



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.2.

10/8/2019

Subject:

Indian River Lagoon National Estuary Program (IRL Council) Grant Agreement for Brevard County's Micco Sewer Line Extension - Contract # IRL2019-09 (District 3)

Fiscal Impact:

FY 19-20: \$123,220 grant revenue to match Save Our Indian River Lagoon Funds

FY 20-21: \$123,220 grant revenue to match Save Our Indian River Lagoon Funds

Dept/Office:

Natural Resources

Requested Action:

It is requested that the Board of County Commissioners: (1) Authorize the Chairman to execute Contract # IRL2019-09, between Brevard County (Grantee) and the IRL Council (Grantor) for the Micco Sewer Line Extension; (2) Authorize the County Manager to execute future contract amendments subject to the approval of the County Attorney's Office and Risk Management; and (3) Approve associated budget change requests.

Summary Explanation and Background:

Attached is a cost share agreement with the IRL Council for the Brevard County Micco Sewer Line Extension Project (Attachment E). The location of the proposed project is provided in Attachment A. This project includes the installation of approximately 1.4 miles of a sewer service line and conversion of 31 commercial and residential properties adjacent to the Indian River Lagoon from septic to sewer. This project will improve Indian River Lagoon water quality by reducing excess nitrogen loading to the lagoon by 1,359 lbs/year.

The Micco Sewer Line Extension Project is included in the Save Our Indian River Lagoon Project Plan (Plan), most recently approved by the Board of County Commissioners in regular session on April 9, 2019 (Attachment B). The Plan specifically identifies septic system removals and upgrades as a key component to reducing pollutant loadings to the Indian River Lagoon. The Plan includes an allocation of \$1,977,345 of funding from the Save Our Indian River Lagoon Trust Fund for the Micco Sewer Line Extension Project. Project design and permitting is nearly complete and construction is anticipated to occur in 2020. This grant from the Indian River Lagoon National Estuary Program will provide cost share to assist property owners within the project area with septic to sewer connection costs once the County has constructed the sewer line extension.

Clerk to the Board Instructions:

Execute 3 originals - one for the Clerk of Courts and two for IRL Council.

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: Indian River Lagoon National Estuary Program	
2. Fund/Account #: 271010	3. Department Name: Natural Resources
4. Contract Description: Grant for Micco Sewer Line Extension Project	
5. Contract Monitor: Walker Dawson	7. Contract Type: GRANT
6. Dept/Office Director: Virginia Barker	

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 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

<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"/>	Dawson, Walker <small>Digitally signed by Dawson, Walker DN: cn=Dawson, Walker ou=Board of County Commissioners, ou=Date: 2019.07.25 13:18:58 -0400</small>	07/25/2019
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: 2019.08.26 10:52:14 -0400</small>	08/26/2019

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 Data (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"/>

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BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT REVIEW AND APPROVAL FORM

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COUNTY OFFICE	APPROVAL		SIGNATURE	DATE
	YES	NO		
User Agency	<input 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"/>	Dawson, Walker <small>Digitally signed by Dawson, Walker DN: cn=Dawson, Walker, email=Dawson@brevard.gov, Date: 2019.07.25 15:15:04-0400</small>	07/25/2019
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Matt Lairsey <small>Digitally signed by Matt Lairsey DN: cn=Matt Lairsey, email=Matt.Lairsey@brevard.gov, Date: 2019.07.25 15:15:04-0400</small>	07/25/2019
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

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"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

October 9, 2019

M E M O R A N D U M

TO: Virginia Barker, Natural Resources Management Office

RE: Item F.2., Indian River Lagoon National Estuary Program Grant Agreement for Brevard County's Micco Sewer Line Extension – Contract #IRL2019-09

The Board of County Commissioners, in regular session on October 8, 2019, authorized the Chairman to execute Contract #IRL2019-09, between Brevard County and the IRL Council for the Micco Sewer Line Extension; authorized the County Manager to execute future contract amendments subject to the approval of the County Attorney's Office and Risk Management; and approved any associated budget change requests. Enclosed are two executed Grant Agreements.

Upon execution by IRL Council, please return a fully-executed Agreement to this office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/cmw

Encls. (2)

cc: Contracts Administration
Finance
Budget

**AGENCY COST-SHARE AGREEMENT
BY AND BETWEEN THE IRL COUNCIL AND THE BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA, FOR
MICCO SEWER LINE EXTENSION**

THIS AGREEMENT (“Agreement”) is entered into by and between the IRL COUNCIL (“Council”), whose address is 1235 Main Street, Sebastian, Florida 32958, and the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY (“Recipient”), whose address is 2725 Judge Fran Jamieson Way, Building A, Viera, Florida 32940. All references to the parties hereto include the parties, their officers, employees, agents, successors, and assigns.

RECITALS

The waters of the state of Florida are among its basic resources, and the Council has been authorized by the United States Environmental Protection Agency to be the local sponsor for the Indian River Lagoon National Estuary Program.

Pursuant to the IRL Council Interlocal Agreement, the Council is responsible for managing the Indian River Lagoon National Estuary Program.

The Council has determined that providing cost-share funding to Recipient for the purposes provided for herein will benefit the management of the water resources of the Indian River Lagoon.

The parties have agreed to jointly fund the following project to benefit the water resources in accordance with the funding formula further described in the Statement of Work, Attachment A (hereafter “the Project”):

The Recipient will perform all the work necessary to install approximately 1.4 miles of force main and convert 31 residential and commercial properties from septic to sewer. The project has an estimated total reduction per year in excess of 1,359 pounds of TN mostly from several large commercial facilities including waterfront marinas.

In consideration of the above recitals, and the funding assistance described below, Recipient agrees to perform and complete the activities provided for in the Statement of Work, Attachment A. Recipient shall complete the Project in conformity with the contract documents and all attachments and other items incorporated by reference herein. This Agreement consists of all of the following documents: (1) Agreement, (2) Attachment A- Statement of Work; and (3) all attachments, if any. The parties hereby agree to the following terms and conditions.

1. TERM; WITHDRAWAL OF OFFER

- (a) The term of this Agreement is from the date upon which the last party has dated and executed the same (“Effective Date”) until September 30, 2021 (“Completion Date”). Recipient shall not commence the Project until any required submittals are received and approved. Recipient shall commence performance within fifteen (15) days after the Effective Date and shall complete performance in accordance with the time for completion stated in the Statement of Work. Time is of the essence for every aspect of this Agreement, including any time extensions. 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 survive termination or expiration hereof.

- (b) This Agreement constitutes an offer until authorized, signed and returned to the Council by Recipient. This offer terminates forty-five (45) days after receipt by Recipient; provided, however, that Recipient may submit a written request for extension of this time limit to the Council's Project Manager, stating the reason(s) therefore. The Project Manager shall notify Recipient in writing if an extension is granted or denied. If granted, this Agreement shall be deemed modified accordingly without any further action by the parties.

2. **DELIVERABLES.** Recipient shall fully implement the Project, as described in the Statement of Work, Attachment A. Recipient 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, Recipient shall provide and pay for all materials, labor, and other facilities and equipment necessary to complete the Project. The Council'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 Council will provide Recipient a written statement indicating that the Project has been completed in accordance with this Agreement. Acceptance of the final payment by Recipient shall constitute a release in full of all claims against the Council arising from or by reason of this Agreement.

3. **OWNERSHIP OF DELIVERABLES.** Unless otherwise provided herein, the Council does not assert an ownership interest in any of the deliverables under this Agreement.

4. **AMOUNT OF FUNDING.**

- (a) For satisfactory completion of the Project, the Council shall pay Recipient approximately \$246,400 for approved expenses as listed in Attachment A section VIII, but in no event shall the Council cost-share exceed \$246,400. The Council cost-share is not subject to modification based upon price escalation in implementing the Project during the term of this Agreement. Recipient shall be responsible for payment of all costs necessary to ensure completion of the Project. Recipient shall notify the Council's Project Manager in writing upon receipt of any additional external funding for the Project not disclosed prior to execution of this Agreement.

- (b) **In-Kind Services.** Recipient agrees to provide \$2,393,226 in the form of cash and/or in-kind services for the Project, as further described in the Statement of Work, which shall count toward Recipient's cost-share obligation.

5. **PAYMENT OF INVOICES**

- (a) Recipient shall submit one invoice upon successful completion of the Project by one of the following two methods: (1) by mail to the IRL Council, 1235 Main Street, Sebastian, Florida 32958, or (2) by e-mail to kolodny@irlcouncil.org. The invoice shall be submitted in detail sufficient for proper pre-audit and post-audit review. It shall include a copy of contractor and supplier invoices to Recipient and proof of payment. Recipient shall be reimbursed for applicable costs identified in Attachment A Section VIII or the not-to-exceed sum of \$246,400, whichever is less. The Council shall not withhold any retainage from this reimbursement. If necessary, for audit purposes, Recipient shall provide additional supporting information as required to document invoices.

- (b) **End of Council Fiscal Year Reporting.** The Council's fiscal year ends on September 30. Irrespective of the invoicing frequency, the Council is required to account for all encumbered funds at that time. When authorized under the Agreement, submittal of an invoice as of September 30 satisfies this requirement. The invoice shall be submitted no later than October 30. If the Agreement does not authorize submittal of an invoice as of September 30, Recipient shall submit, prior to October 30, a description of the additional work on the Project completed between the last invoice and September 30, and an estimate of the additional amount due as of September 30 for such Work. If there have been no prior invoices, Recipient shall submit a description of the work completed on the Project through September 30 and a statement estimating the dollar value of that work as of September 30.
- (c) **Final Invoice.** The final invoice must be submitted no later than 45 days after the Completion Date; provided, however, that when the Completion Date corresponds with the end of the Council's fiscal year (September 30), the final invoice must be submitted no later than 30 days after the Completion Date. **Final invoices that are submitted after the requisite date shall be subject to a penalty of 10 percent of the invoice. This penalty may be waived by the Council, in its sole judgment and discretion, upon a showing of special circumstances that prevent the timely submittal of the final invoice. Recipient 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.**
- (d) All invoices shall include the following information: (1) Council contract number; (2) Council encumbrance number; (3) Recipient's name and address (include remit address, if necessary); (4) Recipient's invoice number and date of invoice; (5) Council Project Manager; (6) Recipient's Project Manager; (7) supporting documentation as to cost and/or Project completion (as per the cost schedule and other requirements of the Statement of Work) and per ATTACHMENT B – CONTRACT PAYMENT REQUIREMENTS FOR STATE-FUNDED COST REIMBURSEMENT CONTRACTS; (8) Progress Report (if required); (9) Diversity Report (if otherwise required herein). 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. Payments shall be made within forty-five (45) days of receipt of an approved invoice.
- (e) **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 and are not otherwise compensable.
- (f) **Payments withheld.** The Council 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 Council 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.
- (g) **Annual budgetary limitation.** For multi-fiscal year agreements, the Council must budget the amount of funds that will be expended during each fiscal year as accurately as possible. 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) ("Annual Spending Plan"). If Recipient anticipates that expenditures will exceed the budgeted amount during any fiscal year, Recipient shall promptly notify the Council'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 Council to receive this request is August 1 of the then-current fiscal year. The Council may in its sole discretion prepare a Council Supplemental Instruction Form incorporating the revised work schedule and Annual Spending Plan during the then-current fiscal year or subsequent fiscal year(s).

6. **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. 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, which may include participation in a self-insurance program.
7. **FUNDING CONTINGENCY.** 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) revenues appropriated by the Council's Board of Directors; (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 Council's Board of Directors 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 Council shall so notify Recipient and this Agreement shall be deemed terminated for convenience five (5) days after receipt of such notice, or within such additional time as the Council may allow. For the purpose of this Agreement, "Fiscal Year" is defined as the period beginning on October 1 and ending on September 30.
8. **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; (4) e-mail or, (5) fax. 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 or fax are deemed delivered on the date transmitted and received.

COUNCIL

Daniel Kolodny, Project Manager
IRL Council
1235 Main Street
Sebastian, Florida 32958
(772) 216-7148
E-mail: kolodny@irlcouncil.org

RECIPIENT

Walker Dawson, Engineer III
Brevard County Natural Resources
Management Department
2725 Judge Fran Jamieson Way, Bldg A
Viera, FL 32940
(321) 261-8646
E-mail: Walker.dawson@brevardfl.gov

- (b) The Council's Project Manager shall have sole responsibility for transmitting instructions, receiving information, and communicating Council policies and decisions regarding all matters pertinent to performance of the Project. The Council's Project Manager may

issue a Council Supplemental Instruction (CSI) form, Attachment C, to authorize minor changes in the Project that the parties agree are not inconsistent with the purpose of the Project, do not affect the Council cost-share or Completion Date, or otherwise significantly modify the terms of the Agreement.

9. **PROGRESS REPORTS AND PERFORMANCE MONITORING**

- (a) **Progress Reports.** Recipient shall provide to the Council Project update/status reports as provided in the Statement of Work. Reports will provide detail on progress of the Project and outline any potential issues affecting completion or the overall schedule. Reports may be submitted in any form agreed to by Council's Project Manager and Recipient, and may include emails, memos, and letters.
- (b) **Performance Monitoring.** For as long as the Project is operational, the Council shall have the right to inspect the operation of the Project during normal business hours upon reasonable prior notice. Recipient shall make available to the Council any data that is requested pertaining to performance of the Project.

10. **TERMINATION.** The IRL Council may terminate this Agreement without cause upon 10 days written notice. In such event Recipient shall be compensated for all Work performed in accordance with this Agreement to the effective date of termination. If Recipient materially fails to fulfill its obligations under this Agreement, including any specific milestones established herein, the Council shall provide Recipient written notice of the deficiency by forwarding a Notice to Cure, citing the specific nature of the breach. Recipient shall have thirty (30) days to cure the breach. If Recipient fails to cure the breach within the thirty (30) day period, the Council shall issue a Termination for Default Notice and this Agreement shall be terminated upon receipt of said notice. In such event, Recipient shall refund to the Council all funds provided to Recipient pursuant to this Agreement within thirty (30) days of such termination. The Council may also terminate this Agreement upon ten (10) days written notice in the event any of material misrepresentations in the Project Proposal.

ADDITIONAL PROVISIONS (Alphabetical)

- 11. **ASSIGNMENT.** Recipient shall not assign this Agreement, or any monies due hereunder, without the Council's prior written consent. Recipient is solely responsible for fulfilling all work elements in any contracts awarded by Recipient and payment of all monies due. No provision of this Agreement shall create a contractual relationship between the Council and any of Recipient's contractors or subcontractors.
- 12. **AUDIT; ACCESS TO RECORDS; REPAYMENT OF FUNDS.**
 - (a) **Maintenance of Records.** Recipient 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. Recipient shall keep the records of receipts and expenditures, copies of all reports submitted to the Council, and copies of all invoices and supporting documentation for at least five (5) years after expiration of this Agreement. In accordance with generally accepted governmental auditing standards, the Council 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, Recipient shall maintain all required records until the audit is completed and all questions are resolved. Recipient will provide proper facilities for access to and inspection of all required records.

- (b) **Repayment of Funds.** Council funding shall be subject to repayment after expiration of this Agreement if, upon audit examination, the Council finds any of the following: (1) Recipient has spent funds for purposes other than as provided for herein; (2) Recipient has failed to perform a continuing obligation of this Agreement; (3) Recipient has received duplicate funds from the Council for the same purpose; and/or (4) Recipient has received more than one hundred percent (100%) contributions through cumulative public agency cost-share funding.

13. **FLORIDA SINGLE AUDIT ACT**

- (a) **Applicability.** The Florida Single Audit Act (FSAA), section 215.97, Fla. Stat., applies to all sub-recipients of state financial assistance, as defined in section 215.97(1)(q), Fla. Stat., awarded by the Council through a project or program that is funded, in whole or in part, through state financial assistance to the Council. In the event Recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such Recipient, Recipient must have a state single or project-specific audit for such fiscal year in accordance with section 215.97, Fla. Stat.; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. In determining the state financial assistance expended in its fiscal year, Recipient shall consider all sources of state financial assistance, including state financial assistance received from the Council, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements. Recipient is solely responsible for complying with the FSAA.

If Recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of section 215.97, Fla. Stat., is not required. In such event, should Recipient elect to have an audit conducted in accordance with section 215.97, Fla. Stat., the cost of the audit must be paid from the non-state entity's resources (i.e., University's resources obtained from other than State entities).

- (b) **Program Information** This Agreement involves the disbursement of state funding by the Department of Highway Safety and Motor Vehicles in the amount of \$75,000. Funding is provided under the State of Florida Indian River Lagoon (IRL) License Plate Program. The Florida Catalog of Financial Assistance (CSFA) number for this program is CFSA No. 76.010. The Council is providing a funding match of \$171,400.
- (c) **Additional Information.** For information regarding the state program under the above CSFA number, Recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa/catalog.aspx> for assistance. The following websites may be accessed for additional information: Legislature's Website at <http://www.leg.state.fl.us/>, State of Florida's website at <http://myflorida.com>, District of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen/>.
- (d) **Allowable Costs.** Recipient may only charge allowable costs to this Agreement, as otherwise provided herein. Any balance of unobligated cash that have been advanced or paid that is not authorized to be retained for direct program costs in a subsequent period must be returned to the Council.

- (e) **Audit Requirements.** Recipient shall ensure that the audit complies with the requirements of section 215.97(7), Fla. Stat. This includes submission of a financial reporting package as defined by section 215.97(2), Fla. Stat., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Recipient shall comply with the program requirements described in the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/catalog.aspx>]. The services/purposes for which the funds are to be used are included in the Statement of Work.
 - (f) **Financial Reporting.** Recipient shall provide the Council with a copy of any reports, management letters, or other information required to be submitted in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable, no more than 20 days after its preparation. Recipient shall indicate the date the reporting package was delivered to University in correspondence accompanying the reporting package. This information shall be directed to: IRL Council, Mr. Daniel Kolodny, Chief Operating Officer, 1235 Main Street, Sebastian, FL 32958. A copy of the report shall also be provided to the Auditor General's Office at the following address: State of Florida Auditor General, Room 401, Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.
 - (g) **Monitoring.** In addition to reviews of audits conducted in accordance with section 215.97, Fla. Stat., as revised, monitoring procedures may include, but not be limited to, on-site visits by Council staff, limited scope audits, and/or other procedures. Recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Council. In the event the Council determines that a limited scope audit of Recipient is appropriate, Recipient agrees to comply with any additional instructions provided by the Council to Recipient regarding such audit. Recipient agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Council's Independent Financial Auditor or the state Chief Financial Officer or Auditor General.
 - (h) **Examination of Records.** In addition to the Council's audit rights otherwise provided for herein, Recipient shall permit the Council or its designated agent, the state awarding agency, the Department of Financial Services, the state's Chief Financial Officer and the state's Auditor General to examine Recipient's financial and non-financial records to the extent necessary to monitor Recipient's use of state financial assistance and to determine whether timely and appropriate corrective actions have been taken with respect to audit findings and recommendations, which may include onsite visits and limited scope audits.
 - (i) **Records Retention.** Notwithstanding any other provision of this Agreement to the contrary, Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five (5) years from the date the audit report is issued, and shall allow the Council, or its designee, state Chief Financial Officer, or Auditor General access to such records upon request. Recipient shall ensure that audit working papers are made available for such access for a period of three years from the date the audit report is issued, unless extended in writing by the Council.
14. **CIVIL RIGHTS.** Pursuant to chapter 760, Fla. Stat., Recipient shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, age, handicap, or marital status.

15. **DISPUTE RESOLUTION.** Recipient 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 Council'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 Council's General Counsel, which shall issue a written decision within ten (10) business days of receipt. This determination shall constitute final action of the Council and shall then be subject to judicial review upon completion of the Project.
16. **DIVERSITY REPORTING.** The Council is committed to the opportunity for diversity in the performance of all cost-sharing agreements, and encourages Recipient to make a good faith effort to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation as contractors. The Council will assist Recipient by sharing information on W/MBEs. Recipient shall provide with each invoice a report describing: (1) the company names for all W/MBEs; (2) the type of minority, and (3) the amounts spent with each during the invoicing period. The report will also denote if there were no W/MBE expenditures.
17. **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 Indian River 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.
18. **INDEPENDENT ENTITIES.** The parties to this Agreement, their employees and agents, are independent entities and not employees or agents of each other. Nothing in this Agreement shall be interpreted to establish any relationship other than that of independent entities during and after the term of this Agreement. Recipient is not a contractor of the Council. The Council is providing cost-share funding as a cooperating governmental entity to assist Recipient in accomplishing the Project. Recipient is solely responsible for accomplishing the Project and directs the means and methods by which the Project is accomplished. Recipient is solely responsible for compliance with all labor and tax laws pertaining to Recipient, its officers, agents, and employees.
19. **INTEREST OF RECIPIENT.** Recipient certifies that no officer, agent, or employee of the Council has any material interest, as defined in chapter 112, Fla. Stat., either directly or indirectly, in the business of Recipient to be conducted hereby, and that no such person shall have any such interest at any time during the term of this Agreement.
20. **NON-LOBBYING.** Pursuant to section 216.347, Fla. Stat., as amended, Recipient agrees that funds received from the Council under this Agreement shall not be used for the purpose of lobbying the Legislature or any other state agency.
21. **PERMITS.** Recipient 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. Recipient 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.
22. **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.

23. **PUBLIC RECORDS.** Records of Recipient 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, Fla. Stat. If Recipient receives a public records request, Recipient shall promptly notify the Council'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 material related hereto and subject to the provisions of chapter 119, Fla. Stat., as amended.
- (a) Records of Recipient 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, Fla. Stat. If Recipient receives a public records request, Recipient shall promptly notify the Council'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 material related hereto and subject to the provisions of chapter 119, Fla. Stat., as amended.
 - (b) **IF RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENTS'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE COUNCIL'S CUSTODIAN OF PUBLIC RECORDS AT (772)216-7148, KOLODNY@IRLCOUNCIL.ORG, 1235 MAIN STREET, SEBASTIAN, FLORIDA 32958.**
 - (c) Recipient shall keep and maintain public records required by the Council to perform the Project.
 - (d) Upon request from the Council's custodian of public records, Recipient shall provide the Council with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119, Fla. Stat. or as otherwise provided by law.
 - (e) Recipient shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the Council.
 - (f) Upon completion of the contract, Recipient may transfer, at no cost, to the Council all public records in possession of the Recipient or keep and maintain public records required by the Council to perform the service. If the Recipient transfers all public records to the Council upon completion of the contract, the Recipient shall destroy any duplicate public records that are exempt or confidential and exempt from public

records disclosure requirements. If the Recipient keeps and maintains public records upon completion of the contract, the Recipient shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Council, upon request from the Council's custodian of public records, in a format that is compatible with the information technology systems of the Council.

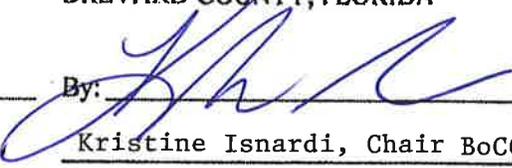
24. **ROYALTIES AND PATENTS.** Recipient certifies that the Project does not, to the best of its information and belief, infringe on any patent rights. Recipient shall pay all royalties and patent and license fees necessary for performance of the Project and shall defend all suits or claims for infringement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

IN WITNESS WHEREOF, the IRL Council has caused this Agreement to be executed on the day and year written below in its name by its Executive Director, and Recipient has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representatives, and, if appropriate, has caused the seal of the corporation to be attached. 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.

IRL COUNCIL

BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA

By: _____
Duane E. De Freese, Ph.D., Executive Director

By:  _____
Kristine Isnardi, Chair BoCC

Date: _____

Typed Name and Title
Date: October 8, 2019

APPROVED BY THE IRL
GENERAL COUNSEL

Attest:  _____
SCOTT ELLIS, CLERK

Carolyn S. Ansay, General Counsel

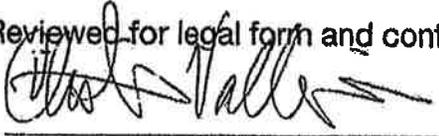
Typed Name and Title

ATTACHMENTS

- Attachment A – Statement of Work
- Attachment B – Contract Payment Requirements for State-Funded Cost Reimbursement Contracts
- Attachment C – Council Supplemental Instruction Form

Cost-share: Agency general
Last updated: 05-31-2019

Reviewed for legal form and content:

 _____

Assistant County Attorney

ATTACHMENT A - STATEMENT OF WORK

I. PROJECT TITLE:

Micco Sewer Line Extension

II. INTRODUCTION/BACKGROUND:

Since 2011 the Indian River Lagoon throughout Brevard County has experienced significant harmful algal blooms (HABs) that have resulted in a significant loss of seagrass habitat and a number of localized fish kills. Leaching septic drain fields are considered a major nutrient contribution fueling these blooms. This project targets a septic neighborhood along the lagoon with very high septic flows and permanently connects them to sewer service. This project addresses, but is not limited to, reduction or removal of excess nutrients and other pollutants from land-based and legacy sources.

The Micco Sewer Line Extension Project (Micco Project) will convert from septic to sewer, 15 commercial and 16 residential properties that are direct waterfront or near the Indian River Lagoon.

After a new 1.4-mile force main is installed, each of the 31 properties will initiate the septic to sewer conversion. Properties will connect to the force main via lateral lines and grinder pumps. Decommissioned septic tanks will be pumped out and filled with clean sand to prevent further nutrient loading. Pre-construction groundwater monitoring is currently underway. Post-construction monitoring will begin immediately after construction. Sampling will occur for at least two years.

III. PROJECT VALUE PROPOSITION STATEMENT:

The Micco Project responds to the IRL Council's goal to attain and maintain water of sufficient quality to support a healthy estuarine lagoon system.

This project was selected due to (a) its proximity to the Central IRL and (b) significant number of commercial properties, including marinas, within the project area that contribute large amounts of nutrients to the Central IRL through septic drain field contributions to groundwater.

The short-term benefits of the Micco Project will result in the immediate elimination of 1,359 lbs-TN/year to the Central IRL which is approximately 0.24% of the Stormwater Allocation of the TMDL for the Central Indian River Lagoon Basin Management Action Plan. The medium-term benefits of the project include the potential extension of sewer service to 13 water-front residential properties to the south of the current project area. The long-term benefits include the potential extension of sewer service to additional properties (both commercial and residential) adjacent to the current project area.

The biological response to the reduction of pollutant loading is the reduction in nutrient sources that feed algae blooms. Although the exact biological response and its significance is not known, the benefit of the reduced nutrient loading and elimination of human pathogens are important benefits to the IRL.

IV. LOCATION OF PROJECT:

The project boundaries are from the intersection of Barefoot Blvd and U.S. 1 south to 8685 U.S. 1 Micco, FL 32976, Brevard County, FL and from the Indian River Lagoon shoreline west to the parcels adjacent to but west of U.S. 1 plus several parcels west of U.S. 1 along Steamboat and Micco Roads.

V. SCOPE OF WORK:

Output 1 – Design and Permitting

- FDEP and FDOT permits
- 100% Design & bid documents

Output 2 – Bidding

- Executed construction contract

Output 3 - Construction

- Quarterly construction progress reports
- As-built survey of force main
- Final notification of properties connected to force main upon completion of construction

VI. TASK IDENTIFICATION:

Task 1. Initial Project Executive Summary Sheet

The county will fill out and submit Council’s Initial Project Executive Summary Sheet.

Task 2. Design and Permitting

The County currently has 90% design completed for the Micco Project. The County will submit permit applications for appropriate authorization from the FDEP and the FDOT. Upon receipt of permits from regulatory agencies, the County will finalize the 100% design and bid documents.

Task 3. Quarterly Progress Reports

The County shall submit quarterly progress reports starting after the first quarter following contract execution and continuing to project completion. Quarterly progress reports shall be submitted to the IRL Council within 15 calendar days of the end of each quarter and include Council’s Quarterly Report Summary Cover Page.

Task 4. Bidding

Once the bid documents are complete, the County will advertise the Micco Project for construction contract award. Upon receipt of bids, the County will evaluate each bid and identify the lowest, responsive bidder, after which, the County will award a construction contract and issue a Notice to Proceed.

Task 5. Force Main Construction and Property Owner’s Conversion

Upon completion of Task 4, the County will initiate the installation of 1.4 miles of force main. Once the force main installation is complete, the adjacent property owners shall begin connecting properties to the newly installed force main and decommissioning their septic systems.

Task 6. Project Administration and Final Report.

Throughout the Micco Project, the County shall be responsible for managing all aspects of the design, permitting, and construction. The County will submit a Final Report upon project completion that includes Council’s Final Report Executive Summary Cover Page.

VII. TIME FRAMES and DELIVERABLES:

Task 1: Council’s Initial Project Executive Summary Sheet

Deliverable: Council’s Initial Project Executive Summary Sheet

Due: October 31, 2019

Task 2: Design and Permitting

Deliverables: FDEP Permit, FDOT Permit, 100% Design and Bid Documents
 Due: December 1, 2019

Task 3: Quarterly Progress Reports

Deliverables: Quarterly Progress Reports that include Council's Quarterly Report Summary Cover Page.
 Due: January 31, 2020, April 30, 2020, July 31, 2020, September 30, 2020, January 31, 2021, April 30, 2021, July 31, 2021

Task 4: Bidding

Deliverable: Executed Construction Contract
 Due: July 1, 2020

Task 5: Force Main Construction and Conversions

Deliverable: As-built survey of force main and conversions
 Due: April 1, 2021

Task 7: Project Final Report

Deliverable: Project Final Report that includes Council's Final Project Executive Summary Cover Page
 Due: September 1, 2021

VIII. BUDGET:

Task Line Item	Deliverable	IRL Council Funding Amount	Cost Share Funding Amount	Cost Share Funding Source (Cash or In-Kind)
1	Initial Project Executive Summary Sheet	\$0	\$0	N/A
2	Design and Permitting	\$0	\$304,600	Brevard County (Cash)
3	Quarterly Progress Reports	\$0	\$0	N/A
4	Executed Construction Contract	\$0	\$0	N/A
5	As-built survey of force main and conversions	\$246,400	\$2,088,626	Brevard County (Cash)
6	Project Final Report	\$0	\$0	N/A
Summary		\$246,400	\$2,393,226	
Total Project Cost			\$2,639,626	

Note: County Staff time is not a component of total project cost thus the no cost amounts for reporting.

Task 5 breakdown in costs:

Lateral lines and grinder pumps encompass the entire \$246,400 cost associated with the IRLNEP awarded funding amount. The IRLNEP is funding approximately 40% of Lateral lines and Grinder pump fees.

A detailed projected cost is listed below in the following table.

Description	Quantity		Unit Cost	Total Cost	IRL Funding	Cost Share amount
Engineering and permitting	1			\$304,600	\$0	\$304,600
Line Installation (Force Main)	1		\$1,553,426	\$1,553,426	\$0	\$1,553,426
Residential – Grinder Pump and lateral Lines	16	each	\$15,000	\$240,000	\$96,000	\$144,000
Commercial – Grinder Pumps and Lateral Lines	15	each	\$25,067	\$376,000	\$150,400	\$225,600
Connection Fees	115		\$1,440	\$165,600	\$0	\$165,000
Summary					\$246,400	\$2,393,226
Total				\$2,639,626		

ATTACHMENT - B

**CONTRACT PAYMENT REQUIREMENTS FOR
STATE-FUNDED COST REIMBURSEMENT CONTRACTS**

Invoices for state-funded cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation must be provided for each amount for which reimbursement is being claimed, indicating that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation shall clearly reflect the dates of service. Only expenditures for categories in the approved contract budget will be reimbursed.

Listed below are examples of the types of documentation representing the minimum requirements by cost category:

Salaries: Submit a payroll register or similar documentation showing gross salary charges, fringe benefits, other deductions, and net pay. If an individual is paid by the hour, a document reflecting the hours worked times the rate of pay is acceptable.

Fringe Benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage, rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with section 112.061, Florida Statutes, which includes submission of the claim on the approved State of Florida (State) or Council travel voucher.

Other direct costs: Reimbursement is based upon paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in section 273.02, Florida Statutes, for subsequent transfer to the State.

In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

The "Reference Guide for State Expenditures" prepared by the Florida Department of Financial Services can be found at this web address: http://www.fldfs.com/aadir/reference_guide.htm

ATTACHMENT C — COUNCIL’S SUPPLEMENTAL INSTRUCTIONS (sample)
COUNCIL SUPPLEMENTAL INSTRUCTIONS #

DATE:

TO:

FROM: _____, Project Manager

CONTRACT/PURCHASE ORDER NUMBER:

CONTRACT TITLE:

The Work shall be carried out in accordance with the following supplemental instruction issued in accordance with the Contract Documents without change in the Contract Sum or Contract Time. Prior to proceeding in accordance with these instructions, indicate your acceptance of these instructions for minor changes to the work as consistent with the Contract Documents and return to the Council’s Project Manager.

- 1. CONTRACTOR’S SUPPLEMENTAL INSTRUCTIONS:
- 2. DESCRIPTION OF WORK TO BE CHANGED:
- 3. DESCRIPTION OF SUPPLEMENTAL INSTRUCTION REQUIREMENTS:

Contractor’s approval: (choose one of the items below):

Approved: _____ Date: _____

(It is agreed that these instructions shall not result in a change in the Total Compensation or the Completion Date.)

Approved: _____ Date: _____

(Contractor agrees to implement the Supplemental Instructions as requested, but reserves the right to seek a Change Order in accordance with the requirements of the Agreement.)

Approved: _____ Date: _____
_____, Council Project Manager

Acknowledged: _____ Date: _____
_____, Council Contracts Administrator

cc: Contract/Purchasing file



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

April 10, 2019

M E M O R A N D U M

TO: Virginia Barker, Natural Resources Management Director

RE: Item I.3., Revised 2019 Save Our Indian River Lagoon Project Plan (SOIRLPP)
Recommendation from the Citizen Oversight Committee (COC)

The Board of County Commissioners, in regular session on April 9, 2019, approved a Revised 2019 SOIRLPP, as recommended by the SOIRL COC, that increases funding by \$28.1 million for septic to sewer projects, decreases funding by \$74.8 million that was previously proposed by the COC for muck removal and/or interstitial water treatment, and reserves \$46.7 million available for future allocation; and authorized staff to process any and all necessary budget change requests, for current fiscal year, to comply with the Board's directives.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/kp

cc: EachCommissioner
County Manager
Finance
Budget