss and expense caused to the County by reason of the Contractor's breach of this Contract and the Contractor's failure to comply strictly and in all things with this Contract and with the amended Drawings and Specifications.

5. ADDITIONAL TERMS

5.1 Authorized Use. Contractor shall only be authorized to access the Micco Water Management Area (the "Property") for the purpose of completing the Project as outlined in that Memorandum of Agreement entered into by Brevard County and the St. Johns River Water Management District (the "District"), dated August 12, 2025. Contractor shall only be authorized to access the Property while it remains a contractor for Brevard County.

5.2 Conditions Applicable to Contractor While Accessing the Property:

- a. Contractor will not damage the Property beyond that normally associated with the Project and shall, at Contractor's expense, repair any damage to the Property resulting from the Project.
- b. While using the Property, Contractor shall be vigilant regarding maintaining the security of the Property against trespassers, poachers and vandals, and shall promptly notify Brevard County, the District, and the proper authorities in such event. If Contractor is provided access through locked gates, Contractor must close and lock gates upon each entry and exit from the Property.
- c. No structures (i.e., buildings, fencing, etc.) or other alterations will be placed or constructed upon the Property.
- d. Contractor will abide by all applicable governmental rules, regulations, ordinances and laws with respect to Contractor's use of the Property.
- e. No hunting, illegal, offensive or immoral activities will take place on the Property.
- f. Killing, molesting, or trapping of listed species may only be allowed with required state and federal permits outside of the Property. The harvest of any plant or plant material is prohibited. This section does not apply to clearing and grubbing activities necessary for preparation or maintenance of the Property.

- g. Contractor shall exercise due care against accidentally starting fires while on the Property and shall be liable for all damages caused by such fires. Contractor must vacate the Property at first threat, warning or notice of wildfire in the vicinity of the Property.
- h. Dumping or placing of any garbage or refuse on the Property, except in authorized receptacles, is prohibited.
- i. The use of motorcycles or all-terrain vehicles is prohibited. However, the use of track vehicles shall be allowed, but only as necessary for purposes of completing the Project.
- j. Taking off or landing of aircraft, including small, unmanned aircraft (such as drones) and model aircraft on District lands (including waters) is prohibited on the Property.
- k. Contractor must coordinate all aspects of its activities with Brevard County and the District's Project Manager for the Micco Water Management Area. The District's Project Manager is Melisa Diolosa, Phone: 321-676-6622, Email: mdiolosa@sjrwmd.com. Moreover, Contractor shall adhere to the access provision in the Memorandum of Agreement between Brevard County and the District dated August 12, 2025.
- l. Contractor's vehicular access shall be limited to the roads depicted on the attached map. Contractor is not permitted to park the vehicle in a manner that will obstruct roads, trails, gates, or fire lines.
- m. Access to the Property is restricted to the route designated by the District and to the hours between 7:00 a.m. to 6:00 p.m.
- n. Access points to the Property consist of existing gates identified on the map attached to this Agreement.
- o. Contractor shall follow the inspection and cleaning procedures for its equipment as outlined in Brevard County's Standard Operating Procedure for Truck Washdown Prior to Leaving Dewatering Facility. All dump trucks exiting the dewatering facility must undergo a washdown procedure to remove any residual mud, sand, or other material from tires and undercarriages. This is required to prevent material tracking onto public roadways, particularly FDOT-maintained roads. The designated washdown area shall be located within the BV-52 facility and equipped with proper drainage and sediment control measures. Washwater must be contained and managed in accordance with environmental and stormwater regulations. Drivers must visually inspect trucks post-wash to ensure they are free of loose debris before departure.
- p. This Agreement does not authorize access to areas designated or posted closed for safety, emergency, or environmental purposes. These include, but are not limited to, road or trail closures due to flood, washout, or fire.

q. The District assumes no duty of care with regard to Contractor's safety while on the Property. Contractor is under a duty to be vigilant for Contractor's own safety as well as the safety of others. Contractor understands and agrees that Contractor is solely responsible for Contractor's personal safety and the personal safety of all persons accompanying Contractor on the Property or accessing the Property under Contractor's direction. Contractor is fully knowledgeable of the risks that are generally associated with traversing Property that is in a substantially natural condition and assumes all such risks. Contractor also assumes all risks associated with traversing District lands in a motor vehicle. Contractor voluntarily assumes any other risks, of every kind whatsoever, whether natural or artificial, while conducting activities on the Property pursuant to this Agreement.

r. Pursuant to § 373.1395 of the Florida Statutes, the District is not under a duty to maintain the Property in a safe condition or give warning or any hazardous conditions, structures, or activities on the Property. The District does not extend any assurance that the Property is safe for any purpose and is not responsible for any injury to persons or property caused by an act or omission or a person who goes on the Property.

s. The discharge of any fuel, oils, petroleum products, litter or other harmful materials that may result from Contractor's use of the Property or other District land is prohibited. Should any harmful materials be discharged by Contractor, the District's Project Manager shall be immediately notified. Contractor is solely responsible for all costs associated with any resulting clean up and remediation.

6. LIQUIDATED DAMAGES

6.1 It is mutually agreed that time is of the essence of this Contract and should the Contractor fail to complete the work within the specified time, or any authorized extension thereof, there shall be deducted from the compensation otherwise to be paid to the Contractor, and the County will retain the amount of liquidated damages stated in Section 8-10.2 of F.D.O.T. Standard Specifications for Road and Bridge Construction (FY2024-25), per calendar day elapsing beyond the specified time for completion or any authorized extension thereof, which sum shall represent the actual damages which the County will have sustained by failure of the Contractor to complete the work within the specified time; it being further agreed that said sum is not a penalty, but is the stipulated amount of damages sustained by the County in the event of such default by the Contractor.

6.2 For the purposes of this Article, the day of final acceptance of the work shall be considered a day of delay, and the scheduled day of completion of the work shall be considered a day scheduled for production.

6.3 The County has the right to deduct, as payment on such liquidated damages, against any money the County owes the Contractor.

- 6.4 The County does not waive its right to liquidated damages due under the Contract by allowing the Contractor to continue and to finish the work, or any part of it, after the expiration of the Contract Time including granted time extensions.
- 6.5 Contract days shall stop for purposes of determining if or how much liquidated damages shall be accrued upon substantial completion which shall occur as defined in Invitation to Bid Documents under Definitions Section.

7. PARTIAL AND FINAL PAYMENTS

- 7.1 In accordance with the provisions fully set forth in the General Conditions, and subject to additions and deductions as provided, the County shall pay the Contractor as follows:
- a) Within 30 days after receipt of the Contractor's request for partial payment by the County, the County shall make partial payments to the Contractor, on the basis of the estimate of work as approved by the County or the County's Engineer of Record, for work performed during the preceding calendar month, less five percent (5%) of the amount of such estimate which is to be retained by the County as retainage.
Notwithstanding the foregoing, pursuant to section 255.05(11), Florida Statutes, when the Contractor has furnished and recorded a payment and performance bond and provided the County with a written consent from the Surety regarding the Project or payment in question, no such releases shall be required. The Surety may, in a writing served on the County, revoke its consent or direct that the County withhold a specified amount from a payment, which shall be effective upon receipt.
 - b) Upon submission by the Contractor of evidence satisfactory to the County that all payrolls, material bills and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, and also, after all guarantees that may be required have been furnished and are found acceptable by the County, final payment on account of this Contract shall be made within sixty (60) days after completion by the Contractor of all work covered by this Contract and acceptance of such work by the County.
 - c) Contractor acknowledges that, pursuant to Florida law, the contractor may not lien County's interest in the Project site. Contractor agrees to advise all subcontractors and material suppliers of the non-lienable nature of the project and to further furnish each such person or entity a copy of the Labor and Material Payment Bond for the project.

8. ADDITIONAL BOND

- 8.1 It is further mutually agreed between parties hereto that if, at any time after the execution of this Contract and the Public Construction Performance Bond and the Public Construction Payment Bond hereto attached for its faithful performance, the County shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the work, the Contractor shall, at the Contractor's expense, and within three days after the receipt of Notice from the County to do so, furnish an additional bond or bonds, in such form and amount, and with such sureties as shall be satisfactory to the County. In such event, no further payment to the Contractor shall be deemed due under this Contract until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the County.

9. CONTRACT DOCUMENTS

- 9.1 The amended Contract Documents, as that term is defined in the Instructions to Bidders/Contractors, are as fully a part of this Contract as if herein repeated, whether or not those documents are actually attached to this Contract. The amended Technical Specification and Construction Drawings are provided in Attachment A and B, respectively. The amended permit information and permit requirements are contained in Attachment C. Report and supplement documents relevant to project are contained in Attachment D.
- 9.2 The Contractor shall perform the services under this Contract as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status.

10. PUBLIC RECORDS AND AUDIT REQUIREMENTS

- 10.1 In the performance of this Contract, the Contractor shall keep books, records and accounts of all activities related to this Contract, in compliance with generally accepted accounting procedures and in compliance with the Public Records Laws of the State of Florida (including, but not limited to Chapter 119, Florida Statutes).
- 10.2 All records or documents created by the Contractor or provided to the Contractor in connection with the activities or services provided under the terms of this Contract, are public records and the Contractor agrees to comply with any request for such public records or documents made in accordance with Section 119.07, Florida Statutes. The Contractor shall also ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- 10.3 Records, documents, books, and accounts ordinarily and necessarily

required for the performance of this Contract shall be kept, maintained and open to inspection by the County and its representatives during regular business hours and shall be retained by the Contractor or for a period of five (5) years after completion or termination of this Contract.

- 10.4 Pursuant to Section 119.0701, F.S., a request to inspect or copy public records relating to this Contract for services must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Contractor of the request, and the Contractor must provide the records to the County or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Ch. 119, F.S. If the Contractor fails to provide the public records to the County within a reasonable time, the Contractor may be subject to penalties under Section 119.10, F.S.
- 10.5 The Contractor shall identify and ensure that all public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the County.
- 10.6 Upon completion of the Contract, the Contractor shall transfer, at no cost to the County, all public records in possession of the Contractor or keep and maintain public records required by the County to perform the services under this Contract. If the Contractor transfers all public records to the County upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records that are stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is accessible by and compatible with the information technology systems of the County.
- 10.7 Failure to comply with the provisions of this section shall result in the County taking enforcement action against the Contractor, including the cost to the County for gaining the Contractor's compliance, which will include, but is not limited to, the County's staff time expended to obtain compliance with this section, litigation filing fees and attorney's fees. The County may also unilaterally terminate the Contract if the County refuses to allow public access to Public Records as required by law.
- 10.8 No reports, data, programs, or other materials produced, in whole or in part for the benefit and use of the County, under this Contract shall be subject to copyright by the Contractor in the United States or any other country.
- 10.9 **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE COUNTY'S CUSTODIAN OF**

**PUBLIC RECORDS FOR THE NATURAL RESOURCES
MANAGEMENT DEPARTMENT BY TELEPHONE AT (321) 633-2016,
BY EMAIL AT MARY.BLAKELY@BREVARDFL.GOV, OR AT THE
MAILING ADDRESS BELOW:**

**Brevard County Natural Resources Management Department
ATTN: Custodian of Records
2725 Judge Fran Jamieson
Way Building A, Room 219
Viera, FL 32940**

11. NOTICE

All notices and written communication between the parties shall be sent by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. Any and all notices required by this Contract shall be delivered to the parties at the addresses identified below:

**County: Project Manager, Eau Gallie Muck Removal Project
Brevard County Natural Resources Management Dept.
2725 Judge Fran Jamieson Way, Building A-219,
Viera, FL 32940**

**Contractor: Waterfront Property Services, LLC DBA Gator Dredging
13630 50th Way North, Clearwater, FL 33760
(727) 527-1300**

**Engineer of Record: S. Marie Yarbrough, P.E., Senior Coastal
Engineer
Justin Bartusek, P.E., Senior Coastal Engineer
AtkinsRéalis
2671 W. Eau Gallie Blvd. Suite 104
Melbourne, Florida 32935
Marie.Yarbrough@atkinsrealis.com
Justin.Bartusek@atkinsrealis.com**

12. ATTORNEY'S FEES

12.1 In the event of any legal action to enforce the terms of this Contract, each party shall bear its own attorney's fees and costs.

13. TERMINATION/MODIFICATION OF CONTRACT

- 13.1 In the event the Contractor violates the provisions of this Contract, or otherwise fails to comply with any provisions of this Contract or if the progress or quality of the work is unsatisfactory, the Natural Resources Management Director or designee may serve written notice to Contractor and if Contractor fails within a period of ten (10) calendar days to correct such failure, County may terminate this Contract upon thirty (30) days written notice to Contractor. Upon termination, Contractor shall immediately cease performance of this Contract and shall deliver to County all completed or partially completed work including but not limited to all original papers, records, drawings, models, and other materials set forth and described in this Contract, within thirty (30) calendar days of the termination date established in the written Notice.
- 13.2 The Contractor may terminate this Contract for any reason upon thirty (30) days written notice, provided that any outstanding approved Task Order is completed by the Contractor.
- 13.3 In the event of termination by the County, the County's sole obligation to the Contractor shall be payment for those portions of satisfactorily and completely performed work previously authorized by approved Task Order shall be determined on the basis of the work performed by the Contractor, or the percentage of work complete as estimated by the Contractor and agreed upon by the County up to the time of termination. In the event of such termination, the County may, without penalty or other obligation to the Contractor, elect to employ other persons to perform the same or similar services.
- 13.4 In the event of any form of claim, dispute, or controversy by or between the parties to this Contract, the parties expressly and unequivocally agree to engage in good faith efforts to meet in person to resolve any and all such differences. Absent such informal resolution of any/all such dispute(s), the parties expressly agree to engage in pre-suit mediation in accordance with the applicable rules of procedure for such mediation as may be in force in the Judicial Circuit Courts in Brevard County.
- 13.5 In the event that the Contractor changes its name, merges with another company, becomes a subsidiary or makes other substantial change in structure or in the principals or project managers of the Contractor, the County reserves the right to terminate this Contract subject to the terms prescribed above.
- 13.6 In the event of termination of this Contract the Contractor agrees to surrender any and all documents prepared by the Contractor for the County in connection with this Contract, of which, the County shall

have full ownership thereof, Contractor may retain copies of such documents for record purposes.

- 13.7 This Contract, together with the Bid Documents, constitutes the entire contract between the County and the Contractor and supersedes all prior written or oral understandings. No modification of this Contract shall be binding on County or Contractor unless reduced to writing and executed by a duly authorized representative of County and Contractor.

14. GOVERNING LAWS

- 14.1 This Contract shall be governed, interpreted and construed according to the laws of the State of Florida, and federal laws and regulations.

15. COMPLIANCE WITH STATUTES

- 15.1 It shall be the Contractor's responsibility to be aware of and comply with all applicable federal, state and local laws.
- 15.2 BUY AMERICAN – The bidder proposes and agrees, if this Proposal is accepted, to comply with 1 U.S.C. Chapter 83: Buy American statutes.
- 15.3 The Contractor shall comply with all applicable standards, orders, or requirements issued under Section 112 and 306 of the Clean Air Act (42 U.S.C. 1857 (h), Section 508 of the Clean Water Act (3 U.S. 1368), Executive Order 11738, and the U.S. Environmental Protection Agency regulations (40 CFR Part 15 and 61). with the terms and conditions found in attachment

16. VENUE AND WAIVER OF JURY TRIAL

- 16.1 In any legal action brought by any party to this Contract to interpret, construe, or enforce this Contract **ANY TRIAL SHALL BE NONJURY** and venue shall be in a court of competent jurisdiction in and for Brevard County Florida, unless otherwise mandated by a funding source associated with this project; in that event the funding source provisions shall prevail.

17. CONFLICT OF INTEREST

- 17.1 The Contractor shall not engage the services of any person or persons now employed by the County, including any department, agency board or commission thereof, to provide services relating to this Contract without written consent from the County.
- 17.2 The Contractor shall not accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

17.3 The Contractor shall not award a contract or subcontract under this Contract to any company who the County has a financial or any other interest in, including but not limited to employing an employee of the County or any member of an employee's, agents, or officer's immediate family.

18. INFORMATION RELEASE/GRANTOR RECOGNITION

18.1 News releases, publicity releases, or advertisements relating to this Contract, or the tasks or projects associated with the project, shall be submitted in writing to the County and be approved in advance of any release or publication. Releases shall identify the funding entity as well as the funding source.

19. INSURANCE AND INDEMNIFICATION

19.1 The Contractor agrees to provide and maintain at all times during the term of this Contract, without cost or expense to the COUNTY, policies of insurance as provided below.

19.2 Comprehensive General Liability Insurance insuring the CONTRACTOR against any and all claims, demands or causes of actions whatsoever for injuries received and damages to property in connection with the use, occupation, management and control of the premises and the improvements thereon. Such policies of insurance shall insure the CONTRACTOR in amount not less than TWO MILLION DOLLARS (\$2,000,000.00) to cover any and all claims arising in connection with any one particular accident or occurrence, including Products and/or Completed Operations, Explosion Hazard, Collapse Hazard, and Underground Property Damage Hazard, Contractual Liability under this Contract. Certificate of Insurance must explicitly state that "X", "C", and "U" are included in this coverage.

19.3 "Workers' Compensation Insurance" for all of the Contractor's employees employed at the site of the project and, in case any work is sublet, the Contractor shall require each Subcontractor similarly to provide "Workers' Compensation Insurance" for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor as required by State of Florida law. This coverage must include Employer's Liability with a limit of at least \$100,000 for each accident. Additionally, the Contractor and all subcontractors shall provide evidence of United States Longshoremen's and Harbor Workers (USL&H) coverage and contingent coverage of Jones Act (Marine Employers Liability) in compliance with Federal statutes, or proof of exemption. The Contractor shall be responsible for compliance with these requirements by each subcontractor, vendor or supplier when applicable.

- 19.4 Auto Liability Insurance policy with includes coverage for all owned, non-owned and hired vehicles with a \$1,000,000 combined single limit for each occurrence.
- 19.5 Contractors Pollution Liability policy with minimum limits of \$1,000,000 to be endorsed to also provide coverage for the removal, transportation and disposal of hazardous wastes and materials, including asbestos, lead, etc.
- 19.6 Any additional specialty insurance coverage requirement will be dictated by the specific goods, products or services provided under the subject contract and insurance underwriting standards, practices, procedures or products available in the commercial insurance market at the time of the contract inception. The Contractor is required to procure and maintain all such specialty coverage in accordance with prudent business practices within the Contractors industry.
- 19.7 The County, its officials, employees, and volunteers are to be added by endorsement as additional insureds to all liability policies; however, waiver of subrogation will be accepted in lieu of additional insured status for workers' compensation liability coverage.
- 19.8 Before starting the work, the Contractor will file with the Natural Resources Department, 2725 Judge Fran Jamieson Way, Bldg. A-219, Viera, Florida, 32940, the County certificates of such insurance and applicable endorsement pages acceptable to the County. The Contractor shall provide Certificates of Insurance (using Acord 25 forms or similar) and applicable endorsement pages to the County within five (5) days of the Contractor's execution of, and prior to the commencement of work under, the Contract, demonstrating that the aforementioned insurance requirements have been met. Insurance carriers providing coverage required herein must be licensed or authorized to conduct business in the State of Florida and must possess A.M. Best's Financial Strength Rating of A- Class VIII or better. **"Brevard County" shall be stated as being the Certificate Holder.** The Certificates of Insurance shall indicate that the policies have been endorsed to cover "Brevard County" as an additional insured without added exclusions or limiting endorsements that diminish the protection afforded to the County. The certificates shall contain a provision that the coverage afforded under the policies will not be canceled or materially changed until at least 30 days prior written notice has been given to the County.
- 19.9 The insurance coverages enumerated above constitute the minimum requirements and shall in no way lessen or limit the liability of CONTRACTOR under the terms of the Contract. Subcontractor's insurance shall be the responsibility of CONTRACTOR.
- 19.10 The Contractor shall indemnify and hold harmless the County and its agents and employees, and the County's Engineer of Record and their agents and employees from and against all claims, damages, losses and expenses, including attorney's fees arising out of or resulting from the

performance of the work, provided that any such claim, damage, loss or expenses (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. The obligation of the Contractor under this Article shall not extend to the liability of the County's Engineer of Record and their agents or employees arising out of errors or omissions in maps, drawings, opinions, reports, surveys, contract modifications, designs or specifications which have been prepared by the County's Engineer of Record. This indemnification shall survive the term of this Agreement.

The Contractor shall further indemnify and hold harmless FIND (Florida Inland Navigation District, as the BV-52 DMMA landlord), their officers and employees, from liabilities, losses, damages and costs, including but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of this Agreement. This indemnification shall survive the term of this Agreement.

- 19.11 Nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available under the laws of the State of Florida, nor as a waiver of sovereign immunity of the COUNTY beyond the waiver provided for in Section 768.28, Florida Statutes, as may be amended. Nothing in this Contract is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. Nothing herein shall constitute a waiver of the COUNTY'S sovereign immunity protections. The COUNTY'S liability hereunder shall be subject to the protections of and limitations on damages set forth in Section 768.28, Florida Statutes.

20. UNAUTHORIZED ALIEN WORKERS – Employment Eligibility Verification (E-Verify)

The Contractor:

- 20.1 shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CONTRACTOR during the term of the contract; and
- 20.2 shall expressly require any subcontractors performing work or providing services pursuant to this contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of

all new employees hired by the subcontractor during the contract term; and

- 20.3 agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the County consistent with the terms of the CONTRACTOR'S enrollment in the program. This includes maintaining a copy of proof of the CONTRACTOR'S and subcontractors' enrollment in the E-Verify Program; and
- 20.4 compliance with the terms of this section is made an express condition of this Contract and the COUNTY may treat a failure to comply as a material breach; and
- 20.5 shall require any sub-contractor to provide the Contractor with an affidavit stating that it does not employ, contract with, or subcontract with any unauthorized aliens; and
- 20.6 nothing in this Section may be construed to allow intentional discrimination of any class protected by law.

21. SURVIVAL

The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Contract, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination, cancellation, or expiration of this Contract.

22. SCRUTINIZED COMPANIES.

The Contractor certifies that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, F.S. In addition, the Contractor agrees to observe the requirements of Section 287.135, F.S., for applicable sub-agreements entered into for the performance of work under this Contract. Pursuant to Section 287.135, F.S., the County may immediately terminate this Contract for cause if the Contractor its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on any applicable scrutinized companies list or engaged in prohibited contracting activity during the term of the Contract. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions, then they shall become inoperative.

23. MODIFICATIONS TO CONTRACT

This contract, together with any exhibits, task assignments and schedules constitute the entire contract between the County and the Contractor and supersedes all prior written or oral understandings. This Contract and any

exhibits, task assignments and schedules may only be amended, supplemented or canceled by a written instrument duly executed by the parties hereto.

THE REMAINDER OF THIS PAGE LEFT BLANK

IN WITNESS WHEREOF the parties by their undersigned, authorized agents have executed this Contract as of the date last written below.

Attest:



Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA



Thad Altman, Chair
Board of County Commissioners

As approved by the Board on: February 11, 2025

Date: 12/2/2025

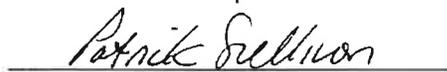
Reviewed for legal form and content:



Heather A. Balsler, Assistant County Attorney

(SEAL)

Witnessed in the presence of**



CONTRACTOR



William J. Coughlin, III, ~~President~~ CEO
Waterfront Property Services, LLC dba Gator Dredging

Date: 11-20-25

Attest:


_____ (Seal)

(*) In the event that the Contractor is a Corporation, there shall be attached to each counterpart, a certified copy of a resolution of the Board of Directors of the Corporation, authorizing the officer who signs the Contract to do so in its behalf.
(**) Two witnesses are required when Contractor is sole proprietor or partnership.

CERTIFICATE

STATE OF FLORIDA

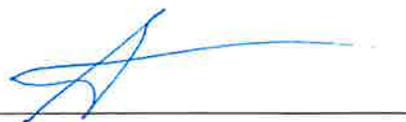
COUNTY OF Pinellas

I HEREBY CERTIFY that at a meeting of the Board of Directors of Waterfront Property Services LLC dba Gator Design, a corporation under the laws of the State of Florida, held on November 20, 2025, the following resolution was duly passed and adopted:

"RESOLVED, that William Coughlin as CEO President of the corporation, be is hereby authorized to execute the Contract dated , 2025, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, and this corporation, and that the execution thereof, attested by the Secretary of the corporation and with corporate seal affixed, shall be the official act and deed of this corporation."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the corporation on this 20 day of November, 2025.



Secretary of Corporation
Philip Findlay

PUBLIC CONSTRUCTION BOND
(Payment and Performance)

Bond No. _____

BY THIS BOND, We _____, having its principal place of business at _____, (____)____-____, herein called Principal, and _____, having its principal place of business at _____, (____)____-____, a corporation as Surety, are bound to Board of County Commissioners of Brevard County, Florida, 2725 Judge Fran Jamieson Way, Viera, Florida, 32940, (321) 633-2000, herein called County, in the sum of _____, (\$_____.00) for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND are that if Principal:

1. Performs the contract number _____ dated _____ between Principal and County for construction of (project description & location) _____, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and
3. Pays County all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that County sustains because of a default by Principal under the contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.
5. This Bond shall be recorded in the public records of Brevard County, Florida, at the Principal's expense. A certified copy of this recorded Bond shall be provided to the County.

No payments shall be made to the Principal until the Bond has been recorded and a certified copy has been provided to the County.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2) and (10), Florida Statutes. Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

Signed and sealed this _____ day of _____, 20__.

Witness:

(Principal) (Seal)

Its: _____
(Title)

Witness:

(Surety) (Seal)

Its: _____
(Title)

PUBLIC CONSTRUCTION PERFORMANCE AND GUARANTEE
BOND

BY THIS BOND, We _____, as Principal and _____, a corporation as Surety, are bound to Brevard County Board of County Commissioners, Brevard County, Florida, herein called County, in the sum of _____ (\$_____, _____), for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND are that if Principal:

Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, and shall remedy any defects in the work due to faulty materials or workmanship or failure to properly maintain during the length of the Contract, and pay for all damage to other work, person, or property resulting therefrom, which shall appear within a period of one (1) year from the date of final acceptance of the work provided for in the Contract, then this bond is to be void; otherwise it remains in full force and effect.

Any modifications in or under the Contract and compliance or noncompliance with any formalities connected with the Contract does not affect Surety's obligation under this bond.

Signed and sealed this _____ day of _____, 2024.

Attest:

(As to Corporate Principal) Secretary

Witness to Principal

By: _____

Name and Title of Principal

(Corporate Seal)

By: _____

Witness to Surety

Name and Title of Surety
(Corporate Seal)

**SAVE OUR INDIAN RIVER LAGOON PROJECT COST-SHARE FUNDING CONTRACT BETWEEN
BREVARD COUNTY, FLORIDA AND THE EAST COAST ZOOLOGICAL SOCIETY OF FLORIDA, INC.**

CONTRACT NUMBER: SOIRL 25-272

THIS CONTRACT (“Contract”) is made and entered into the date of last signature below by and between Brevard County, Florida, a political subdivision of the State of Florida (hereinafter the “COUNTY”), and the East Coast Zoological Society of Florida, Inc, a Florida non-profit agency organized and existing under the laws of the State of Florida (hereinafter the “NON-GOVERNMENTAL ORGANIZATION”).

RECITALS

WHEREAS, the COUNTY saw the urgent need to implement the “Save Our Indian River Lagoon Project Plan,” with the aim to restore the Indian River Lagoon through financing, planning, constructing, maintaining, and operating capital improvements and capital maintenance projects and programs designed to improve water quality, fish, wildlife and marine habitat, remove muck and reduce pollution, as permitted under Section 212.055(2)(d)1., Florida Statutes; and

WHEREAS, pursuant to Section 212.055, Florida Statutes, the COUNTY is authorized to levy a discretionary infrastructure sales tax of one-half cent by ordinance enacted by a majority of the members of the Board of County Commissioners and approved by a majority of the electors of Brevard County voting in a referendum on the surtax; and

WHEREAS, the COUNTY promulgated and passed Brevard County Ordinance No. 2016-15, (“the Ordinance”) imposing a one-half cent discretionary infrastructure sales tax for a period of ten (10) years from the date of levy, for the purposes expressed above, subject to approval of said surtax by a majority vote of those qualified electors of Brevard County voting in a referendum that was held on November 8, 2016; and

WHEREAS, it was contemplated that, if approved, said one-half cent discretionary infrastructure sales tax shall be imposed and collected County-wide, commencing on January 1, 2017, and continuing thereafter for a period of ten (10) years until December 31, 2026; and

WHEREAS, on November 8, 2016, a majority of those qualified electors of Brevard County voted in favor of the referendum, thereby authorizing the levy of the one-half cent surtax; and

WHEREAS, the COUNTY deems it in the best interest of all of the citizens and residents of Brevard County, Florida, that the proceeds of the one-half cent discretionary infrastructure sales tax be used to fund projects and programs designed to restore the Indian River Lagoon in the manner set forth in the Ordinance and its incorporated Save Our Indian River Lagoon Project Plan, including operations, maintenance and reasonable administrative costs of those projects and programs; and

WHEREAS, the project identified in the Statement of Work (“the Project”) has been included and approved by the Board of County Commissioners as part of the Save Our Indian River Lagoon Project Plan, most recently on February 11, 2025; and

WHEREAS, the COUNTY has determined that providing cost-share funding to the NON-GOVERNMENTAL ORGANIZATION for the purposes provided for herein will assist the COUNTY in effectively and efficiently implementing the Ordinance and its incorporated Save Our Indian River Lagoon Project Plan, as amended from time to time, and would be a proper expenditure of the monies reserved in the Save Our Indian River Lagoon Trust Fund; and

WHEREAS, this project was approved by the County Commission in 2025 and remains included in the 2025 Update to the Save Our Indian River Lagoon Project Plan that was approved on February 11, 2025.

NOW, THEREFORE, for value received, and in consideration of the following covenants, promises and provisions, the Parties agree as follows:

Section 1. Documents.

This Contract incorporates all of the following:

- a. The Recitals set forth above;
- b. The terms of the Contract set forth herein;
- c. Attachment A – Statement of Work;
- d. Attachment B – Project Progress Report Form;
- e. Attachment C – Reimbursement/Invoice Form;
- f. Attachment D – Recipient’s Certification of Payment Form;
- g. Attachment E – Eligible Tax Funding Cost Share Form; and
- h. Attachment F – Foreign Disclosure Form (for projects over \$100,000).

Section 2. Statement of Work.

In consideration of the above recitals, and the funding assistance described below, the NON-GOVERNMENTAL ORGANIZATION agrees to perform and complete the activities provided for in the **Statement of Work, Attachment A**. NON-GOVERNMENTAL ORGANIZATION shall complete the Project in conformity with the contract documents and all attachments and other items incorporated by reference herein.

Section 3. Term and Extensions.

a. The term of this Contract is from the date upon which the last party has dated and executed the same (“Effective Date”) until December 31, 2029 (“Completion Date”). NON-GOVERNMENTAL ORGANIZATION shall not commence the Project until any required submittals are received and approved. Time is of the essence for every aspect of this Contract, including any time extensions.

b. Any request for an extension of time beyond the Completion Date must be made in writing no less than forty-five (45) days prior to the contracted Completion Date. Timely requests to extend for up to one (1) year may be approved by the Natural Resources Management

Department Director, or his/her designee; and up to two (2) years may be approved by the County Manager, or designee. Timely requests to extend for longer than the County Manager's authorization to approve, may only be approved by the Board of County Commissioners.

c. Notwithstanding specific mention that certain provisions survive termination or expiration of this Contract, all provisions of this Contract that by their nature extend beyond the Completion Date, including by way of example without limitation, delivery of a final progress report, will remain in full force and effect after the Completion Date as necessary to affect performance.

Section 4. Offer Limitations.

a. This Contract constitutes an offer until authorized, signed and returned to the COUNTY by the NON-GOVERNMENTAL ORGANIZATION. This offer terminates sixty (60) days after receipt by the NON-GOVERNMENTAL ORGANIZATION; provided, however, that the NON-GOVERNMENTAL ORGANIZATION may submit a written request for extension of this time limit which may be approved by the County Manager or his/her designee.

b. If the Project, which is eligible for reimbursement under this Contract, does not begin within one hundred eighty (180) days of the Effective Date, or if the invoice for non-construction projects is not submitted within two hundred seventy (270) days of the Effective Date, this Contract will be subject to termination and the funds subject to reallocation.

Section 5. Project Management.

The Project Managers listed below shall be responsible for overall coordination and management of the Project. Either party may change its Project Manager upon three (3) business days' prior written notice to the other party. Written notice of change of address shall be provided within five (5) business days. All notices shall be in writing to the Project Managers at the addresses below and shall be sent by one of the following methods: (1) hand delivery; (2) U.S. certified mail; (3) national overnight courier; or (4) e-mail. Notices via certified mail are deemed delivered upon receipt. Notices via overnight courier are deemed delivered one (1) business day after having been deposited with the courier. Notices via e-mail are deemed delivered on the date received.

COUNTY

Aleah Ataman
Environmental Specialist
Department of Natural Resources
2725 Judge Fran Jamieson Way, Building A
Viera, Florida 32940
321-633-2016
Email: Aleah.Ataman@BrevardFL.gov

NON-GOVERNMENTAL ORGANIZATION

Ashley Rearden
Restoration Office Manager
Brevard Zoo
8225 N Wickham Road
Melbourne, FL 32940
321-254-9453 ext. 284
E-mail: ARearden@BrevardZoo.org

a. The COUNTY'S Project Manager shall have sole responsibility for transmitting instructions, receiving information, and communicating the COUNTY'S policies and decisions regarding all matters pertinent to performance of the Project. The COUNTY'S Project Manager may authorize

minor changes in the Project that the parties agree are not inconsistent with the purpose of the Project, and do not affect the COUNTY'S cost-share funding amount, the Project's nutrient reduction benefits, Completion Date, or otherwise significantly modify the terms of the Contract.

b. Should additional funding be acquired from sources other than the Indian River Lagoon one-half cent surtax, the County Manager and the authorized NON-GOVERNMENTAL ORGANIZATION representative are authorized to sign amendments to this Contract only if such additional funding: (1) reduces the Indian River Lagoon tax funding amount; and/or (2) reduces the NON-GOVERNMENTAL ORGANIZATION'S cost-share amount.

Section 6. Deliverables.

a. The NON-GOVERNMENTAL ORGANIZATION shall fully implement the Project, as described in the **Statement of Work, Attachment A**. The NON-GOVERNMENTAL ORGANIZATION is responsible for the professional quality, technical accuracy, and timely completion of the Project. Both workmanship and materials shall be of good quality. Unless otherwise specifically provided for herein, the NON-GOVERNMENTAL ORGANIZATION shall provide and pay for all materials, labor, and other facilities and equipment necessary to complete the Project.

b. The COUNTY'S Project Manager shall make a final acceptance inspection of the Project when completed and finished in all respects. Upon satisfactory completion of the Project, the NON-GOVERNMENTAL ORGANIZATION will provide the COUNTY a written statement indicating that the Project has been completed in accordance with this Contract. Acceptance of the final payment by the NON-GOVERNMENTAL ORGANIZATION shall constitute a release in full of all claims against the COUNTY arising from or by reason of this Contract.

c. Unless otherwise provided herein, the COUNTY does not assert an ownership interest in any of the deliverables under this Contract.

Section 7. Progress Reports and Performance Monitoring

a. The NON-GOVERNMENTAL ORGANIZATION shall provide to the COUNTY Project update/status reports as provided in the **Statement of Work, Attachment A**. Reports will provide details on the progress of the Project and outline any potential issues affecting completion or the overall schedule.

b. The NON-GOVERNMENTAL ORGANIZATION shall use the COUNTY'S **Project Progress Report Form, Attachment B**. NON-GOVERNMENTAL ORGANIZATION shall submit the Project Progress Reports to the COUNTY'S Project Manager within twenty (20) days after the closing date of each calendar quarter (March 31, June 30, September 30 and December 31).

c. Commencement of Construction. The NON-GOVERNMENTAL ORGANIZATION shall notify the COUNTY once construction has started at the site.

d. For as long as the Project is operational, the COUNTY shall have the right to inspect the operation of the Project during normal business hours upon reasonable prior notice. The NON-GOVERNMENTAL ORGANIZATION shall make available to the COUNTY any available data that is

requested pertaining to the performance of the Project.

Section 8. Written Authorization

The NON-GOVERNMENTAL ORGANIZATION shall obtain written authorization from the property owner(s) where the site is to be constructed that authorizes and secures permission for the NON-GOVERNMENTAL ORGANIZATION and the COUNTY to enter the subject property/properties to conduct periodic inspections and/or maintenance of the site(s) with reasonable advanced prior notice. This authorization must be obtained prior to beginning work and must contain an indemnification clause that extends to the COUNTY the ability to access the property and/or site where the Project will be constructed. As part of the authorization agreement, the NON-GOVERNMENTAL ORGANIZATION shall include the following language:

The [property owner] hereby authorizes and permits Brevard County, Florida, its agents, employees, officers, directors, and those under its direction or agency, (the "COUNTY") to access the [property/site] to conduct periodic inspections of and/or maintenance for the [Project located on the property/site]. The COUNTY shall provide reasonable advanced notice to [the property owner] prior to any inspection or maintenance. As part of this authorization and permission to access the [property/site], [the property owner] shall fully indemnify, defend, and hold the COUNTY harmless from and against any and all claims, suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to bodily injury, sickness, disease, death personal injury, damage to property or loss of use of any property or assets, resulting from or arising out of the performance of the services or products for which the COUNTY and/or the NON-GOVERNMENTAL ORGANIZATION is providing to [the property owner].

Section 9. Notifications.

- a. *Commencement of Construction.* The NON-GOVERNMENTAL ORGANIZATION shall notify the COUNTY'S Project Manager once construction has started at the site.
- b. *Completion of Construction.* The NON-GOVERNMENTAL ORGANIZATION shall notify the COUNTY'S Project Manager once construction has been completed in order for surveyors to complete their survey and analyze the site.

Section 10. Amount of Funding.

- a. For satisfactory completion of the Project, the COUNTY shall pay the NON-GOVERNMENTAL ORGANIZATION its "Eligible Tax Funding Cost Share" as stated in **Eligible Tax Funding Cost Share Form, Attachment E**. This amount shall be reduced correspondingly if additional matching funds for the Project are secured by the NON-GOVERNMENTAL ORGANIZATION. The contract amount may be increased by the appropriate grant amount if the COUNTY is able to secure funds from external revenue sources that are approved for allocation to this Project by the Board of County Commissioners, or its duly authorized representative.
- b. The NON-GOVERNMENTAL ORGANIZATION shall be responsible for payment of all additional costs beyond the cost-share amount necessary to ensure completion of the Project.

c. During contract negotiations, the NON-GOVERNMENTAL ORGANIZATION must submit the adopted budget for the Project, the amount of all secured grants for the Project, and an estimate of Project costs as defined in Section 10.e. The Eligible Tax Funding Cost Share shall be reduced as necessary to not exceed the balance of Project costs minus external matching funds for the Project.

d. The NON-GOVERNMENTAL ORGANIZATION shall notify the COUNTY'S Project Manager in writing upon receipt of any additional external funding for the Project not disclosed prior to execution of this Contract. The Eligible Tax Funding Cost Share shall be reduced as necessary so as not to exceed the balance of Project Costs minus external matching funds for the Project.

e. "Project cost" is defined to include actual costs of constructing project facilities, including construction, construction management, construction QA/QC testing, land acquisition, engineering, design, permitting, permit fees, impact fees, and any other Project-specific costs authorized under the **Statement of Work, Attachment A**. Project cost does not include any costs incurred prior to the Effective Date, unless expressly authorized by the Statement of Work, nor any costs not included in the contracted Statement of Work.

f. The NON-GOVERNMENTAL ORGANIZATION is responsible for owning, operating and maintaining the Project for the typical operating life of the Project.

Section 11. Payment of Invoices.

a. The NON-GOVERNMENTAL ORGANIZATION shall submit itemized invoices as per the **Statement of Work, Attachment A** on a quarterly basis for reimbursable expenses by one of the following four methods by: (1) mail; (2) hand delivery; or (3) national overnight courier to the Brevard County Natural Resources Management Department, Aleah Ataman, Project Manager, 2725 Judge Fran Jamieson Way, Building A, Viera, Florida 32940; or (4) e-mail to Aleah.Ataman@brevardfl.gov. If a delivery method is not selected in this paragraph, the default invoicing basis will be quarterly increments and sent by mail to the Project Manager.

b. All invoices shall be submitted using **Reimbursement/Invoice Form, Attachment C**, and include the following information: (1) the COUNTY'S contract number; (2) the NON-GOVERNMENTAL ORGANIZATION's name, address, and authorization to directly deposit payment into the NON-GOVERNMENTAL ORGANIZATION's account; (3) the NON-GOVERNMENTAL ORGANIZATION's invoice number and date of invoice; (4) the COUNTY'S Project Manager; (5) the NON-GOVERNMENTAL ORGANIZATION's Project Manager; (6) supporting documentation as to cost and/or Project completion (as per the cost schedule and other requirements of the **Statement of Work, Attachment A**); and (7) **Project Progress Report Form, Attachment B**. Invoices that do not include the above-listed information shall be returned without action within ten (10) business days of receipt, stating the basis for rejection.

Reimbursement Address

East Coast Zoological Society of Florida, Inc.
8225 N Wickham Road
Melbourne, FL 32940

c. Incremental payments shall be calculated as the fraction of Eligible Tax Funding Cost Share listed in the **Eligible Tax Funding Cost Share Form, Attachment E** (after adjustments per Sections 10.c. and/or d.) divided by Project cost multiplied by the amount of the NON-GOVERNMENTAL ORGANIZATION's Project Cost incurred during the respective incremental billing period. This percentage may be adjusted as needed if the project is partially funded through other grant funding sources. Payments shall be made within forty-five (45) days of receipt of an approved invoice.

d. The invoices shall be submitted in detail sufficient for proper pre-audit and post-audit review. Invoices shall include a copy of contractor and supplier invoices to the NON-GOVERNMENTAL ORGANIZATION and proof of payment. If necessary for audit purposes, the NON-GOVERNMENTAL ORGANIZATION shall provide additional supporting information as required to document invoices.

e. NON-GOVERNMENTAL ORGANIZATION shall be reimbursed for the actual cost of the Project, or the contracted amount, whichever is less. The COUNTY shall not withhold any retainage from this reimbursement. COUNTY reimbursement is subject to annual budgetary limitations and allocations, if applicable.

f. The COUNTY'S fiscal year ends on September 30th. The COUNTY is required to account for all encumbered funds at that time. Submittal of an invoice as of September 30th satisfies this requirement. Regardless of whether the NON-GOVERNMENTAL ORGANIZATION chooses monthly, quarterly, or annual invoices, if any expenses occur between a previous invoice and September 30th, the NON-GOVERNMENTAL ORGANIZATION shall submit a description of the work completed on the Project through September 30th and a corresponding invoice for that cost-share eligible amount achieved during that time interval.

Section 12. Final Invoice.

a. The final invoice must be submitted no later than forty-five (45) days after the NON-GOVERNMENTAL ORGANIZATION's final payment to its vendors for the Project or October 30th if the NON-GOVERNMENTAL ORGANIZATION's final payment is made between September 15th and September 30th.

b. Final Invoices that are submitted after the requisite date shall be subject to a penalty of ten percent (10%) of the invoice. This penalty may be waived by the COUNTY, in its sole judgment and discretion, upon a showing of special circumstances that prevent the timely submittal of the final invoice. The NON-GOVERNMENTAL ORGANIZATION must request approval for delayed submittal of the final invoice not later than ten (10) days prior to the due date and state the basis for the delay.

Section 13. Travel Expenses.

If the cost schedule for this Contract includes a line item for travel expenses, travel expenses shall be drawn from the Project budget. Travel expenses are otherwise not compensable. If travel expenses are not included in the cost schedule, they are a cost of providing the service that is borne by the NON-GOVERNMENTAL ORGANIZATION.

Section 14. Payments Withheld.

The COUNTY may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect the COUNTY from loss as a result of: (1) defective work not remedied; (2) failure to maintain adequate progress in the Project; or (3) any other material breach of this Contract. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.

Section 15. Multi-Year Contracts.

a. For multi-fiscal year contracts, the COUNTY must budget the amount of funds that will be expended during each fiscal year as accurately as possible. Funds contracted for reimbursement beyond the COUNTY'S current fiscal year will be budgeted in subsequent fiscal years per the schedule specified in the Project Contract, as amended. The **Statement of Work, Attachment A**, includes the parties' current schedule for completion of the work and projection of expenditures on a fiscal year basis (October 1 – September 30) ("Estimated Reimbursement Schedule").

b. If the NON-GOVERNMENTAL ORGANIZATION anticipates that expenditures will exceed the budgeted amount during any fiscal year, the NON-GOVERNMENTAL ORGANIZATION shall promptly notify the COUNTY'S Project Manager and provide a proposed revised work schedule and Annual Spending Plan that provides for completion of the work without increasing the Total Compensation. The last date for the COUNTY to receive this request is August 1 of the then-current fiscal year. Funds allocated in the current fiscal year that are not reimbursed in the current fiscal year due to slippage in the Project delivery schedule will be requested by COUNTY staff to roll forward to the next fiscal year as a Budget Amendment – (Regular), per BCC-21.

c. The COUNTY may in its sole discretion prepare a Budget Change Request incorporating the revised work schedule and Estimated Reimbursement Schedule as appropriate for changes in the Project schedule.

Section 16. Liability, Indemnification, Sovereign Immunity and Insurance.

a. Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that respective party, its officers, employees, and agents. The NON-GOVERNMENTAL ORGANIZATION accepts all risks arising from construction or operation of the Project.

b. The NON-GOVERNMENTAL ORGANIZATION shall indemnify and hold harmless the COUNTY, and its officers and employees, from liabilities, damages, personal injuries (including death) penalties, fines, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful acts or omissions of the NON-GOVERNMENTAL ORGANIZATION and persons employed or utilized by the NON-GOVERNMENTAL ORGANIZATION in the performance of this Contract.

c. The hold harmless and indemnification provided above shall obligate the NON-

GOVERNMENTAL ORGANIZATION to defend the County at the NON-GOVERNMENTAL ORGANIZATION's expense or to provide for such defense, at the option of the COUNTY, as the case may be, of any and all claims of liability and all suits and actions of every name and description (as described above) that may be brought against the COUNTY which may result under this Contract. In any and all such claims, lawsuits, etc., the COUNTY shall be permitted to choose legal counsel of its sole choice, the fees for which shall be subject to and included with this indemnification provided herein, as long as said fees are not greater than a rate deemed reasonable in Brevard County, Florida.

- d. In any and all claims against the COUNTY, and its officers and employees, the NON-GOVERNMENTAL ORGANIZATION's indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for the NON-GOVERNMENTAL ORGANIZATION, under workers' compensation acts, or other related policies or insurance. The parties acknowledge specific consideration has been exchanged for this indemnification provision. This indemnification shall survive the termination of this Contract.
- e. Nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available under the laws of the State of Florida, nor as a waiver of sovereign immunity of the COUNTY beyond the waiver provided for in Section 768.28, Florida Statutes, as may be amended. Nothing in this Contract is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. Nothing herein shall constitute a waiver of the COUNTY'S sovereign immunity protections. The COUNTY'S liability obligations hereunder shall be subject to the protections of and limitations on damages set forth in Section 768.28, Florida Statutes.
- f. At its own expense, the NON-GOVERNMENTAL ORGANIZATION shall acquire and maintain throughout the term of this Contract the following minimum levels of insurance including, but not limited to:
 - (i) General Liability Insurance: General Liability Insurance, with combined single limits of not less than one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.
 - (ii) Workers' Compensation Coverage: Full and complete Workers' Compensation Coverage, as required by State of Florida law, shall be provided.
 - (iii) Insurance Certificates: the NON-GOVERNMENTAL ORGANIZATION shall provide the County with Certificate(s) of Insurance (COI) and applicable endorsement forms for all policies of insurance and renewals, as required herein, in an industry standard Acord form. The COI shall be endorsed to provide that the COUNTY is an additional insured under the General Liability and Workers Compensation Policies and that the COUNTY shall be notified in writing by the insurer of any reduction, cancellation, or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. A waiver of subrogation in lieu of additional insured status on

the Workers' Compensation policy is acceptable. All insurance policies shall be issued by responsible companies who are licensed and authorized under the laws of the State of Florida. The NON-GOVERNMENTAL ORGANIZATION shall notify the COUNTY in writing of any reduction, cancellation, or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.

Section 17. Funding Availability.

a. This Contract is at all times contingent upon funding availability, which may include a single source or multiple sources, including, but not limited to: (1) the Save Our Indian River Lagoon one-half cent surtax; (2) annual appropriations by the Florida Legislature; or (3) appropriations from other agencies or funding sources. Contracts that extend for a period of more than one Fiscal Year are subject to annual appropriation of funds in the sole discretion and judgment of the COUNTY for each succeeding Fiscal Year. Should the Project not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the COUNTY shall so notify the NON-GOVERNMENTAL ORGANIZATION and this Contract shall be deemed terminated for convenience five (5) days after receipt of such notice, or within such additional time as the COUNTY may allow. For the purpose of this Contract, "Fiscal Year" is defined as the period beginning on October 1 and ending on September 30.

b. The NON-GOVERNMENTAL ORGANIZATION agrees that any and all NON-GOVERNMENTAL ORGANIZATION funds budgeted (in the adopted or amended budget) for this Project that are saved by the NON-GOVERNMENTAL ORGANIZATION by virtue of reimbursement or allocation received pursuant to this cost-share Contract, shall be reallocated and expended by the NON-GOVERNMENTAL ORGANIZATION solely to other NON-GOVERNMENTAL ORGANIZATION, COUNTY or third-party project(s) benefiting the restoration of the Indian River Lagoon within five (5) years of the Effective Date of this Contract. Should the NON-GOVERNMENTAL ORGANIZATION choose to not expend such funds in the manner described above, the NON-GOVERNMENTAL ORGANIZATION shall transfer those funds to the COUNTY for deposit to the Save Our Indian River Lagoon Trust Fund. The NON-GOVERNMENTAL ORGANIZATION's obligation under this paragraph shall survive the termination of this Contract.

Section 18. Failure to Complete Project.

a. Should the NON-GOVERNMENTAL ORGANIZATION fail to complete the Project, the NON-GOVERNMENTAL ORGANIZATION shall refund to the COUNTY all of the funds provided to the NON-GOVERNMENTAL ORGANIZATION pursuant to this Contract.

b. With a recommendation from its Citizen Oversight Committee, the COUNTY, in its sole judgment and discretion, may determine that the NON-GOVERNMENTAL ORGANIZATION has failed to complete the Project due to circumstances that are beyond the NON-GOVERNMENTAL ORGANIZATION's control, due to termination of this Contract for reasons of funding availability, or due to a good faith determination that the Project is no longer environmentally or economically feasible. In such event, the COUNTY may excuse the NON-GOVERNMENTAL ORGANIZATION from the obligation to return funds provided hereunder.

c. If the Project has not been completed within thirty (30) days after the Completion Date, the

NON-GOVERNMENTAL ORGANIZATION shall provide the COUNTY with notice regarding its intention as to completion of the Project. The parties shall discuss the status of the Project and may mutually agree to revise the time for Project completion or the scope of the Project. Failure to complete the Project within ninety (90) days after the Completion Date shall be deemed to constitute failure to complete the Project for the purposes of this provision.

d. In the event the Project constitutes a portion of the total functional project, this paragraph shall apply in the event the total functional project is not completed. In such event, the 90-day timeframe provided herein shall commence upon the date scheduled for completion of the total functional project at the time of execution of this Contract, unless extended by mutual agreement of the parties. Sections 18.a. and b. shall survive the termination or expiration of this Contract.

e. Force Majeure. NON-GOVERNMENTAL ORGANIZATION will not be responsible for failure to carry out any terms of this Contract due to any one of the following circumstances beyond the control of the NON-GOVERNMENTAL ORGANIZATION: (a) the operation and effect of rules, regulations, or orders promulgated by any commission, county, or governmental agency of the state of Florida or the United States; (b) a restraining order, injunction, or similar decree of any court of competent jurisdiction; (c) war; (d) flood; (e) earthquake; (f) fire; (g) severe wind storm or hurricane; (h) acts of public disturbance; (i) quarantine restrictions; (j) epidemic; (k) strikes; or (l) sabotage. The NON-GOVERNMENTAL ORGANIZATION shall not be subject to any liability for failure to carry out any of the terms of this Contract to the extent that such failure shall be due to a Force Majeure event as defined herein. In such event, the NON-GOVERNMENTAL ORGANIZATION shall be excused from the obligation to return funds provided herein if the parties can agree, in writing, to a revised completion date for the Project based on the circumstances.

Section 19. Termination.

a. If the NON-GOVERNMENTAL ORGANIZATION materially fails to fulfill its obligations under this Contract, including any specific milestones established herein, the COUNTY may provide the NON-GOVERNMENTAL ORGANIZATION written notice of the deficiency by forwarding a "Notice to Cure," citing the specific nature of the breach. The NON-GOVERNMENTAL ORGANIZATION shall have thirty (30) days following receipt of the notice to cure the breach. If the NON-GOVERNMENTAL ORGANIZATION fails to cure the breach within the thirty (30) day period, the COUNTY may issue a "Termination for Default Notice" terminating this Contract without further notice. In such event, the NON-GOVERNMENTAL ORGANIZATION shall refund to the COUNTY all funds provided to the NON-GOVERNMENTAL ORGANIZATION pursuant to this Contract within thirty (30) days of such termination. The COUNTY may also terminate this Contract upon ten (10) days written notice in the event of any material misrepresentations in the Project Proposal.

b. Delay or failure by the COUNTY to enforce any right, remedy or deadline hereunder shall not impair, or be deemed a waiver of, any such right, remedy or deadline, or impair the COUNTY'S rights or remedies for any subsequent breach or continued breach of this Contract.

c. This Contract may be terminated by either party for convenience upon ninety (90) days prior written notice to the other party. In the event the COUNTY terminates for convenience, NON-GOVERNMENTAL ORGANIZATION shall be paid for work completed and costs incurred in good faith through the date of termination. In the event the NON-GOVERNMENTAL ORGANIZATION terminates for convenience, COUNTY shall receive a full refund of the funds provided herein within thirty (30) days of the date of termination.

ADDITIONAL PROVISIONS

Section 20. Assignment.

The NON-GOVERNMENTAL ORGANIZATION shall not assign this Contract, or any monies due hereunder, without the COUNTY'S prior written consent. The NON-GOVERNMENTAL ORGANIZATION is solely responsible for fulfilling all work elements in any contracts awarded by the NON-GOVERNMENTAL ORGANIZATION and payment of all monies due. No provision of this Contract shall create a contractual relationship between the COUNTY and any of the NON-GOVERNMENTAL ORGANIZATION's contractors or subcontractors.

Section 21. Audit; Access to Records; Repayment of Funds.

a. Maintenance of Records. The NON-GOVERNMENTAL ORGANIZATION shall maintain its books and records such that receipt and expenditure of the funds provided hereunder are shown separately from other expenditures in a format that can be easily reviewed. The NON-GOVERNMENTAL ORGANIZATION shall keep the records of receipts and expenditures, copies of all reports submitted to the COUNTY, and copies of all invoices and supporting documentation for at least five (5) years after expiration of this Contract. In addition, the NON-GOVERNMENTAL ORGANIZATION shall maintain records to demonstrate satisfaction of its obligation under subparagraph 17b. above.

b. Review and Auditing. In accordance with generally accepted governmental auditing standards, the COUNTY shall have access to and the right to examine any directly pertinent books and other records involving transactions related to this Contract. In the event of an audit, the NON-GOVERNMENTAL ORGANIZATION shall maintain all required records until the audit is completed and all questions are resolved. The NON-GOVERNMENTAL ORGANIZATION will provide proper facilities for access to and inspection of all required records.

c. Repayment of Funds. COUNTY funding shall be subject to repayment after expiration of this Contract if, upon audit examination, the COUNTY finds any of the following: (1) the NON-GOVERNMENTAL ORGANIZATION has spent funds for purposes other than as provided for herein; (2) the NON-GOVERNMENTAL ORGANIZATION has failed to perform a continuing obligation of this Contract; (3) the NON-GOVERNMENTAL ORGANIZATION has received duplicate funds from the COUNTY or other external funding entity for the same purpose; (4) the NON-GOVERNMENTAL ORGANIZATION has been advanced or paid unobligated funds; (5) the NON-GOVERNMENTAL ORGANIZATION has been paid funds in excess of the amount the NON-GOVERNMENTAL ORGANIZATION is entitled to receive under the Contract; and/or (6) the NON-GOVERNMENTAL ORGANIZATION has received contributions amounting to more than one hundred percent (100%) of the Project cost through cumulative public agency cost-share funding.

Section 22. Dispute Resolution.

The NON-GOVERNMENTAL ORGANIZATION is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute involving performance of this Contract by submitting a written statement to the COUNTY'S Project Manager no later than ten (10) business days after the precipitating event. If not resolved by the COUNTY Project Manager within ten (10) business days, the COUNTY Project Manager shall forward the request to the County Manager's Office, which shall issue a written decision within ten (10) business days of receipt. This determination shall constitute final action of the COUNTY and may be subject to judicial review upon completion of the Project.

Section 23. Governing Law, Venue, Attorney's Fees, Waiver of Right to Jury Trial.

This Contract shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Contract: (1) Venue for any state or federal legal proceedings shall be in a court of competent jurisdiction in and for Brevard County; (2) Each party shall bear its own attorney's fees, including appeals; (3) For civil proceedings, the parties hereby consent to trial by the court and **WAIVE THE RIGHT TO JURY TRIAL**.

Section 24. Permits.

The NON-GOVERNMENTAL ORGANIZATION shall comply with all applicable federal, state, and local laws and regulations in implementing the Project and shall include this requirement in all subcontracts pertaining to the Project. The NON-GOVERNMENTAL ORGANIZATION shall obtain any and all governmental permits necessary to implement the Project. Any activity not properly permitted prior to implementation or completed without proper permits does not comply with this Contract and shall not be approved for cost-share funding.

Section 25. Independent Contractors.

The parties to this Contract, their employees and agents, are independent contractors and not employees or agents of each other. Nothing in this Contract shall be interpreted to establish any relationship other than that of independent contractors during and after the term of this Contract. The NON-GOVERNMENTAL ORGANIZATION is not a contractor of the COUNTY. The COUNTY is providing cost-share funding as a cooperating governmental entity to assist the NON-GOVERNMENTAL ORGANIZATION in accomplishing the Project. The NON-GOVERNMENTAL ORGANIZATION is solely responsible for accomplishing the Project and directing the means and methods by which the Project is accomplished. The NON-GOVERNMENTAL ORGANIZATION is solely responsible for compliance with all labor, health care, and tax laws pertaining to the NON-GOVERNMENTAL ORGANIZATION, its officers, agents, and employees.

Section 26. Scrutinized Companies.

a. The NON-GOVERNMENTAL ORGANIZATION certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida

Statutes, the COUNTY may immediately terminate this Contract at its sole option if the NON-GOVERNMENTAL ORGANIZATION or its subcontractors are found to have submitted a false certification; or if the NON-GOVERNMENTAL ORGANIZATION or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Contract.

b. If this Contract is for more than one million dollars, the NON-GOVERNMENTAL ORGANIZATION certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, Florida Statutes, the COUNTY may immediately terminate this Contract at its sole option if the NON-GOVERNMENTAL ORGANIZATION, its affiliates, or its subcontractors are found to have submitted a false certification; or if the NON-GOVERNMENTAL ORGANIZATION, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Contract.

c. The NON-GOVERNMENTAL ORGANIZATION agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract.

d. As provided in Section 287.135(8), Florida Statutes, if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

Section 27. Public Entity Crime.

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.

Section 28. Public Records.

Records of the NON-GOVERNMENTAL ORGANIZATION that are made or received in the course of performance of the Project may be public records that are subject to the requirements of Chapter 119, Florida Statutes. If the NON-GOVERNMENTAL ORGANIZATION receives a public records request, the NON-GOVERNMENTAL ORGANIZATION shall promptly notify the COUNTY'S Project Manager. Each party reserves the right to cancel this Contract for refusal by the other party to allow public access to all documents, papers, letters, or other materials related hereto and subject to the provisions of Chapter 119, Florida Statutes, as amended.

Section 29. Royalties and Patents.

The NON-GOVERNMENTAL ORGANIZATION certifies that the Project does not, to the best of its information and belief, infringe on any patent rights. The NON-GOVERNMENTAL ORGANIZATION shall pay all royalties and patent and license fees necessary for performance of the Project and shall defend all suits or claims for infringement of any patent rights and save and hold the COUNTY harmless from loss to the extent allowed by Florida law.

Section 30. Employment Eligibility Verification (E-Verify).

The NON-GOVERNMENTAL ORGANIZATION:

- a. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the NON-GOVERNMENTAL ORGANIZATION during the term of the Contract; and
- b. shall expressly require any subcontractors performing work or providing services pursuant to this contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term; and
- c. agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the COUNTY consistent with the terms of the NON-GOVERNMENTAL ORGANIZATION's enrollment in the program. This includes maintaining a copy of proof of the NON-GOVERNMENTAL ORGANIZATION's and subcontractors' enrollment in the E-Verify Program; and
- d. shall require any contractor to provide the NON-GOVERNMENTAL ORGANIZATION with an affidavit stating that it does not employ, contract with, or subcontract with any unauthorized aliens, and
- e. nothing in this Section may be construed to allow intentional discrimination of any class protected by law.
- f. Compliance with the terms of this section is made an express condition of this Contract and the COUNTY may treat a failure to comply as a material breach.

Section 31. Severability.

If any portion of this Contract is found to be invalid or unenforceable or if applicable law mandates a different interpretation or result, the remaining provisions will remain in effect and the parties will negotiate in good faith to substitute for such invalid, illegal, or unenforceable provision a mutually acceptable provision consistent with the original intention of the parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURES TO FOLLOW.]

IN WITNESS WHEREOF, the COUNTY has caused this Contract to be executed on the day and year written below in its name by its duly authorized representative, and NON-GOVERNMENTAL ORGANIZATION has caused this Contract to be executed on the day and year written below in its name by its duly authorized representatives. This Contract may be executed in separate counterparts, which shall not affect its validity. Upon execution, this Contract constitutes the entire Contract of the parties and supersedes all other stipulations, proposals, representations, statements, or understandings, whether written or oral, regarding this subject matter. This Contract cannot be changed by any means other than written amendments referencing this Contract and signed by all parties.

Brevard County, Florida
By: Thad Altman DEC 02 2025
Thad Altman, Chair
Brevard County Board of County Commissioners
As approved by the Board on February 11, 2025

East Coast Zoological Society of Florida, Inc.
By: _____
Name: Keith Winsten
Title: Executive Director
Date: _____

Attest
By: Rachel M. Sadoff DEC 03 2025
Rachel M. Sadoff, Clerk

Reviewed for legal form and content for Brevard County

Heather A. Balsar
Heather A. Balsar, Assistant County Attorney

**ATTACHMENT A
STATEMENT OF WORK**

PROJECT TITLE: Brevard Zoo North Indian River Lagoon Oyster Project 4 #272

PROJECT LOCATION: North Basin of the Indian River Lagoon

PROJECT BACKGROUND: Brevard Zoo's Restore Our Shores (ROS) is a community-based program that umbrellas multiple projects focused on lagoon restoration and education that, since 2009, has helped gather over 70,000 volunteers into an active cohort of lagoon restoration advocates. The Restore Our Shores program is currently working to install oyster reefs throughout the Indian River Lagoon.

PROJECT DESCRIPTION: Brevard Zoo will construct 43,560 square feet of oyster projects in the North section of the IRL. The designs will be site specific and will be reviewed by the County prior to submittal of permit applications and approved by the County before construction begins. Brevard Zoo will consult with the County to determine whether live oysters need to be added to each specific location prior to construction. The zoo will conduct the necessary site evaluations, complete the designs for the project, obtain permits, and construct the oyster projects, with the assistance of volunteers and community partners.

TASKS and DELIVERABLES:

The Brevard Zoo agrees to include physical signage approved by the County at the site during the performance of the work. The signage shall contain the Brevard County Save Our Indian River Lagoon logo. The physical design of the sign shall allow space for the following text: "This project has been funded in part by the Save Our Indian River Lagoon ½ cent sales tax."

Task #1: Site Evaluation

Task Description: Brevard Zoo will complete all site evaluations needed to proceed to the design and permitting processes. This includes but is not limited to the following: an initial site visit to examine fetch, depth, salinity, presence of oysters, sediment composition, and any surrounding considerations; a sea grass survey; any necessary follow up visits; communications with the landowner and contract negotiations.
Deliverable: Letter of Commitment or Letter of Support from all property owners, if applicable.

Task #2 Design

Task Description: Brevard Zoo will complete the designs for these oyster projects and share with the county, prior to submittal of permit applications. This task will also include preparing the drawings that will be needed to secure all permits. The proposed designs will be site specific and will be approved by the County prior to construction. The zoo will consult with the County to determine whether live oysters need to be added to each specific location as part of their construction.
Deliverable: Sketch of designs and site evaluations.

Task #3 Permitting

Task Description: Brevard Zoo will obtain all necessary permits for the completion of this project, both from Army Corps of Engineers and the State agency, which will either be St. Johns River Water Management District or Florida Department of Environmental Protection, depending on the decision of the agencies mentioned for each site. The zoo will submit copies of all said permits to the County. When permits address monitoring, success criteria, and/or removal contingencies, they will be reviewed by County prior to permit submittal and finalization.
Deliverable: Copy of all permits.

Task #4 Construction

Task Description: Brevard Zoo will construct the oyster projects in accordance with the final designs and required permits. This will be a multi-pronged process that can be broken into four steps: material

acquisition, material preparation, staging, and installation. Material acquisition will be completed in the form of the collection of shell from participating restaurants and a local shucking house, as well as the purchase of all other necessary materials. Material preparation includes coordinating the construction, palletizing and storing of the materials needed for these reefs, whether done in house or with the assistance of volunteers or community partners. Staging includes the mobilization of the necessary materials from the storage location to the build sites. Installation includes placing the materials in the correct locations in the water and securing them in accordance with the designs and permits. The finished product will be 43,560 square feet of oyster reef in the North basin of the IRL. Live oysters will be added to all areas deemed appropriate after consulting with the County. Brevard Zoo will accomplish these tasks with the assistance of volunteers and community partners.

Deliverable: Pictures of installations and GPS Coordinates of the completed reefs.

Task	Task Title	Task Start Date	Task End Date
1	Site Evaluation	4/1/26	8/31/29
2	Design	4/1/26	12/31/29
3	Permitting	4/1/26	12/31/29
4	Construction:	4/1/26	12/31/29
4 a	Material Acquisition	4/1/26	12/31/29
4 b	Material Preparation	4/1/26	12/31/29
4 c	Staging	4/1/26	12/31/29
4 d	Installation	7/1/26	12/31/29

Estimated Reimbursement Schedule: Project reimbursements will be requested quarterly.

Note that quarters go by the County fiscal year so 1st quarter is Oct.-Dec., 2nd quarter is Jan.-Mar., 3rd quarter is Apr.-Jun., 4th quarter is Jul.-Sept.

Task	Q2 26-27	Q3 26-27	Q4 26-27	Q1 27-28	Q2 27-28	Q3 27-28			
Project as described in SOW	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	327,450			

Deliverables: Quarterly and final reports including pictures of progress made, or plans if pictures are not yet available.

Project's Status without Trust Funds (Adjust the highlighted section and delete the other options that do not apply):

This project is not included in the zoo's FY 2025 budget, therefore without the Save Our Indian River Lagoon Funding the project would not have been executed in the near future.

SAVE OUR INDIAN RIVER LAGOON
PROJECT PROGRESS REPORT FORM

Date: _____

Report Number: _____

Project Information

Project Name:			
Recipient Name:			
Contract Number:		County Project Manager Email:	
Nitrogen Reduction Benefit (lbs/yr)		County Project Manager Phone:	
Phosphorus Reduction Benefit (lbs/yr)		Recipient's Email:	
TSS Reduction Benefit (lbs/yr)		Recipient's Phone:	

Construction Schedule

Start Date (mm/dd/yy):	
Completion (mm/dd/yy):	

Reporting Period

Beginning Date (mm/dd/yy):	
Ending Date (mm/dd/yy):	

Budget

Total Budget:	
Expended To-date:	
Contract Amount:	

Expended This Period:	
Percent Budget Expended:	0%
Percent Cost Share:	0%

Estimated Reimbursement Schedule

Fiscal Year 1			Fiscal Year 2		
Reimbursement #	Anticipated Amount	Anticipated Date	Reimbursement #	Anticipated Amount	Anticipated Date
1			1		
2			2		
3			3		
4			4		

Project Status (Include Overall Project % Complete)

--

Tasks/Milestones/Deliverables Scheduled for this Reporting Period or Within the Next 90 days:

Task Number	Tasks/Milestones/Deliverables	Start Date	Finish Date	Percent Complete	Projected Finish Date
1	Permitting			0%	
2	Engineering			0%	
3	Construction			0%	
				0%	
				0%	

Problems, Issues, Solutions, Anticipated deviations from schedule:

--

Attach an additional page of notes if necessary to explain reasons for lateness or unusual events or circumstances.

Attachment C -- Detail Sheet

Save Our Indian River Lagoon Cost Share Program -- Invoice for Reimbursement

RECIPIENT'S NAME:											
PROJECT NAME:											
COUNTY'S PROJECT MANAGER:											
AGREEMENT NO.:											
PERFORMANCE PERIOD FROM:											
PERFORMANCE PERIOD TO:											
PAYMENT REQUEST NO.:											
DATE OF REQUEST:											
TOTAL PROJECT COST:											
COST-SHARE PERCENTAGE:											
COST-SHARE AMOUNT:											
TOTAL COST-SHARE PREVIOUSLY REIMBURSED:											
CURRENT REIMBURSEMENT AMOUNT REQUESTED:											
NOTES:											
ITEM NO.	VENDOR	DESCRIPTION OF SERVICES	CHECK DATE	CHECK NUMBER	INVOICE NUMBER	INVOICE AMOUNT	CURRENT REIMBURSEMENT AMOUNT REQUESTED				
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											
12											
TOTALS:						\$ 0.00	\$ 0.00				

Recipient's Certification of Payment Request

I, _____, on behalf of _____, do hereby certify for SOIRL Agreement No. _____ and Payment Request No. _____ that:

- The disbursement amount requested is for allowable costs for the project described in Attachment A of the Agreement.
- All costs included in the amount requested have been satisfactorily purchased, performed, received, and applied toward completing the project; such costs are documented by invoices or other appropriate documentation as required in the Agreement.
- All procurement for the amount requested was completed in a manner consistent with applicable law and contract requirements.
- If notified by the County of any restrictions on the use of local preference for this Agreement, the Recipient confirms that no local preference was used.
- The Recipient has paid such costs under the terms and provisions of contracts relating directly to the project; and the Recipient is not in default of any terms or provisions of the contracts.

Check all that apply:

- All permits and approvals required for the construction, which is underway, have been obtained.
- Construction up to the point of this disbursement is in compliance with the construction plans and permits.
- The Recipient's Grant Manager relied on certifications from the following professionals that provided services for this project during the time period covered by this Certification of Payment Request, and such certifications are included:

Professional Service Provider (Name / License No.)	Period of Service (mm/dd/yy – mm/dd/yy)

_____ Recipient's Grant Manager's Signature	_____ Recipient's Fiscal Agent
_____ Print Name	_____ Print Name
_____ Telephone Number	_____ Telephone Number

ATTACHMENT E

Recipient Name:	Brevard Zoo
Project Name:	Brevard Zoo North Indian River Lagoon Oyster Project 4
Agreement Number:	25-272

Estimated Project Cost-Share Table							
Task	Task Description	Task Cost	Grant 1	Grant 2	Grant 3	Eligible Lagoon Tax Cost Share, Adjusted	Local Match
1	Project as Described in \$	827,450.00					
	Total	\$ 827,450.00	\$ -	\$ -	\$ -	\$ 827,450.00	

Funding Eligibility Calculation	
Project Type	Oyster Reef
BMP Type (If stormwater)	
Pounds of Nitrogen Reduction	1,742
Eligible Cost Share per Pound	\$ 475.00
Eligible Tax Funding Cost Share	\$ 827,450.00
Reduction so Sum of Grants does not exceed Project Cost	\$ -
Eligible Lagoon Tax Cost Share, Adjusted	\$ 827,450.00
Percent Cost Share to be contributed by the Lagoon Tax	100%

Attachment F

DISCLOSURE FORM

FOREIGN INFLUENCE ON CONTRACTS OR GRANTS HAVING A VALUE OF \$100,000 OR MORE

Summary of Form: In order for the County to comply with section 286.101, Florida Statutes, all prospective contractors and grant recipients seeking to contract with the County, or receive a grant from the County, where said contract or grant has a value of \$100,000 or more must disclose to the County (1) any current or prior interest of, (2) any contract with, or (3) any grant or gift received from a foreign country of concern (defined as the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, and the Syrian Arab Republic, or an agency or other entity under the significant control of such foreign country of concern) if such interest, contract, or grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract or grant or gift was received or in force at any time during the previous five years. The disclosure is specified below. Within one year before applying for any grant or proposing any Contract, such entity must provide a copy of such disclosure to the Department of Financial Services. Disclosure is not required in certain circumstances, outlined below. A Contract is any agreement for the direct benefit or use of any party to such agreement, including an agreement for the sale of commodities or services. A Gift is any transfer of money or property from one entity to another without compensation. A Grant is a transfer of money for a specified purpose, including a conditional gift. An interest in an entity means any direct or indirect investment in or loan to the entity valued at 5 percent or more of the entity’s net worth or any form of direct or indirect control exerting similar or greater influence on the governance of the entity.

I. SECTION I. Please answer yes or no to each statement below:

- YES / NO I AM BIDDING ON A CONTRACT/APPLYING FOR A GRANT WITH A POTENTIAL VALUE UNDER \$100,000. If yes, this disclosure form has been completed. Please sign and date at the bottom.

- YES / NO I AM BIDDING ON A CONTRACT/APPLYING FOR A GRANT WITH A POTENTIAL VALUE OF OVER \$100,000. If yes, proceed to the next question.

- YES / NO I HAVE MADE A FOREIGN INFLUENCE DISCLOSURE ONLINE WITH THE DEPARTMENT OF FINANCIAL SERVICES. If yes, please proceed to SECTION IV and provide the date of the disclosure, your name and address. Then sign and date at the bottom.

II. SECTION II. Please answer yes or no to the statement below:

- YES / NO Bidder/Grantee has (1) a current or prior interest of, any contract with, or any grant or gift received from a foreign country of concern (defined as the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan Regime of Nicolas Maduro, and the Syrian Arab Republic, or an agency or other entity under the significant control of such foreign country of concern); and (2)

Attachment F

such interest, contract, or grant or gift has a value of \$50,000 or more; and (3) such interest existed, or such contract or grant or gift was received or in force at any time during the previous five years.

III. SECTION III. If you answered NO to SECTION II, you have completed this form. Please sign/date at the bottom. If you answered YES to SECTION II, then answer YES or NO to the following:

- YES / NO This is a proposal to sell commodities through an online procurement programs established pursuant to section 287.057(22), Florida Statutes.
- YES / NO This is a proposal from an entity that discloses foreign gifts or grants under section 1010.25 or section 286.101(2), Florida Statutes.
- YES / NO This is a proposal from a foreign source that, if granted or accepted, would be disclosed under section 286.101(2) or section 1010.25, Florida Statutes.
- YES / NO This is a proposal from a public or not-for-profit research institution with respect to research funded by any federal Agency.

IV. SECTION IV. If you answered YES to any question in SECTION III, you have completed this form. Please sign/date at the bottom. If you answered NO to all of the questions in SECTION III, then you must make the following disclosures online to the State of Florida Department of Financial Services before the County may contract with you or award you said grant. Please disclose the following:

Date Disclosure of the information below was made by Bidder/Grantee to the State of Florida Department of Financial Services online: _____

Name of Bidder/Grantee: _____

Mailing Address of Bidder/Grantee: _____

Value of the Contract/Grant or Gift: _____

Foreign Country of Concern or the Agency or other entity under the significant

Control of such Foreign country of Concern: _____

Date of Termination of the contract or interest with the Foreign Country of Concern:

Date of Receipt of the Contract/Grant or Gift: _____

Name of the agent or controlled entity that is the source or interest holder:

Attachment F

I verify that the information provided on this form is true and correct, and that I am duly authorized to make said binding disclosures on behalf of myself or my Company, as applicable.

Signature: _____ Date: _____

Title: _____

STATE OF FLORIDA

COUNTY OF _____

Sworn to and subscribed before me by means of physical presence or online notarization, this ____ day of _____, _____, by (name of person making statement).

[Notary Seal]

Notary Public

Name typed, printed or stamped

My Commission Expires: _____

_____ Personally Known OR _____ Produced Identification

Type of Identification Produced _____