



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

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May 24, 2017

MEMORANDUM

TO: Virginia Barker, Natural Resources Management Director

RE: Item VI.A.2., Interlocal Agreements with Municipalities for Save Our Indian River Lagoon Project Cost Share Funding

The Board of County Commissioners, in regular session on May 23, 2017, authorized the Chairman to execute Interlocal Agreements with the municipalities (substantially in form of the template) to provide cost share from the Save Our Indian River Lagoon Trust Fund for projects approved in the 2017 Supplement to the Save Our Indian River Lagoon Project Plan and starting at Year Zero or Year One, subject to County Attorney and staff agreement that Attachments A and E of each Interlocal Agreement demonstrate consistency with the intent of the guidance criteria approved by the County Commission on March 7, 2017, and recommended by the Citizen Oversight Committee on February 17, 2017.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

cc: Finance
Budget

AMENDMENT 1 TO THE SAVE OUR INDIAN RIVER LAGOON PROJECT COST-SHARE
FUNDING INTERLOCAL AGREEMENT BETWEEN BREVARD COUNTY, FLORIDA AND THE
CITY OF TITUSVILLE, FLORIDA

AGREEMENT NUMBER: SOIRL 18-21

THIS AMENDMENT 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 City of Titusville, Florida, a Florida municipal corporation organized and existing under the laws of the State of Florida (hereinafter "CITY").

WHEREAS, the parties have previously entered into that certain Save Our Indian River Lagoon Project Cost-Share Funding Interlocal Agreement No. SOIRL 18-21 ("ILA") on March 20, 2018; and

WHEREAS, construction delays were encountered due to contractor availability, weather conditions, and manufacturing delays, the parties desire to amend the Agreement to extend the timeline required to complete the Project.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the parties hereby agree as follows:

1. Section 3. Terms and Extensions is amended to read as follows:
 - a. The term of this Agreement is from the date upon which the last party has dated and executed the same ("Effective Date") until ~~February 29, 2020~~ ~~September 30, 2019~~ ("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 45 days prior to the contracted Completion Date. Timely requests to extend for longer than six months may only be approved by the Board of County Commissioners. Requests to extend for less than six months may be approved by the County Manager or his/her designee.
 - 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, for example, delivery of a final progress report, will remain in full force and effect after the Completion Date as necessary to affect performance.
2. All terms and conditions of the Agreement, incorporated herein by this reference, not inconsistent with the provisions of this First Amendment, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date last written below.

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

By: Frank Abbate

Frank Abbate, County Manager
As Approved by the Board on May 23, 2017

Reviewed for legal form and content for Brevard County

By: Christine Valliere

Christine Valliere, Assistant County Attorney

THE CITY OF TITUSVILLE, FLORIDA

By: William S. Lorenz

Name: William S. Lorenz

Title: City Manager

Date: 9 Oct 19



ATTEST

By: Wanda F. Wells

Name: Wanda F. Wells

Title: City Clerk

Date: 10-9-19

Deborah Thomas

From: Breeden, Terri <Terri.Breeden@brevardfl.gov>
Sent: Thursday, December 5, 2019 3:40 PM
To: Deborah Thomas
Subject: Save Our Lagoon Titusville La Paloma Amendment 1
Attachments: La Paloma Amendment 1 Executed.pdf

Deborah – Here is the executed contract for the City of Titusville La Paloma Basin Treatments Amendment 1.

This will probably be my last one for the day, more tomorrow.

Terri Breeden
Brevard County Natural Resources Management
2725 Judge Fran Jamieson Way, Bldg. A-219
Viera, FL 32940
321-633-2016 x58407

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

**SAVE OUR INDIAN RIVER LAGOON PROJECT COST-SHARE FUNDING
INTERLOCAL AGREEMENT BETWEEN BREVARD COUNTY, FLORIDA AND
_____, FLORIDA.**

AGREEMENT NUMBER: SOIRL _____

THIS AGREEMENT (“Agreement”) is made and entered into on this _____ day of _____, 2017 by and between the Brevard County, Florida, a political subdivision of the State of Florida (hereinafter “COUNTY”) and the City of _____, 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, the COUNTY has been granted authority under Section 212.055(2)(a), Florida Statutes, to levy for a period of ten (10) years from the date of levy, a discretionary infrastructure sales tax of a one half cent, pursuant to ordinance enacted by a majority of the members of the Board of County Commissioners and approved by a majority of the electors of the 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 in said referendum, said one half cent discretionary infrastructure sales tax shall be imposed and collected countywide, commencing on January 1, 2017, and continuing thereafter for a period of ten (10) years until December 31, 2027; and

WHEREAS, on November 8, 2016, a majority of those qualified electors of Brevard County voted in favor of the referendum, thereby authorizing the levying 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 County Commission 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;

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 Agreement;
- 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; and
- g. Attachment E – Eligible Tax Funding Cost Share Form.

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 _____ ("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 45 days prior to the contracted Completion Date. Timely requests to extend for longer than six months may only be approved by the Board of County Commissioners. Requests to extend for less than six months may be approved by the County Manager or his/her designee.

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, 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 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 180 days of the Effective Date, or if the invoice for non-construction projects is not submitted within 270 days of the Effective Date, the cost-share agreement will be subject to termination and the funds subject to reallocation.

Section 5. Project Management.

a. 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 transmitted and received.

COUNTY

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

CITY

E-mail: _____

b. 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, 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.

c. Should additional funding be acquired from sources other than the Indian River Lagoon Surtax, the County and City Managers are authorized to sign amendments to this Agreement only if such additional funding: (1) reduces the 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 thirty (30) days after the closing date of each calendar quarter (March 31, June 30, September 30 and December 31).

c. 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 is not to exceed the maximum amount of cost-share that was recommended by the Citizen Oversight Committee and approved by the County Commission unless additional matching funds for the project are secured by the COUNTY from external revenue sources and approved for allocation to this project by the County Commission or their duly authorized representative.

b. The COUNTY cost-share amount is not subject to modification based upon price escalation in implementing the project during the term of this Agreement. The CITY shall be responsible for payment of all additional costs 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 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 to not 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. Funding shall not be provided for expenses incurred after the Completion Date.

g. The CITY is responsible for owning, operating and maintain 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 _____ (monthly, quarterly, or annual), basis for reimbursable expenses by one of the following two methods: (1) By mail to the Brevard County Department of Natural Resource Management, Virginia Barker, Project Manager, 2725 Judge Fran Jamieson Way, Building A, Viera, Florida 32940; or (2) By e-mail to virginia.barker@brevardfl.gov. If an option is not selected in this paragraph, the default invoicing basis will be quarterly.

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 correspond with this paragraph shall be returned without action within twenty (20) 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 **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. 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 limitation, if applicable.

f. The COUNTY'S fiscal year ends on September 30. The COUNTY is required to account for all encumbered funds at that time. Submittal of an invoice as of September 30 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 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; (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. Liability and Insurance.

Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party, its officers, employees and agents. 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 state of Florida beyond the waiver provided for in section 768.28, Fla. Stat., as amended. 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.

Section 15. Funding Contingency.

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 ½ 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.

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 shall 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.

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 Project Manager, the Project Manager shall forward the request to the County Attorney'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 shall 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 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 directs 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.

The CITY is responsible for complying with the prohibition against contracting with "scrutinized companies" found in Section 287.135, Florida Statutes, when hiring its contractors for the project. The CITY agrees to indemnify the COUNTY for any and all actions or penalties that may arise should the CITY improperly contract with a "scrutinized company."

Section 25. Local Preference Limitations.

The CITY is responsible for ensuring that "local preference" is only utilized in the hiring of contractors when legally permitted. If the source of funds for this cost-share in any way restricts the use of "local preference," the COUNTY has the responsibility to put the CITY on notice. If put on notice, the CITY agrees to indemnify the COUNTY for any and all actions or penalties that may arise from the unpermitted use of "local preference."

Section 26. 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 s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.

Section 27. Public Records.

Records of the CITY that are made or received in the course of performance of the project may be

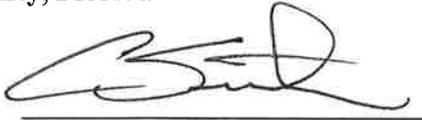
public records that are subject to the requirements of Chapter 119, Florida Statutes. If the CITY receives a public records request, the CITY shall promptly notify the COUNTY'S Project Manager. Each party reserves the right to cancel this Agreement for refusal by the other party to allow public access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

Section 28. 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.

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

_____, Florida

Signed: 

Signed: _____

Typed Name: Curt Smith

Typed Name: _____

Title: Chairman

Title: _____

Date: _____

Date: _____

As approved by the Board on _____

Attest: _____

Attest: _____

Typed Name: SOHL ELLIS

Typed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

**PAGE RESERVED FOR
ATTACHMENT A
SCOPE OF WORK**

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:	
Percent Cost Share:	

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

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

Task Number	Tasks/Milestones/Deliverables	Start Date	Finish	Comple	Date
1	Permitting				
2	Engineering				
3	Construction				

Problems, Issues, Solutions, Anticipated deviations from schedule:

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

Detail Sheet

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

RECIPIENT'S NAME:	
RECIPIENT'S EMAIL:	
PROJECT NAME:	
AGREEMENT NO.:	
PERFORMANCE PERIOD:	
FROM:	To:
PAYMENT REQUEST NO.:	
DATE OF REQUEST:	
COUNTY'S PROJECT MANAGER:	
PROJECT COST:	
LAGOON TAX COST SHARE PERCENTAGE:	
CONTRACTED LAGOON TAX COST SHARE AMOUNT:	
CURRENT REIMBURSEMENT AMOUNT REQUESTED:	

ITEM NO.	VENDOR	DESCRIPTION OF SERVICES/ CATEGORY OF EXPENDITURE	CHECK DATE	CHECK NUMBER	INVOICE NUMBER	INVOICES PREVIOUSLY PAID	INVOICES INCLUDED IN THIS REQUEST	PREVIOUS REIMBURSEMENT AMOUNT	CURRENT REIMBURSEMENT AMOUNT
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
TOTALS:								\$ -	\$ -

Recipient's Certification of Payment Request

I, _____,
(Print name of Recipient's Grant Manager designated in the Agreement)

on behalf of _____, do hereby certify for
(Print name of Recipient)

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.
- 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:	City of Rockledge
Project Name:	Breeze Swept Septic to Sewer Connection
Agreement Number:	SOIRL-17-01

Estimated Project Cost-Share Table

Task Number	Task Description	Task Cost	Grant 1 (319)	Grant 2 (FDEP)	Grant 3 (SJRWMD)	Eligible Lagoon Tax Cost Share, Adjusted	Local Match
1	Permitting						
2	Engineering						
3	Construction						
4	Monitoring						
	Total						

Funding Eligibility Calculation

Project Type	
BMP Type (If stormwater)	
Pounds of Nitrogen Reduction	
Eligible Cost Share per Pound	
Eligible Tax Funding Cost Share	
Reduction so Sum of Grants does not exceed Project Cost	
Eligible Lagoon Tax Cost Share, Adjusted	
Percent Cost Share to be contributed by the Lagoon Tax	

SOIRLPP Project List - Year 0 and Year 1

Project Year	Number	Name	Jurisdiction	Type	Sub-Lagoon	TN Reduction (lbs/yr)	TP Reduction (lbs/yr)	Total Cost	Lagoon Tax Eligibility	Lagoon Tax Funding Amount Approved
Zero	1	Breeze Swept Septic to Sewer Connection	City of Rockledge	Septic Sewer Connection	North IRL	2,002	N/A	\$880,530	\$880,530	\$880,530
Zero	2	Merritt Island Septic Phase Out Project	Merritt Island Redevelopment Agency	Septic Sewer Connection	North IRL	2,501	N/A	\$3,138,098	\$2,130,852	\$320,000
Zero	4	Hoag Sewer Conversion	City of Melbourne	Septic Sewer Connection	Central IRL	101	N/A	\$100,000	\$86,031	\$86,031
Zero	5	Penwood Sewer Conversion	City of Melbourne	Septic Sewer Connection	Central IRL	48	N/A	\$60,000	\$40,632	\$40,632
Zero	7	Cocoa Palms LID	City of Cape Canaveral	Stormwater Traditional BMP	Banana	13	10	\$60,500	\$1,144	\$1,144
Zero	8	Canver Cove Swale	City of Cape Canaveral	Stormwater Traditional BMP	Banana	32	9	\$24,500	\$2,816	\$2,816
Zero	9	Holman Road Baffle Box	City of Cape Canaveral	Stormwater Traditional BMP	Banana	71	2	\$30,300	\$6,248	\$6,248
Zero	10	Center Street Baffle Box	City of Cape Canaveral	Stormwater Traditional BMP	Banana	297	9	\$37,700	\$26,136	\$26,136
Zero	11	International Drive Baffle Box	City of Cape Canaveral	Stormwater Traditional BMP	Banana	443	4	\$34,700	\$38,984	\$34,700
Zero	12	Angel Isles Baffle Box	City of Cape Canaveral	Stormwater Traditional BMP	Banana	131	3	\$37,700	\$11,528	\$11,528
Zero	13	Central Blvd Baffle Box	City of Cape Canaveral	Stormwater Traditional BMP	Banana	481	14	\$34,700	\$42,328	\$34,700
Zero	14	Church Street Type II Baffle Box	City of Cocoa	Stormwater Traditional BMP	North IRL	237	29	\$233,455	\$20,856	\$20,856
Zero	15	Bayfront Stormwater Project	City of Palm Bay	Stormwater Traditional BMP	Central IRL	348	83	\$300,000	\$30,624	\$30,624
Zero	16	Gleason Park Reuse	City of Indian Harbour Beach	Stormwater Traditional BMP	Banana	48	9	\$11,000	\$4,224	\$4,224
Sum of Year Zero Municipal Project Substitution Requests						6,753	172	4,983,183	3,322,933	1,500,169
One	19	St. Teresa Basin Treatment	City of Titusville	Stormwater Traditional BMP	North IRL	3,100	459	\$310,000	\$272,800	\$272,800
One	20	South Street Basin Treatment	City of Titusville	Stormwater Traditional BMP	North IRL	987	156	\$360,000	\$86,856	\$86,856
One	21	La Paloma Basin Treatment	City of Titusville	Stormwater Traditional BMP	North IRL	2,367	346	\$310,000	\$208,296	\$208,296
One	26	Norwood Baffle Box Retrofit	City of Palm Bay	Stormwater Traditional BMP	Central IRL	1,631	254	\$300,000	\$143,528	\$143,528
One	27	Victoria Pond	City of Palm Bay	Stormwater Traditional BMP	Central IRL	267	42	\$200,000	\$23,486	\$23,486
One	28	Goode Park	City of Palm Bay	Stormwater Traditional BMP	Central IRL	794	121	\$200,000	\$69,872	\$69,872
One	29	Florin Pond	City of Palm Bay	Stormwater Traditional BMP	Central IRL	75	11	\$150,000	\$6,600	\$6,600
One	30	Cherie Down Park Swale	City of Cape Canaveral	Stormwater Traditional BMP	Banana	27	9	\$60,000	\$2,376	\$2,376
One	31	Cape Shores Swales	City of Cape Canaveral	Stormwater Traditional BMP	Banana	31	15	\$105,000	\$2,746	\$2,746
One	32	Justamere Rd Swale	City of Cape Canaveral	Stormwater Traditional BMP	Banana	6	3	\$9,500	\$528	\$528

SOIRLPP Project List - Year 0 and Year 1

Project Year	Number	Name	Jurisdiction	Type	Sub-Lagoon	TN Reduction (lbs/yr)	TP Reduction (lbs/yr)	Total Cost	Lagoon Tax Eligibility	Lagoon Tax Funding Amount Approved
One	33	Hitching Post Berms	City of Cape Canaveral	Stormwater Traditional BMP	Banana	29	22	\$34,000	\$2,552	\$2,552
One	34	Cliff Creek Baffle Box	City of Melbourne	Stormwater Traditional BMP	North IRL	3,952	797	\$350,000	\$347,781	\$347,781
One	35	Thrush Drive Baffle Box	City of Melbourne	Stormwater Traditional BMP	North IRL	3,661	773	\$350,000	\$322,200	\$322,200
One	36	Airport Boulevard Dry Retrofit	City of Melbourne	Stormwater Traditional BMP	North IRL	99	23	\$450,000	\$8,718	\$8,718
One	37	Nasa Boulevard Pond Retrofit	City of Melbourne	Stormwater Traditional BMP	Central IRL	1,097	157	\$425,000	\$96,532	\$96,532
One	38	General Aviation Drive Retrofit	City of Melbourne	Stormwater Traditional BMP	Central IRL	158	10	\$500,000	\$13,937	\$13,937
One	39	Stewart Road Dry Retrofit	City of Melbourne	Stormwater Traditional BMP	Central IRL	208	47	\$400,000	\$18,344	\$18,344
One	43	Turkey Creek Shoreline Restoration	City of Palm Bay	Living Shoreline	Central IRL	240	82	\$433,200	\$113,500	\$113,500
Sum of Year One Municipal Project Substitution Requests						18,729	3,327	4,946,700	1,740,652	1,740,652
Zero	3	Mico Sewer Line Extension	Sebastian Inlet Marina/Brevard County	Septic Sewer Connection	Central IRL	1,633	N/A	\$1,397,332	\$1,391,316	\$1,391,316
Zero	6	Long Point Park Upgrade	Brevard County Parks Department	Package/Septic Upgrade	Central IRL	127	N/A	\$102,000	\$101,854	\$101,854
Zero	40	Mims Muck Removal: Outflow Water Nutrient Removal	Brevard County	Muck Removal	North IRL	2,803	244	\$3,500,000	\$400,000	\$400,000
Sum of Year Zero County Project Substitution Requests						4,563	244	4,999,332	1,893,170	1,893,170
One	18	Denitrification Retrofit of Johns Rd Pond	Brevard County	Stormwater Traditional BMP	Banana	1,199	N/A	\$157,500	\$105,512	\$105,512
One	22	Kingsmill-Aurora Phase Two	Brevard County	Stormwater Traditional BMP	North IRL	4,176	814	\$990,000	\$367,488	\$367,488
One	23	Denitrification Retrofit of Huntington Pond	Brevard County	Stormwater Traditional BMP	North IRL	1,190	N/A	\$157,500	\$104,720	\$104,720
One	24	Denitrification Retrofit of Flounder Creek Pond	Brevard County	Stormwater Traditional BMP	North IRL	856	N/A	\$157,500	\$75,328	\$75,328
One	25	L1 Canal Bank Stabilization	Brevard County	Stormwater Traditional BMP	North IRL	995	383	\$379,500	\$87,560	\$87,560
One- Two	41	Grand Canal Muck Dredging	Brevard County	Muck Removal	North IRL	27,802	2,447	\$26,000,000	\$10,000,000	\$10,000,000
One- Two	42	Sykes Creek Muck Dredging	Brevard County	Muck Removal	Banana	30,693	2,722	\$26,000,000	\$10,000,000	\$10,000,000
Sum of Year One County Project Substitution Requests						66,911	6,366	53,842,000	20,740,608	20,740,608

SOIRLPP Project List - Year 0 and Year 1

Project Year	Number	Name	Jurisdiction	Type	Sub-Lagoon	TN Reduction (lbs/yr)	TP Reduction (lbs/yr)	Total Cost	Lagoon Tax Eligibility	Lagoon Tax Funding Amount Approved
0-2	PP	Osprey WWTP Upgrade	City of Titusville	WWTP Upgrade	North IRL	22,988	N/A	\$8,000,000	\$8,000,000	\$8,000,000
One	PP	Palm Bay WRF Upgrade	City of Palm Bay	WWTP Upgrade	Central IRL	17,790	N/A	\$1,400,000	\$1,400,000	\$1,400,000
One	PP	Palm Bay - Lots near sewer lines	City of Palm Bay	Septic Sewer Connection	Central IRL	17,530	N/A	\$7,764,000	\$7,764,000	\$7,764,000
One	PP	Palm Bay Zone B	City of Palm Bay	Septic Sewer Connection	Central IRL	6,347	N/A	\$4,700,000	\$4,700,000	\$4,700,000
Zero	PP	Merritt Island Septic Phase Out Project	Merritt Island Redevelopment Agency	Septic Sewer Connection	North IRL	2,501	N/A	\$3,138,098	\$2,130,852	\$320,000
Zero	PP	Hoag Sewer Conversion	City of Melbourne	Septic Sewer Connection	Central IRL	101	N/A	\$100,000	\$86,031	\$86,031
Sum of Municipal Projects in the Updated Project Plan that Start in Year 0 or Year 1						67,257	N/A	25,102,098	24,080,883	22,270,031
0-1	PP	County Sewer - Sykes N	Brevard County	Septic Sewer Connection	Banana	2,330	N/A	\$1,720,000	\$1,720,000	\$1,720,000
0-2	PP	County Sewer - Sykes M	Brevard County	Septic Sewer Connection	Banana	1,572	N/A	\$1,160,000	\$1,160,000	\$1,160,000
0-3	PP	County Sewer - Sykes T	Brevard County	Septic Sewer Connection	Banana	3,685	N/A	\$2,780,000	\$2,780,000	\$2,780,000
0-1	PP	County Sewer - South Central C	Brevard County	Septic Sewer Connection	North IRL	3,132	N/A	\$2,640,000	\$2,640,000	\$2,640,000
One	PP	Septic Upgrades - 24 Sites	Brevard County	Septic Drainfield Upgrades	Banana	479	N/A	\$384,000	\$384,000	\$384,000
One	PP	Septic Upgrades - 35 Sites	Brevard County	Septic Drainfield Upgrades	North IRL	698	N/A	\$560,000	\$560,000	\$560,000
One	PP	Septic Upgrades - 37 Sites	Brevard County	Septic Drainfield Upgrades	Central IRL	738	N/A	\$694,000	\$694,000	\$694,000
One	PP	Stormwater Projects - 4 to 6 sites	Brevard County	Ditch Outfall Denitrification	Banana	14,717	2,271	\$625,000	\$625,000	\$625,000
One	PP	Stormwater Projects - 1 site	Brevard County	Ditch Outfall Denitrification	North IRL	2,497	328	\$100,000	\$100,000	\$100,000
1-3	PP	Eau Gallie Area Muck Dredging	Brevard County	Muck Removal	North IRL	27,802	2,447	\$29,000,000	\$26,250,000	\$16,250,000
One	PP	Oyster/Living Shoreline Restoration	Brevard County	Living Shoreline	Banana	240	82	\$423,000	\$423,000	\$423,000
One	PP	Oyster/Living Shoreline Restoration	Brevard County	Living Shoreline	North IRL	240	82	\$432,000	\$432,000	\$432,000
One	PP	Oyster/Living Shoreline Restoration	Brevard County	Living Shoreline	Central IRL	240	82	\$31,500	\$31,500	\$31,500
Sum of County Projects in the Updated Project Plan that Start in Year 0 or Year 1						58,370	5,292	40,549,500	37,799,500	27,799,500