

Meeting Date
December 15, 2015



AGENDA	
Section	Consent
Item No.	II.A.1

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Memoranda of Understanding for Two Pilot Oyster Reef Living Shorelines in the Indian River Lagoon
DEPT/OFFICE:	Natural Resources Management Department (NRM)

Requested Action:

It is requested that the Board of County Commissioners: 1) authorize the Chairman to execute a Memorandum of Understanding (MOU) between Brevard County, the East Coast Zoological Society, Inc., and the Girl Scouts of Citrus Council, Inc.; 2) authorize the Chairman to execute an MOU between Brevard County, the East Coast Zoological Society, Inc., and Jim Swann; and 3) authorize the County Manager or designee to execute future amendments, as required to implement the work approved under the St. John's River Water Management District (SJRWMD) Cost-Share Agreement #28256.

Summary Explanation & Background:

On May 26, 2015, the Board of County Commissioners approved executing a Cost-Share Agreement with SJRWMD for installing multiple living shoreline pilot projects along 2,360 feet of the Indian River Lagoon (IRL). These living shorelines will include shoreline planting of native salt marsh vegetation and incorporate living oyster reef as a wave break. Once constructed, it is expected that there will be a reduction in shoreline erosion, nutrient pollution, algal blooms, and turbidity.

The East Coast Zoological Society, Inc., having experience constructing oyster reef living shorelines in the IRL, as well as experience in community education and outreach, has been contracted by Brevard County to perform annual services associated with the Oyster Restoration in the Indian River Lagoon Project. These services include living shoreline construction and continuation of oyster gardening for live oyster propagation.

Three sites have been selected for oyster reef living shoreline construction for the first year of this two-year project, with anticipated construction to begin in March 2016. The selected sites include one privately-owned non-profit property, one privately-owned residential property, and one public, County-managed property. Sites were selected to optimize the physical parameters that influence success, including water depth, sediment composition, shoreline condition, site vegetation, oyster presence, and site accessibility.

It is the intent of each attached MOU to develop a cooperative framework for the creation of living shorelines on the selected properties and to define the responsibilities and roles for the project's collaborative partners.

Fiscal Impact: There is no fiscal impact associated with this request.

Staff Contact: Virginia Barker, X52435 or Jane Hart, X56721

Clerk to the Board instruction: Two MOUs total. Four original copies of each MOU: one original copy of each MOU is for Clerk of Court and three original copies for Natural Resources Management Department

Exhibits Attached:

- ATTACHMENT A** - Girl Scouts of Citrus Council MOU
- ATTACHMENT B** - Swann MOU
- ATTACHMENT C** - Brevard County Parks and Recreation MOU
- ATTACHMENT D** - Signed AO-29 Forms
- ATTACHMENT E** - Location Map of Sites

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager	Assistant County Manager	Department Director/Extension					
Stockton Whitten		 Virginia Barker/X52435					

RCVD-3CHR-NOV 24 15

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT FORM

SECTION I

The following information must be completed on all new contracts submitted to the Board.

1. Contractor: Girl Scouts of Citrus Council; East Coast Zoological Society of Florida	
2. Fund/Account #:	3. Division Name:
4. Contract Description: Oyster Reef Living Shorelines at Riverpoint Program Center	
5. Contract Monitor: Jane Hart	6. Mail Stop #: 81
7. Dept./Office Director: Natural Resources/Virginia Barker	8. Contract Type:
ACTION DATE:	ACTION REQUIREMENT:

SECTION II

The following departments must approve all contracts submitted to the Board:

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>INITIALS</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	✓	_____	<u>Y/HB</u>	<u>11/18/15</u>
Risk Management	✓	_____	<u>JLS</u>	<u>12/1/2015</u>
County Attorney	<u>OC</u>	_____	<u>OC</u>	<u>11/23/15</u>

If any office denies approval, the package will be returned immediately to the User Agency.

NOTE: This form should be attached to all new contracts being submitted to the Board for approval. After the contract has been approved, the contract package, including this form, will go to the Clerk to the Board. The Clerk's office will return the Initial Contract Form to department for contract to be entered into the Contract Management System. See AO-29 for additional information.

Make sure Risk Management reviews for insurance requirements



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972

December 16, 2015

MEMORANDUM

TO: Virginia Barker, Natural Resources Management Department Director Attn: Jane Hart

RE: Item II.A.1., Memorandum of Understanding with East Coast Zoological Society, Inc., Girl Scouts of Citrus Council, Inc., and Jim and Jonnie Swann for Two Pilot Oyster Reef Living Shorelines in the Indian River Lagoon

The Board of County Commissioners, in regular session on December 15, 2015, executed the Memorandum of Understanding (MOU) with the East Coast Zoological Society, Inc. and the Girl Scouts of Citrus Council, Inc.; executed MOU with the East Coast Zoological Society, Inc. and Jim and Jonnie Swann; and authorized the County Manager, or his designee, to execute any future amendments, as required to implement the work approved under the St. Johns River Water Management District (SJRWMD) Cost-Share Agreement #28256. Enclosed are four executed MOU's with the East Coast Zoological Society, Inc. and the Girl Scouts of Citrus Council, Inc., and four executed MOU's with the East Coast Zoological Society, Inc. and Jim and Jonnie Swann for your action.

Upon execution by the East Coast Zoological Society, the Girl Scouts of Citrus Council, and the Swann's, please return the fully-executed MOU of each to this office for inclusion in the official minutes.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

/ds

Encls. (8)

cc: Contracts Administration
Finance
Budget

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) sets forth the terms and understanding between THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940 (hereafter referred to as "COUNTY"), THE EAST COAST ZOOLOGICAL SOCIETY OF FLORIDA, INC. whose address is 8225 North Wickham Road, Viera, Florida 32940 (hereafter referred to as "ECZS"), and the GIRL SCOUTS OF CITRUS COUNCIL, INC. whose address is 341 N Mills Avenue, Orlando, FL 32803 (hereafter referred to as "COUNCIL") for the purpose of developing a framework for the cooperative relationship detailed below.

RECITALS:

COUNTY has entered into Cost-share Agreement No. 28256 with the St. Johns River Water Management District to construct pilot Oyster Reef Living Shorelines in the Indian River Lagoon; and

ECZS has both experience constructing oyster reefs in the Indian River Lagoon and experience in community education and outreach; and

COUNCIL owns the Riverpoint Program Center located in Brevard County at 2250 Newfound Harbor Drive, Merritt Island, Florida, 32952, and desires to have an oyster reef living shoreline constructed at its property and also desires to receive teaching materials and educational support about oyster reef and living shoreline conservation and restoration for its scouting programs.

The Parties agree through this MOU to establish a collaborative relationship to create pilot oyster reef living shorelines at the Riverpoint Program Center and provide educational support and service-learning opportunities for girl scouts.

NOW, THEREFORE, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

1. RECITALS. The recitals set forth hereinabove are true and correct in all respects and are incorporated herein by reference as if set forth herein verbatim.
2. COUNTY RESPONSIBILITIES.

Design and Permitting

- Provide draft oyster reef living shoreline project design documents for review and comment to ECZS and COUNCIL prior to final design;

- Complete and obtain final project design, plans, and specifications for oyster reef living shoreline construction;
- Prepare permit applications and obtain all required permits as an agent for COUNCIL;
- Prepare as-built drawings of the completed reefs, as required for permit compliance;
- Provide annual progress/monitoring reports for up to five years or the length of time required for monitoring by permits.

3. ECZS RESPONSIBILITIES.

Living Shoreline Construction

- Provide COUNCIL with project construction timeline and advance notice of site access requirements;
- Coordinate and oversee the construction of living shoreline oyster reefs at Riverpoint Program Center. Construction includes: site preparation, materials, hauling, installation and monitoring;
- Provide general liability insurance for volunteers currently registered with ECZS participating in oyster reef living shoreline construction activities on COUNCIL properties;

Educational Support

- Provide informational materials (in electronic version) to COUNCIL to distribute to troop leaders about the benefits of oysters, oyster reefs and living shorelines;
- Develop appropriate educational materials (in electronic version) on the benefits of oysters, oyster reefs and living shorelines for COUNCIL to distribute to Girl Scouts ages 5-17;
- Provide hands-on oyster reef living shoreline construction opportunities for Girl Scouts ages 14-17.

4. COUNCIL RESPONSIBILITIES

- Authorize COUNTY to obtain all required permits for Project as agent for COUNCIL;
- Provide site access with reasonable advanced notice from either COUNTY or ECZS for oyster reef living shoreline construction activities, activities required by permits, or educational support;
- Provide general liability insurance for volunteers currently registered with Girl Scouts of the USA participating in oyster reef living shoreline construction activities in conjunction with this project.

5. FUNDING.

Nothing in this MOU represents a commitment of funds on the part of any Party. Funding is dependent on the availability of grant funds administered through COUNTY's Cost-share Agreement with the St. John's River Water Management District. Unless otherwise agreed between the Parties in writing, each Party will bear its own costs relating to activities undertaken further to this MOU.

6. TERM AND EFFECTIVE DATE.

This MOU may be modified by mutual consent of authorized officials from COUNTY, ECZS, and COUNCIL. This MOU shall become effective upon the latest signature by the authorized officials from the COUNTY, ECZS, and COUNCIL and will remain in effect until modified or terminated by any one of the partners by mutual consent. In the absence of mutual agreement by the authorized officials from COUNTY, ECZS, and COUNCIL, this MOU shall end on December 31, 2021.

7. AUDIT.

ECZS and COUNCIL agree to keep full, clear and accurate books and records. Within 15 days following written request by COUNTY, ECZS and COUNCIL shall make available for inspection and/or audit any and all records related to its performance under this Agreement. Said records are subject to inspection and audit, at the sole expense of COUNTY, by representatives of COUNTY and the Comptroller General of the United States during reasonable business hours throughout the term of this Agreement and for the five (5) years immediately following termination of this Agreement. In the event an audit is initiated by COUNTY during the five (5) years following termination, ECZS and COUNCIL agree to retain any and all records associated with this Agreement until such time as any disputes arising therefrom are resolved.

8. INDEMNIFICATION.

- (a) To the extent permitted by law, COUNTY agrees to indemnify, hold harmless and defend ECZS and COUNCIL, its respective directors, officers, employees, students, invitees and agents, against any and all claims for death, illness, personal injury, property damage, and improper business practices arising from the negligence or misconduct of COUNTY or its employees or agents in connection with the performance of this Agreement. To the extent permitted by law, ECZS agrees to indemnify, hold harmless and defend COUNTY and COUNCIL, its respective trustees, officers, employees, students, invitees and agents, against any and all claims for death, illness,

personal injury, property damage, and improper business practices arising from the negligence or misconduct of ECZS or its employees, students or agents in connection with the performance of this Agreement. To the extent permitted by law, COUNCIL agrees to indemnify, hold harmless and defend COUNTY and ECZS, its respective trustees, officers, employees and agents, against any and all claims for death, illness, personal injury, property damage, and improper business practices arising from the negligence or misconduct of or its employees, students, invitees or agents in connection with the performance of this Agreement.

- (b) No Party shall be liable to the other Party for any special, indirect, incidental or, consequential damages, however caused and whether grounded in tort (including negligence), or any other theory of liability, even if such other Party has been advised of the possibility of such damages.
- (c) All Parties shall at all times comply, through insurance or self-insurance, with all statutory workers' compensation and employers' liability requirements covering any and all employees with respect to activities performed under this Agreement.

9. MISCELLANEOUS.

(a) **REGULATORY COMPLIANCE AND GOVERNING LAW.** This Agreement, and any disputes arising under it, shall be governed by and construed in accordance with the laws of the State of Florida.

(b) **ATTORNEY'S FEES.** In the event of any legal action to enforce the terms of this Agreement each party shall bear its own attorney's fees and costs.

(c) **VENUE.** Venue for any legal action brought by any party to this Agreement to interpret, construe or enforce this agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

10. CONTACT INFORMATION.

The following serve as the representatives of the areas indicated:

COUNCIL:

TECHNICAL MATTERS:

Doug Marshall
Property Manager
Girl Scouts of Citrus Council, Inc.
341 N. Mills Avenue
Orlando, FL 32083
407-896-4475
Email: Dmarshall@citrus-gs.org

ADMINISTRATIVE MATTERS:

Sandy Gallagher
Executive Assistant to CEO
Girl Scouts of Citrus Council, Inc.
341 N. Mills Avenue
Orlando, FL 32083
407-228-1605
Email: Sgallagher@citrus-gs.org

ECZS:

TECHNICAL MATTERS:

Sammy Anderson
Restoration Manager
ECZS
8225 North Wickham Road
Melbourne, FL 32940
Ph: 321-254-9453 Ext.284
Email: SAnderson@brevardzoo.org

ADMINISTRATIVE MATTERS:

Frank Fiesler
Controller
ECZS
8225 North Wickham Road
Melbourne, FL 32940
Ph: 321-254-9453 Ext.246
Email: FFiesler@brevardzoo.org

COUNTY:

TECHNICAL MATTERS:

Jane Hart
Natural Resources Management
2725 Judge Fran Jamieson Way
Bldg A, Suite 219
Viera, Florida 32940
Ph: 321-633-2016
Jane.Hart@brevardcounty.us

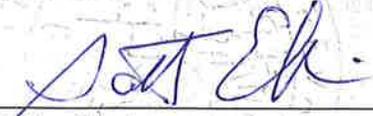
ADMINISTRATIVE MATTERS:

Paul Bessler
Natural Resources Management
2725 Judge Fran Jamieson Way
Bldg A, Suite 219
Viera, Florida 32940
Ph: 321-633-2016
Paul.Bessler@brevardcounty.us

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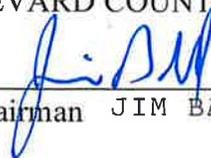
Signatures of Authorized Officials

ATTEST:



Scott Ellis, Clerk

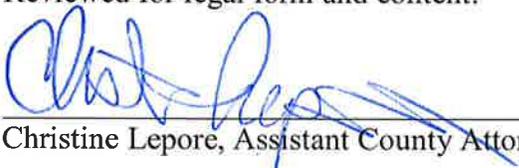
BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 

, Chairman JIM BARFIELD

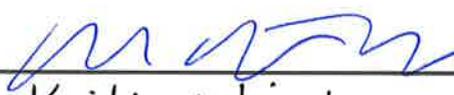
As approved by the Board on 12/15/15

Reviewed for legal form and content:



Christine Lepore, Assistant County Attorney

THE EAST COAST ZOOLOGICAL SOCIETY

By: 

Name: Keith Winsten
Title: Executive Director
Date: 1/4/16

THE GIRL SCOUTS OF CITRUS COUCIL

By: 

Name: MARYANN BARRY
Title: CEO
Date: 1/9/2016

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) sets forth the terms and understanding between THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940 (hereafter referred to as "COUNTY"), THE EAST COAST ZOOLOGICAL SOCIETY OF FLORIDA, INC. whose address is 8225 North Wickham Road, Viera, Florida 32940 (hereafter referred to as "ECZS"), and Jim and Jonnie Swann, husband and wife, whose address is 421 Swann Grove Lane, Merritt Island, Florida 32952 (hereafter collectively referred to as "JIM SWANN") for the purpose of developing a framework for the cooperative relationship detailed below.

RECITALS:

COUNTY has entered into Cost-share Agreement No. 28256 with the St. Johns River Water Management District to construct pilot Oyster Reef Living Shorelines in the Indian River Lagoon; and

ECZS has experience constructing oyster reefs in the Indian River Lagoon; and

JIM SWANN owns the properties located in Brevard County at 411 and 421 Swann Grove Lane, Merritt Island, Florida 32952, and desires to have an oyster reef living shoreline constructed at said properties.

The Parties agree through this MOU to establish a collaborative relationship to create pilot oyster reef living shorelines at 411 and 421 Swann Grove Lane, Merritt Island, Florida 32952.

NOW, THEREFORE, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

1. RECITALS. The recitals set forth hereinabove are true and correct in all respects and are incorporated herein by reference as if set forth herein verbatim.
2. COUNTY RESPONSIBILITIES.

Design and Permitting

- Provide draft oyster reef living shoreline project design documents for review and comment to ECZS and JIM SWANN prior to final design;
- Complete and obtain final project design, plans, and specifications for oyster reef living shoreline construction;

- Prepare permit applications and obtain all required permits as an agent for JIM SWANN;
- Prepare as-built drawings of the completed reefs, as required for permit compliance;
- Provide annual progress/monitoring reports for up to five years or the length of time required for monitoring by permits.

3. ECZS RESPONSIBILITIES.

Living Shoreline Construction

- Provide JIM SWANN with project construction timeline and advance notice of site access requirements;
- Coordinate and oversee the construction of living shoreline oyster reefs at 411 and 421 Swann Grove Lane, Merritt Island, Florida 32952. Construction includes: site preparation, materials, hauling, installation and monitoring;
- Provide general liability insurance for volunteers currently registered with ECZS participating in oyster reef living shoreline construction activities on JIM SWANN properties;

4. JIM SWANN RESPONSIBILITIES.

- Authorize COUNTY to obtain all required permits for Project as agent for JIM SWANN;
- Provide site access with reasonable advanced notice from either COUNTY or ECZS for oyster reef living shoreline construction activities, or activities required by permits.

5. FUNDING.

Nothing in this MOU represents a commitment of funds on the part of any Party. Funding is dependent on the availability of grant funds administered through COUNTY's Cost-share Agreement with the St. John's River Water Management District. Unless otherwise agreed between the Parties in writing, each Party will bear its own costs relating to activities undertaken further to this MOU.

6. TERM AND EFFECTIVE DATE.

This MOU may be modified by mutual consent of authorized officials from COUNTY, ECZS, and JIM SWANN. This MOU shall become effective upon the latest signature by the authorized officials from the COUNTY, ECZS, and JIM SWANN and will remain in effect until modified or terminated by any one of the partners by mutual consent. In the absence of mutual

agreement by the authorized officials from COUNTY, ECZS, and JIM SWANN, this MOU shall end on December 31, 2021.

7. AUDIT.

ECZS agrees to keep full, clear and accurate books and records. Within 15 days following written request by COUNTY shall make available for inspection and/or audit any and all records related to its performance under this Agreement. Said records are subject to inspection and audit, at the sole expense of COUNTY, by representatives of COUNTY and the Comptroller General of the United States during reasonable business hours throughout the term of this Agreement and for the five (5) years immediately following termination of this Agreement. In the event an audit is initiated by COUNTY during the five (5) years following termination, ECZS agrees to retain any and all records associated with this Agreement until such time as any disputes arising therefrom are resolved.

8. INDEMNIFICATION.

- (a) To the extent permitted by law, COUNTY agrees to indemnify, hold harmless and defend ECZS and JIM SWANN, its respective directors, officers, employees, students, invitees and agents, against any and all claims for death, illness, personal injury, property damage, and improper business practices arising from the negligence or misconduct of COUNTY or its employees or agents in connection with the performance of this Agreement. To the extent permitted by law, ECZS agrees to indemnify, hold harmless and defend COUNTY and JIM SWANN, its respective trustees, officers, employees, students, invitees and agents, against any and all claims for death, illness, personal injury, property damage, and improper business practices arising from the negligence or misconduct of ECZS or its employees, students or agents in connection with the performance of this Agreement.
- (b) No Party shall be liable to the other Party for any special, indirect, incidental or, consequential damages, however caused and whether grounded in tort (including negligence), or any other theory of liability, even if such other Party has been advised of the possibility of such damages.
- (c) COUNTY and ECZS shall at all times comply, through insurance or self-insurance, with all statutory workers' compensation and employers' liability requirements covering any and all employees with respect to activities performed under this Agreement.

9. MISCELLANEOUS.

(a) **REGULATORY COMPLIANCE AND GOVERNING LAW.** This Agreement, and any disputes arising under it, shall be governed by and construed in accordance with the laws of the State of Florida.

(b) **ATTORNEY'S FEES.** In the event of any legal action to enforce the terms of this Agreement each party shall bear its own attorney's fees and costs.

(c) **VENUE.** Venue for any legal action brought by any party to this Agreement to interpret, construe or enforce this agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

10. CONTACT INFORMATION.

The following serve as the representatives of the areas indicated:

JIM SWANN:

PROPERTY REPRESENTATIVE:

John Cole Oliver
431 Swann Grove Lane
Merritt Island, FL 32952

ECZS:

TECHNICAL MATTERS:

Sammy Anderson
Restoration Manager
ECZS
8225 North Wickham Road
Melbourne, FL 32940
Ph: 321-254-9453 Ext.284
Email: SAnderson@brevardzoo.org

ADMINISTRATIVE MATTERS:

Frank Fiesler
Controller
ECZS
8225 North Wickham Road
Melbourne, FL 32940
Ph: 321-254-9453 Ext.246
Email: FFiesler@brevardzoo.org

COUNTY:

TECHNICAL MATTERS:

Jane Hart
Natural Resources Management
2725 Judge Fran Jamieson Way
Bldg A, Suite 219
Viera, Florida 32940
Ph: 321-633-2016
Jane.Hart@brevardcounty.us

ADMINISTRATIVE MATTERS:

Paul Bessler
Natural Resources Management
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Viera, Florida 32940
Ph: 321-633-2016
Paul.Bessler@brevardcounty.us

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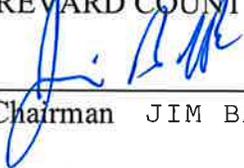
Signatures of Authorized Officials

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 

, Chairman JIM BARFIELD

As approved by the Board on 12/15/15

Reviewed for legal form and content:



Christine Lepore, Assistant County Attorney

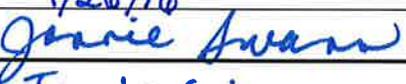
THE EAST COAST ZOOLOGICAL SOCIETY

By: 

Name: Keith Winsten
Title: Executive Director
Date: 1/4/16

JIM SWANN

By: 

Name: Jim Swann
Date: 1/26/16
By: 

Name: Jonnie Swann
Date: 1/26/16