

**F. Consent Agenda - Natural Resources Management
ITEM 1.**



**AGENDA REPORT
September 18, 2018**

First Amendments to Four Agreements with St. Johns River Water Management District (SJRWMD) to Extend and Modify Temporary Use of Certain Public Properties for the Eau Gallie River Dredging Project (D5)

SUBJECT:

First Amendments to Four Agreements with St. Johns River Water Management District (SJRWMD) to Extend and Modify Temporary Use of Certain Public Properties for the Eau Gallie River Dredging Project (D5)

FISCAL IMPACT:

FY 18-19 Approximately \$2,500 a year in property rental fees
FY 19-20 Approximately \$1,875 in property rental fees

DEPT/OFFICE:

Natural Resources Management

REQUESTED ACTION:

It is requested that the Brevard County Board of County Commissioners approve: 1) the First Amendment to the Intergovernmental Agreement for the Eau Gallie River Muck Dredging Project; 2) the First Amendments to the two Temporary Non-Exclusive Dredge Material Management Area (DMMA) Access, Construction and Operation Easements (North and South); and 3) the First Amendment to the Temporary Non-Exclusive Pipeline Easement.

SUMMARY EXPLANATION and BACKGROUND:

On May 26, 2015, the County Commission approved agreements with SJRWMD, to remove 625,000 cubic yards of Indian River muck sediments from the main stem of the Eau Gallie River system. The dredging project has the backing of stakeholders, particularly the City of Melbourne and residents who formed a group called the Eau Gallie River Environment is Threatened (EGRET). EGRET is a coalition of concerned Melbourne residents who have actively pursued local, state and federal support for the responsible stewardship of the Eau Gallie River.

Momentum for the dredging project grew in September 2013 when the District completed a Physical Survey and Muck Dredging Feasibility Study that examined potential scenarios and associated costs for dredging the water bodies. State lawmakers added their support

when the Florida Legislature approved \$10 million toward the first phase of the Eau Gallie River Dredging Project. In May 2014, the District's Governing Board approved the District's application for \$750,000 of cooperative assistance from the Florida Inland Navigation District for the design and permitting of the dredging project. The following year, the Florida Legislature approved another \$10 million for the project.

Construction of a DMMA began in 2016. Dredging began immediately after construction of the containment area and was expected to be completed by the spring of 2018. However two hurricanes and other unanticipated challenges have delayed project completion. The attached amendments extend the December 31, 2018 termination date of county easements to June 30, 2020 and modify the buffer area depicted on Exhibit B of the Southern Temporary Non-Exclusive Dredge Material Management Area (DMMA) Access, Construction and Operation Easement.

The removal of muck sediments has a direct benefit to the Indian River Lagoon (IRL) and all the residents of Brevard County by promoting economic, ecological and recreational benefits of the IRL. SJRWMD requested that Brevard County assist in this project by providing right-of-way access along several drainage canals for a pipeline route and by providing use of properties associated with the Sarno Road Landfill to manage the dredge material.

Unless otherwise approved in writing by the County, upon termination of this agreement, the District will remove all equipment and machinery from the Property and reasonably restore that part of the Property disturbed by the permitted activities; reasonable wear and tear expected.

CLERK TO THE BOARD INSTRUCTIONS:

None- Originals will be routed for signature upon approval.

ATTACHMENTS:

Description

- **Exhibit A- First Amendments to all 4 Agreements with Attorney and Risk Approvals**

BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS

INITIAL CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: St. Johns River Water Management District	
2. Fund/Account #:	3. Department Name: Natural Resources
4. Contract Description: Agreement & Easement Amendments	
5. Contract Monitor: Matt C Culver	7. Contract Type:
6. Dept/Office Director: Virginia Barker	INTERGOVT/LOCAL

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

COUNTY OFFICE	APPROVAL		SIGNATURE	DATE
	YES	NO		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

SECTION III - REVIEW AND APPROVAL TO EXECUTE

COUNTY OFFICE	APPROVAL		SIGNATURE	DATE
	YES	NO		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Matt Culver	06/05/2018
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Matt Lairsey	06/05/2018
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

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2. Fund/Account #:	3. Department Name: Natural Resources
4. Contract Description: Agreement & Easement Amendments	
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6. Dept/Office Director: Virginia Barker	INTERGOVT/LOCAL

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	_____

SECTION III - REVIEW AND APPROVAL TO EXECUTE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Matt Culver	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Valliere, Christine <small>Digitally signed by Valliere, Christine Date: 2018.06.22 10:58:50 -0400</small>	06/22/2018

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

<u>CM DATABASE REQUIRED FIELDS</u>	<u>Complete</u> ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

September 19, 2018

M E M O R A N D U M

TO: Virginia Barker, Natural Resources Management Director

RE: Item F.1., First Amendments to Four Agreements with St. Johns River Water Management District (SJRWMD) to Extend and Modify Temporary Use of Certain Public Properties for the Eau Gallie River Dredging Project

The Board of County Commissioners, in regular session on September 18, 2018, approved and executed First Amendment to the Intergovernmental Agreement with SJRWMD for Eau Gallie River Muck Dredging Project; approved and executed First Amendments to two Temporary Non-Exclusive Dredge Material Management Area (DMMA) Access, Construction and Operation Easements (North and South) with SJRWMD; and approved and executed First Amendment to Temporary Non-Exclusive Pipeline Easement with SJRWMD. Enclosed are executed documents for each Amendment.

Upon execution by all parties, please return fully-executed copies of each Amendment to this office for inclusion in the official minutes.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

Encls. (4)

cc: Contracts Administration
Asset Management
Finance
Budget

**FIRST AMENDMENT TO
TEMPORARY NON-EXCLUSIVE PIPELINE EASEMENT**

THIS FIRST AMENDMENT to the Temporary Non-Exclusive Pipeline Easement (hereinafter called "Easement"), is made and entered into as of this 27th day of September, 2018, by and between **BREVARD COUNTY, Florida**, a political subdivision of the State of Florida, whose mailing address is 2725 Judge Fran Jamieson Way, Viera, Florida, 32940 (the "County"), and the **ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**, a public body existing under Chapter 373, Florida Statutes, whose mailing address is P.O. Box 1429, Palatka, Florida 32178-1429 ("SJRWMD").

RECITALS

On April 18, 2016, the County granted to SJRWMD that certain Easement for the Eau Gallie River Muck Dredging Project; and

The parties desire to enter into this First Amendment to make certain specific changes to the original Easement.

In consideration of the premises and of the mutual covenants hereinafter contained, and other good and valuable considerations, the parties hereto, each intending to be legally bound, do hereby warrant and agree as follows:

1. **Amendment to Paragraph 2 of the Easement.** Paragraph 2 of the Easement, is hereby amended to extend the December 31, 2018 termination date to June 30, 2020.
2. The capitalized terms used herein shall have the same meanings as ascribed to them in the Easement.
3. The "Recitals" contained herein are true and correct and are, by this reference made a part of this Easement.
4. It is understood and agreed by SJRWMD and the County that in each and every respect the terms of the Easement, except as amended hereby, shall remain unchanged, and the same is hereby ratified, approved, and confirmed by SJRWMD and the County.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment to become effective as of the date and year first above written.

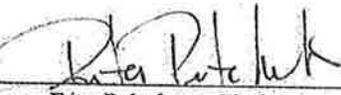
ATTEST:



Print name: Scott Ellis, Clerk

COUNTY

BOARD OF COUNTY COMMISSIONERS

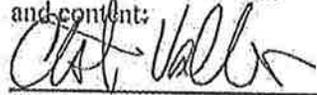
By: 

Name: Rita Pritchett, Chair

Date: September 18, 2018

(As approved by the Board on 9/18/18)

Reviewed and approved as to form and content:



Christine Valliere
Assistant County Attorney

SJRWMD

**ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT**

By: 

Ann B. Shortelle, Ph. D.

Its: Executive Director

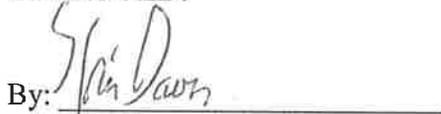
Date: September 27, 2018

ATTEST:

By: 

**WILLIAM ABRAMS
General Counsel**

**FOR USE AND RELIANCE ONLY BY
ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT,
LEGAL FORM AND CONTENT
APPROVED:**

By: 

**Kris Davis
Office of General Counsel**

**FIRST AMENDMENT TO
TEMPORARY NON-EXCLUSIVE
DMMA ACCESS, CONSTRUCTION AND OPERATION EASEMENT**

THIS FIRST AMENDMENT to the Temporary Non-Exclusive DMMA Access, Construction and Operation Easement (hereinafter called "Easement"), is made and entered into as of this 27th day of September, 2018, by and between **BREVARD COUNTY, Florida**, a political subdivision of the State of Florida, whose mailing address is 2725 Judge Fran Jamieson Way, Viera, Florida, 32940 (the "County"), and the **ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**, a public body existing under Chapter 373, Florida Statutes, whose mailing address is P.O. Box 1429, Palatka, Florida 32178-1429 ("SJRWMD").

RECITALS

On April 18, 2016, the County granted to SJRWMD that certain Easement for the Eau Gallie River Muck Dredging Project; and

The parties desire to enter into this First Amendment to make certain specific changes to the original Easement.

In consideration of the premises and of the mutual covenants hereinafter contained, and other good and valuable considerations, the parties hereto, each intending to be legally bound, do hereby warrant and agree as follows:

1. **Amendment to Paragraph 2 of the Easement.** Paragraph 2 of the Easement, is hereby amended to extend the December 31, 2018 termination date to June 30, 2020.
2. The capitalized terms used herein shall have the same meanings as ascribed to them in the Easement.
3. The "Recitals" contained herein are true and correct and are, by this reference made a part of this Easement.
4. It is understood and agreed by SJRWMD and the County that in each and every respect the terms of the Easement, except as amended hereby, shall remain unchanged, and the same is hereby ratified, approved, and confirmed by SJRWMD and the County.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment to become effective as of the date and year first above written.

ATTEST:

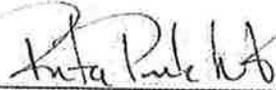
COUNTY



Print name: Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS

By:



Name: Rita Pritchett, Chair

Date: September 19, 2018

(As approved by the Board on 9/18/18)

Reviewed and approved as to form and content:



Christine Valliere
Assistant County Attorney

SJRWMD

SJRWMD

**ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT**

By: 
Ann B. Shortelle, Ph. D.

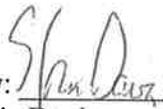
Its: Executive Director

Date: September 27, 2018

ATTEST:

By: 
WILLIAM ABRAMS
General Counsel

**FOR USE AND RELIANCE ONLY BY
ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT,
LEGAL FORM AND CONTENT
APPROVED:**

By: 
Kris Davis
Office of General Counsel

**FIRST AMENDMENT TO
TEMPORARY NON-EXCLUSIVE
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RECITALS

On April 18, 2016, the County granted to SJRWMD that certain Easement for the Eau Gallie River Muck Dredging Project; and

The parties desire to enter into this First Amendment to make certain specific changes to the original Easement.

In consideration of the premises and of the mutual covenants hereinafter contained, and other good and valuable considerations, the parties hereto, each intending to be legally bound, do hereby warrant and agree as follows:

1. **Amendment to Paragraph 2 of the Easement.** Paragraph 2 of the Easement, is hereby amended to extend the December 31, 2018 termination date to June 30, 2020.
2. **Exhibit "B".** The parties mutually agree to the revised buffer areas as generally depicted in Exhibit B. Exhibit B, the "Revised South Parcel Buffers" is hereby added to the Easement.
3. The capitalized terms used herein shall have the same meanings as ascribed to them in the Easement.
4. The "Recitals" contained herein are true and correct and are, by this reference made a part of this Easement.
5. It is understood and agreed by SJRWMD and the County that in each and every respect the terms of the Easement, except as amended hereby, shall remain unchanged, and the same is hereby ratified, approved, and confirmed by SJRWMD and the County.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment to become effective as of the date and year first above written.

ATTEST:

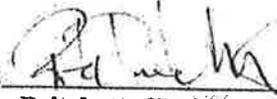


Print name: Scott Ellis, Clerk

COUNTY

**BOARD OF COUNTY
COMMISSIONERS**

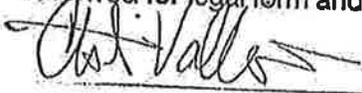
By:



Rita Pritchett, Chair

(As approved by the Board on 9/18/18)

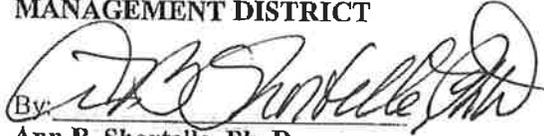
Reviewed for legal form and content:



Assistant County Attorney

SJRWMD

**ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT**

By: 

Ann B. Shortelle, Ph. D.

Its Executive Director

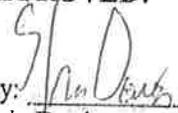
Date: September 27, 2018

ATTEST:

By: 

WILLIAM ABRAMS
General Counsel

**FOR USE AND RELIANCE ONLY BY
ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT,
LEGAL FORM AND CONTENT
APPROVED:**

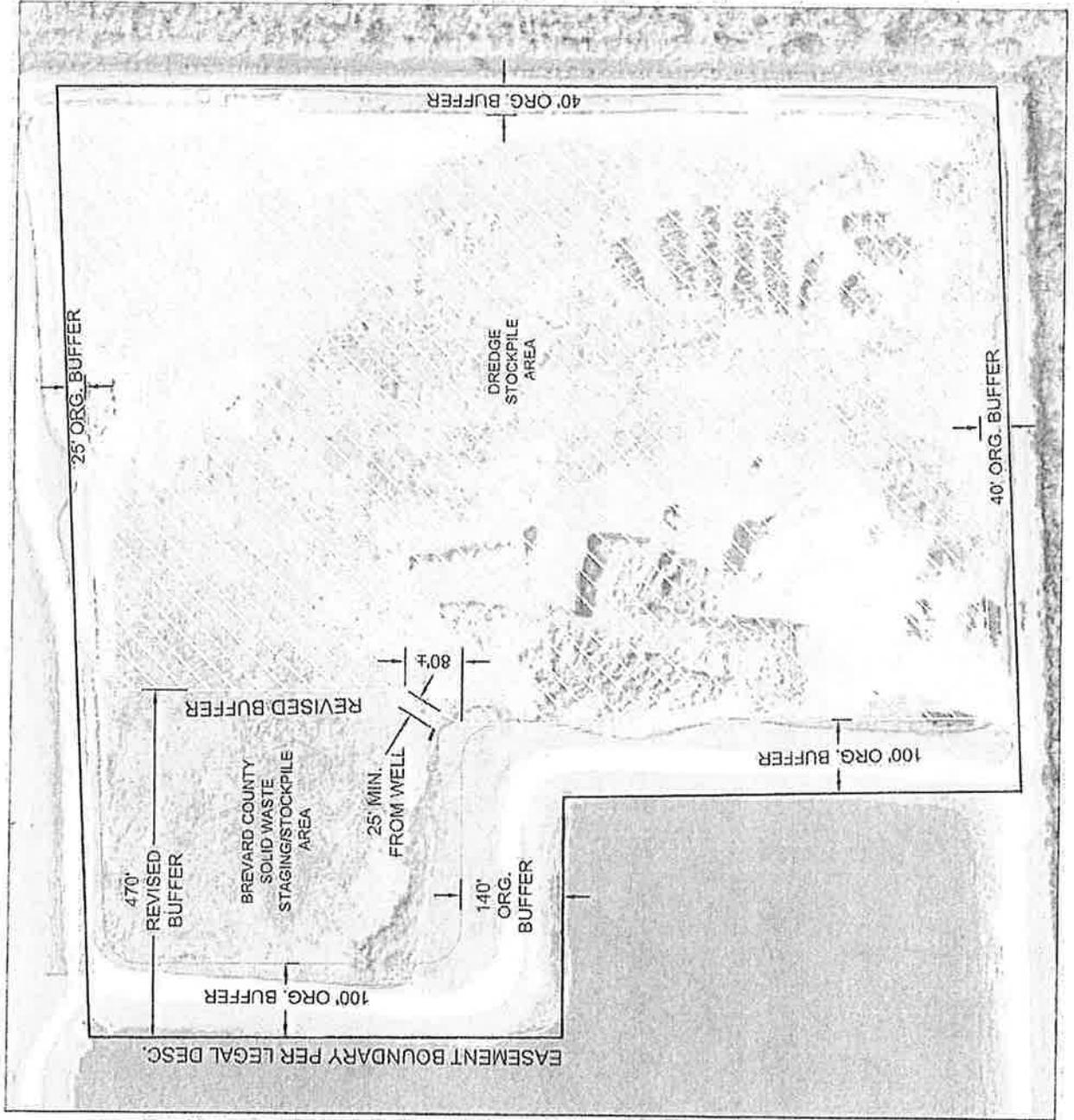
By: 

Kris Davis
Office of General Counsel

Exhibit "B"

Eau Gallie River Muck Dredging Project

Revised South Parcel Buffers



**FIRST AMENDMENT TO
THE INTERGOVERNMENTAL AGREEMENT
EAU GALLIE RIVER MUCK DREDGING PROJECT**

THIS FIRST AMENDMENT to the INTERGOVERNMENTAL AGREEMENT (hereinafter called "Agreement"), is made and entered into as of this 27th day of September, 2018, by and between **BREVARD COUNTY, Florida**, a political subdivision of the State of Florida, whose mailing address is 2725 Judge Fran Jamieson Way, Viera, Florida, 32940 (the "County"), and the **ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**, a public body existing under Chapter 373, Florida Statutes, whose mailing address is P.O. Box 1429, Palatka, Florida 32178-1429 ("SJRWMD").

RECITALS

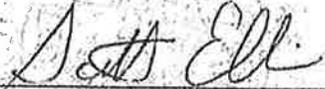
On November 16, 2015, the County and SJRWMD entered into that certain Agreement providing for the temporary property rights and cooperation between the County and SJRWMD necessary for the Eau Gallie River Muck Dredging Project; and

The parties desire to enter into this First Amendment to make certain specific changes to the original Agreement.

In consideration of the premises and of the mutual covenants hereinafter contained, and other good and valuable considerations, the parties hereto, each intending to be legally bound, do hereby warrant and agree as follows:

1. **Amendment to Paragraph 4 of the Agreement.** Paragraph 4 of the Agreement, entitled, "**The Term of this Agreement**", is hereby amended to extend the December 31, 2018 termination date to June 30, 2020.
2. **Amendment to Paragraph 5 of the Agreement.** Paragraph 5 of the Agreement, entitled, "**The Term of the Easements**", is hereby amended to extend the December 31, 2018 termination date to June 30, 2020.
3. The capitalized terms used herein shall have the same meanings as ascribed to them in the Agreement.
4. The "Recitals" contained herein are true and correct and are, by this reference made a part of this Amendment.
5. It is understood and agreed by SJRWMD and the County that in each and every respect the terms of the Agreement, except as amended hereby, shall remain unchanged, and the same is hereby ratified, approved, and confirmed by SJRWMD and the County.

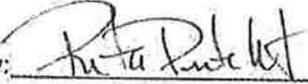
ATTEST:



Print name: Scott Ellis, Clerk

COUNTY

BOARD OF COUNTY COMMISSIONERS

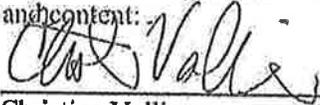
By: 

Name: Rita Pritchett, Chair

Date: September 18, 2018

(As approved by the Board on 9/18/18)

Reviewed and approved as to form
and content:



Christine Valliere

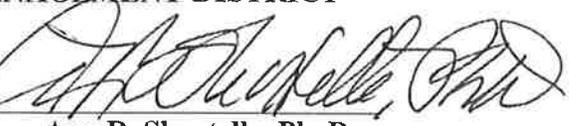
Assistant County Attorney

SJRWMD

ST. JOHNS RIVER WATER

SJRWMD

**ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT**

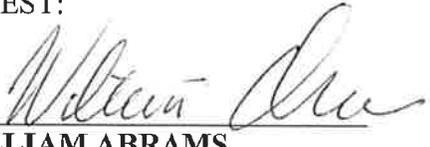
By: 

Ann B. Shortelle, Ph. D.

Its: Executive Director

Date: September 27, 2018

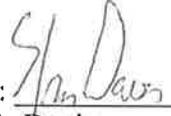
ATTEST:

By: 

WILLIAM ABRAMS

General Counsel

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APPROVED:**

By: 

Kris Davis

Office of General Counsel