

**AGENCY COST-SHARE AGREEMENT BY AND BETWEEN THE
IRL COUNCIL AND INDIAN RIVER COUNTY FOR THE JONES' PIER
CONSERVATION AREA WETLAND RESTORATION PROJECT**

THIS AGREEMENT ("Agreement") is entered into between the IRL COUNCIL ("the Council"), whose address is 1235 Main Street, Sebastian, Florida 32958, and INDIAN RIVER COUNTY, whose address is 1801 27th Street, Vero Beach, Florida 32960 ("Recipient"). 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"):

Project description: Construction of estuarine wetlands and native uplands at the Jones' Pier Conservation Area in Indian River County.

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, 2019 ("Completion Date"). Recipient shall not commence the Project until any required submittals are received and approved. Recipient shall commence performance within seventy-five (75) 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

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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) therefor. 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 twenty-eight percent (28%) of the total cost of the Project, but in no event shall the Council cost-share exceed \$61,000. 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 \$159,155 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 of \$159,155. Recipient's cash and/or in-kind services utilized on or after October 1, 2018 and before the effective date of this Agreement, in an amount not-to-exceed \$159,155, 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 sakuma@irlcouncil.org. The invoice shall be submitted in detail sufficient for proper pre-audit and post-audit review. It shall include a copy of

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contractor and supplier invoices to Recipient and proof of payment. For all approved expenses incurred on or after October 1, 2018, Recipient shall be reimbursed for approved costs or the not-to-exceed sum of \$61,000, 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); (8) Progress Report (if required). 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 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 and employees. 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
Frank Sakuma, Project Manager
IRL Council
1235 Main Street
Sebastian, FL 32958
(772) 742-2858 ext. 101
E-mail: sakuma@ircouncil.org

RECIPIENT
Beth Powell, Conservation Lands Manager
Indian River County
5500 77th Street
Vero Beach, FL 32967
(772) 226-1873
E-mail: bpowell@ircgov.com

- (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 also issue a Council Supplemental Instruction (CSI) form, Attachment B, to authorize minor adjustments to the Work that are consistent with the purpose of the Work. Both parties must sign the CSI. A CSI may not be used to change the Total Compensation, quantity, quality, or the Completion Date of the Work, or to change or modify 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.
 - (c) **Florida Inspectors General.** It is the duty of every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section.
13. **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.
14. **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.
15. **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.
16. **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., Recipient'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 \$25,000. 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 \$36,000.
- (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 Recipient in correspondence accompanying the reporting package. This information shall be directed to: IRL Council, Mr. Frank Sakuma, 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.

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, health insurance, 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 Section 287.017, Florida Statutes, for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.
23. **PUBLIC RECORDS.**
 - (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) 453-0975, SAKUMA@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

INDIAN RIVER COUNTY

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

By: _____

Typed Name and Title

Date: _____

Date: _____

APPROVED AS TO FORM

Attest: _____

Carolyn S. Ansay, IRL Council General Counsel

Typed Name and Title

ATTACHMENTS

- Attachment A – Statement of Work
- Attachment B – Council Supplemental Instruction Form

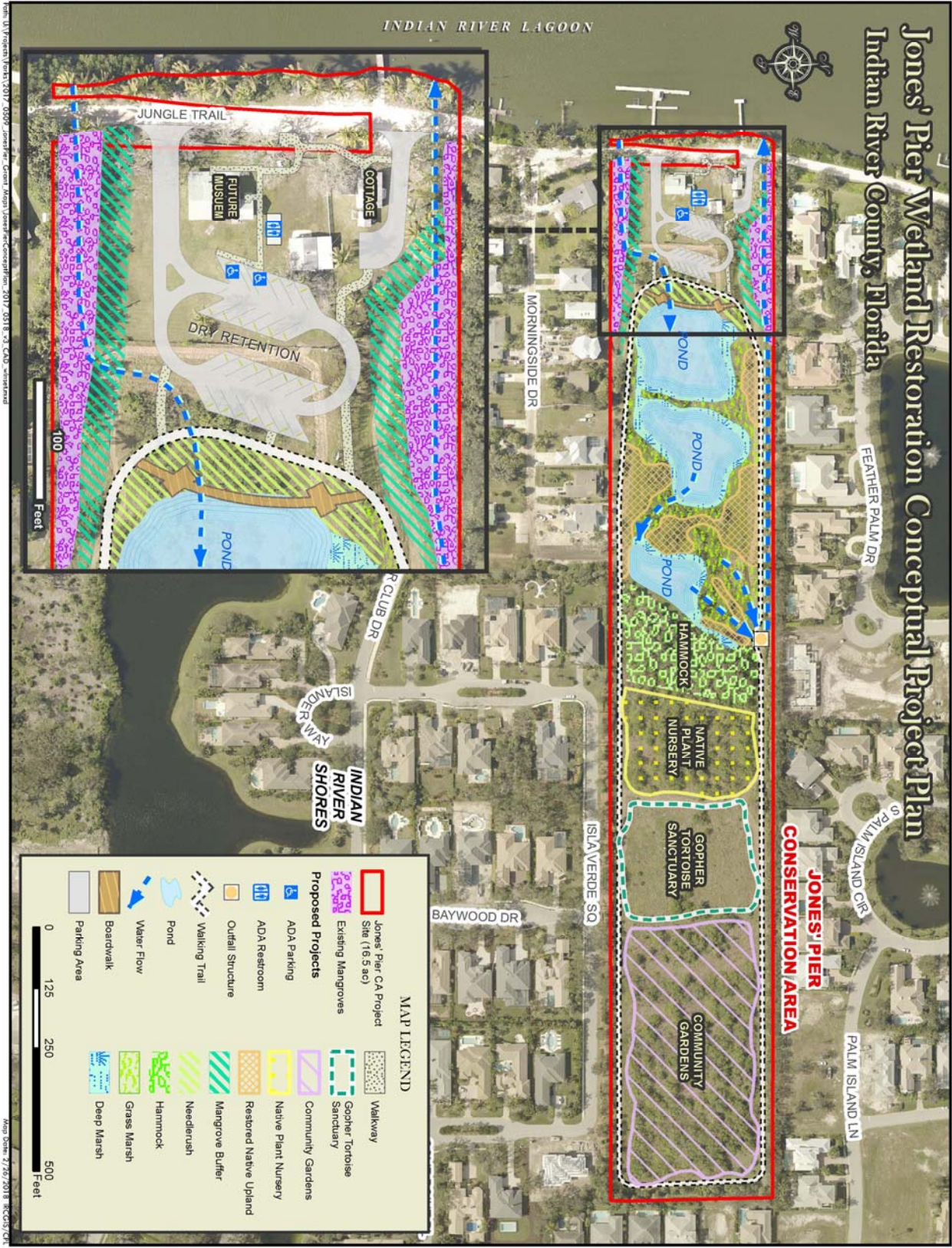
Cost-share: Agency general
Last updated: 10-25-13

Attachment A – Statement of Work**I. INTRODUCTION**

The Jones Pier Conservation Area (JPCA) is part of the rich history of late 19th century/early 20th century settlement in Indian River County. In 1889, Seaborn Jones and his family homesteaded 160 acres on Orchid Island. Mr. Jones and his neighbors built the “Orchid-Narrows Road” which is now known as Jungle Trail (listed in 2003 on the National Register of Historic Places). The Jones family tendered crops of beans and tomatoes on the property while their citrus groves were developing. The now famous Indian River Citrus originated from the labors of these early settlers. In 1907, Mr. Jones built a dock to aid in commerce along the Indian River. The Indian River and Jones’ dock was featured in the movie “There Goes the Bride,” and have become picturesque reminders of “Old Florida” in numerous magazines. The 16-acre JPCA that was purchased by the County in 2011 (including the dock) is part of this original homestead.

The County acquired the site from the Jones’ family with assistance from the Florida Communities Trust (FCT). As part of the purchase, the County committed to implementing a management plan for the site that restores ecological value, while at the same time utilizes the existing buildings on the property for public access and display of educational and historical exhibits. To this end, the County is in the process of finalizing a Master Plan for the site that includes elements such as: (1) design of public access facilities including buildings, restrooms, trails and parking; (2) restoration of wetlands and native uplands on-site; (3) development of an outdoor classroom for use by local schools and other organizations; (4) conservation and habitat enhancement of an existing Florida gopher tortoise population; (5) establishment of community gardens to promote environmentally sensitive & sustainable practices; (6) establishment of native planting corridors along the trails, and (7) possible development of a native plant nursery (where feasible). This conceptual plan for the site has been attached as the “Jones’ Pier Wetland Restoration Conceptual Project Plan.” The County will phase the construction of these elements in a logical progression to maximize the ultimate use of the site.

This wetland restoration will be one of the first activities to be completed on the site. Other proposed activities that are underway include repair of structures damaged from Hurricane Matthew and relocation and renovation of the historic fruit stand on Jungle Trail. The County has applied for a Department of State Historical Resources (DHR) Small Matching Funds Grant to build a replica replacing the dilapidated fruit stand. The DHR grant will also provide funding to create wayside educational exhibits to be displayed in the fruit stand. The fruit stand replica will serve as a hub for display of other project materials, including exhibits describing the planned wetland restoration and other IRL related educational materials. Based on preliminary feedback from the DHR, it appears that funding will be available for the fruit stand restoration in 2018.



II. OBJECTIVE

Project objectives are:

- To restore and create wetlands and uplands on the site to provide ecological benefits;
- To convert the existing land use to provide additional treatment of stormwater runoff prior to discharge into the Indian River Lagoon;
- To use Lagoon waters for base flow through the created wetlands. This aspect of the project allows for creation of saltmarsh habitat which is unique to the area. The use of Lagoon water will help in maintaining salinity within an acceptable range, which will in turn establish the wetland plant community that will facilitate water quality improvements.
- To provide refuge for wildlife, including protected species;
- To design and implement the long-term management of the site to address climate change and sustainability issues. Over the past five years of observing conditions within the conservation areas along Jungle Trail, it has become obvious that the County's ability to "restore" hammock communities on the site is no longer a viable option due to shifts in water levels.
- To convert the existing land use to remove a source of exotic vegetative species;
- To provide for passive recreation for the public including walking trails and wetland viewing; and
- To provide a comprehensive public education program that emphasizes conservation and sustainability, as well as the importance of public participation (e.g. volunteerism, environmentally sensitive day-to-day practices, etc.)

III. LOCATION OF PROJECT

As shown on the Location Map included in the Executive Summary, the 16-acre site is located at 27°44'5.67"N & 80°23'36.22"W along Jungle Trail, in Indian River County. The site is on the barrier island and is located approximately 2 miles south of the intersection of Jungle Trail and CR 510.

IV. SCOPE OF WORK

A review of historic imagery (c.1940's) does not provide much detail about past natural resources on the site (the majority of the land had been cleared by that point). It appears that there may have been several small wetland areas on the property, including the remnant hammock that remains. Grading and site drainage have removed and/or permanently altered the majority of what may have been historic wetlands.

Recent extreme weather events have resulted in significant alteration of the natural communities along Jungle Trail. In 2016, the storm surge from Hurricane Matthew and resulting persistent inundation of the un-developed lands resulted in loss of maritime hammock along the Trail. This was evident within the Captain Forster Hammock Preserve (which is approximately 1-mile north of the Jones' site). The original management plan for the Jones' site outlined plans to "restore" hammock to the site; it is apparent that hammock restoration would be a poor choice given the changing conditions along Jungle Trail. Revised site planning has changed the focus from the original plan to create a mosaic of estuarine wetlands and uplands that will be constructed to withstand anticipated extreme weather events and the long-term effects of climate change.

A. Final Design

As part of the process for developing the Master Plan for the site, the County has completed a preliminary design of the restoration/creation of wetlands. Plan views and cross sections depicting the proposed layout and composition of the wetlands are included as Attachment #1 to this Draft Work Plan. As shown on the plans, the County proposes to create 2.8-acres of saltmarsh with contiguous upland areas to augment habitat diversity on the site. The County is in the process of collecting geotechnical and additional topographic data required to prepare final design plans suitable for submittal of required wetland permit applications for construction. Final design considerations include:

- Assess pre-existing site features to maximize the cost/benefit ratio for establishing wetland habitat and water quality benefits;
- Design of the solar pump station to operate continuously, or to mimic high tide/low tide cycles;
- Assess design of a solar pump station that will lift plankton and small fish species into the wetlands without causing harm;
- Assess design of a discharge structure that will allow fish and plankton to escape from the wetlands into the discharge flow-way, and ultimately back into the Lagoon;
- Design of the discharge flow-way to maximize nutrient uptake on a per unit area basis;
- Utilization of the geotechnical and topographic data to refine the wetland design to maximize the diversity of proposed wetland communities.
- Develop a dewatering plan for construction to be approved as part of the permitting process.

The current schedule for the project includes submittal of wetland permits in July 2018. Pre-application meetings have been held with both the St. John's River Water Management District (WMD) and the U.S. Army Corps of Engineers (USACE), and the project has received very positive feedback. The intent is for all permits to be in place and selection of the approved Contractor prior to October 30, 2018.

B. Construction

The Scope of Work for the project includes the construction of the wetland and upland areas as depicted on the attached plans. This work will include: site survey, clearing, earthwork & rough grading, installation of structures, and planting. A brief summary of the proposed sequence of events is presented below.

- Following site mobilization and installation of required erosion control measures, the Contractor will clear the site to remove the Brazilian pepper and ruderal groundcover.
- Site survey will be completed to allow for rough grading of the site.
- Rough grading will be completed, and soil will be moved to create the trail and other amenities, or stockpiled in other areas of the site for use in later public improvements;
- Additional survey will be completed to allow for final grading to be completed.
- Upon completion of final grading and installation of structures, as-builts of the site will be generated for review and approval.
- Once as-builts are approved, the pump can be turned on to bring in Lagoon waters prior to initiating planting.
- Planting will begin once suitable hydrology on the site has been established.

Generally, it is preferred to plant a site with a variety of vegetative species across a topographic gradient. Wetland planting is anticipated to be most successful if completed during the summer months. However, because this site is located in east Central Florida where winters are generally mild, the installation of plants for this project can be scheduled to occur following the earthwork and start-up of the wetlands. Because juvenile plants are more sensitive to elevation than mature plants, the start-up of the wetlands will include greater scrutiny of water level fluctuations to ensure that newly planted material has the greatest chance for successful establishment. Over time the plants will become well established based on hydrologic and topographic conditions, and will be more tolerant of fluctuations. In addition to water levels, the start-up of the wetlands will consider that salt marsh plants can be very sensitive to stagnant waters with elevated salinities. The site will be maintained to flush consistent with nearby natural areas.

C. Monitoring

Carefully planned monitoring plans are key to the successful establishment and long-term viability of created wetlands. Monitoring data will identify areas where re-plantings are required; provide insight into the effectiveness of water flows and levels based on species composition, substrate conditions and wildlife use; determine how elevations are affecting diversity and composition; assess water quality as needed; identify areas of erosion so that corrective measures may be instituted; and identify whether nuisance and exotic species need to be controlled. Successful monitoring will collect data not only on vegetative cover, but will also assess other wetland functions and stability of wildlife using the site.

Created saltmarsh would not be immediately expected to contain all of the vegetative and wildlife species as a natural marsh, however, with proper monitoring and maintenance the diversity and abundance of species will reflect conditions within nearby natural systems. A detailed monitoring plan for the site will be developed as part of the permitting for the project. Baseline monitoring will be conducted upon completion of construction to document site conditions. It is anticipated that long-term proposed monitoring activities will include:

Photographic Monitoring

- Establishment of photo stations to document conditions within the wetlands over time.

Vegetative Monitoring

- Establishment of transects and/or other quantitative sampling methods to document diversity and cover within the wetlands and uplands.

Hydrologic Monitoring

- Installation of staff gauges within the wetlands, as well as one gauge on the historic dock. These gauges will be constructed and surveyed so that the wetland hydroperiods can be consistent with water levels in the Lagoon. The County may also install a rain gauge on site.

Sediment Monitoring

- Inspection of the system to detect any areas of significant erosion that may cause problems in wetland operation.

Water Quality Monitoring

- As part of the monitoring of the site, data including temperature, dissolved oxygen, salinity, and ph will be collected via meter readings. Samples to determine influent and effluent levels of TSS, TN and TP may be included as part of the proposed monitoring.

Wildlife Assessment

- Saltmarsh habitat is a rare resource within Indian River County. Protected species known to utilize saltmarsh habitat include: Reddish egret (*Egretta rufescens*), Roseate spoonbill

(*Platalea ajaja*), Tricolored heron (*Egretta tricolor*), Wood stork (*Mycteria americana*), Atlantic salt marsh snake (*Nerodia clarkii taeniata*), and Little blue herons (*Egretta caerulea*). In addition, a wide variety of non-listed wading birds, songbirds, raptors, small mammals, fish and aquatic invertebrates would be expected to utilize the created habitat on site.

The proposed monitoring plan will include assessment of wildlife usage on site. This data will be evaluated as part of the operation of the wetland to ensure that foraging, roosting and nesting habitat is maximized.

D. Maintenance

As part of the permitting for the project, a maintenance plan will be developed for the site. Elements of the maintenance plan should include, at a minimum:

- Routine inspection of the pump station, discharge channel, and all structures (e.g. culverts, outfall structure) to clear debris and maintain operation.
- To the extent feasible, work in areas when the site is not inundated (e.g. low tide).
- Minimize trampling of vegetation (vary access routes to avoid creating pathways)
- Spot spray areas where nuisance and/or exotic species are identified. The plan will include minimal use of herbicide (application is proper based on target species). Additionally, the hammock area to the east of the wetland will be treated over time to reduce the potential for this area to be a seed source of Brazilian pepper.
- This plan proposes to maintain the site as an herbaceous wetland system. To this end, the plan will include installation of screens and/or filters to collect mangrove seeds and prevent them from entering the wetland. Maintenance procedures will include routine cleaning of these screens.
- In the event that extreme weather conditions occur (e.g. tropical storms, hurricanes), mangrove seeds entering the wetland via storm surge will be manually removed prior to germination.
- Fill in any areas of erosion and consider additional planting if needed to avoid future erosion.
- Coordination with other County Departments, FDEP, SJRWMD, and others, as needed, to determine if there are water quality issues in the nearby areas of the Lagoon that may require that the pump station be turned off for periods of time.
- Maximize mosquito control via encouraging establishment of resident fish population.

E. Educational Programming

The County will develop an extensive educational program for the site. This plan will be prepared with assistance from our various project partners (provided in the application materials). This collaborative effort will include the following:

- Educational signage focusing on water quality in the IRL, with emphasis on the benefits of wetland restoration and BMP's that the public can adopt;
- Educational signage and other exhibits describing the need for proper management of stormwater entering the IRL;
- Educational signage and exhibits describing safe boating practices with respect to wildlife conservation and resource protection;
- Monthly educational programs on-site lead by staff or other project partners – these events will include both students and the general public;
- Educational exhibits detailing the history of the Jones' site and its contribution to the IRL.

V. TASK IDENTIFICATION

Indian River County shall complete the following tasks:

1. Quarterly Progress Reports: The County will prepare and submit quarterly progress reports after the first quarter following contract execution and continuing to project completion.
2. Collection of Baseline Monitoring Data: The County will collect baseline monitoring data following the completion of construction to document site conditions following completion of construction.
3. Project Administration and Final Report: The County will complete 100% of the project and will submit a project final report. The final report will provide copies of the as-builts and the results of the baseline monitoring event.

VI. DELIVERABLES AND TIME FRAMES

It is anticipated that the work will be completed based on the following timeline:

TASK	ANTICIPATED TIMELINE	
	INITIATION	COMPLETION
Final Design and Permitting	04/30/2018	09/03/2018
Finalize State of Work and Execute Final Agreement	N/A	10/01/2018
RFP for Construction	08/01/2018	10/30/2018
Mobilization	11/05/2018	11/19/2018
Site Survey	11/19/2018	12/10/2018
Preparation & Submittal of First Quarterly Progress Report	12/14/2018	01/01/2019
Clearing, Earthwork & Installation of Structures	12/17/2018	04/15/2019
Preparation & Submittal of Second Progress Report	03/15/2019	04/01/2019
Start-Up & Develop Hydrology	04/01/2019	N/A
Preparation & Approval of As-Builts	04/15/2019	05/06/2019
Planting	05/13/2019	06/13/2019
Completion of Construction	N/A	06/28/2019
De-Mobilization & Site Clean-Up	07/01/2019	07/15/2019
Preparation of Final Report	06/17/2019	08/02/2019

VII. BUDGET

The engineer's preliminary construction cost for the project is presented below.

JONES' PIER WETLAND RESTORATION ESTIMATE OF CONSTRUCTION COST BASED ON CONCEPTUAL PLAN				
Item	Quantity	Unit	Unit Price	Total
Site Construction				
Mobilization	1	LS	\$7,500.00	\$7,500.00
Clearing (Based on Wetland Restoration area)	3.8	AC	\$3,000.00	\$11,400.00
Haul Clearing Debris off-site and disposal	1	LS	\$3,500.00	\$3,500.00
Pond Excavation (3 ponds -based on 6' depth	14,500	CY	\$4.00	\$58,000.00
Haul Fill on-site and stockpile (pond depth of 6')	14,500	CY	\$2.00	\$29,000.00
Rough Grading (Site)	3.8	AC	\$2,000.00	\$7,600.00
Final Grading (Pond contouring - per pond)	3	EA	\$7,500.00	\$22,500.00
			Subtotal	\$139,500.00
Storm Drainage & Erosion Control				
12" ADS N-12 for pond outfall pipe	100	LF	\$23.00	\$2,300.00
18" ADS N-12 pond connector pipes	200	LF	\$34.00	\$6,800.00
Stabilized road restoration for pipe install	1	LS	\$6,500.00	\$6,500.00
Solar Pump house / system	1	EA	\$4,000.00	\$4,000.00
Control Structure	1	EA	\$2,500.00	\$2,500.00
Erosion Control	1	LS	\$3,500.00	\$3,500.00
			Subtotal	\$25,600.00
Planting				
Procure & Install Plant Materials	1	LS	\$23,355.00	\$23,355.00
			Subtotal	\$23,355.00
Professional Services				
Survey Stakeout	1	LS	\$6,000.00	\$6,000.00
Engineer Coord. and meetings through Phase I Construction	1	LS	\$6,000.00	\$6,000.00
			Subtotal	\$12,000.00
			TOTAL	\$200,455.00

An overall summary of the costs included in the grant application request are included below.

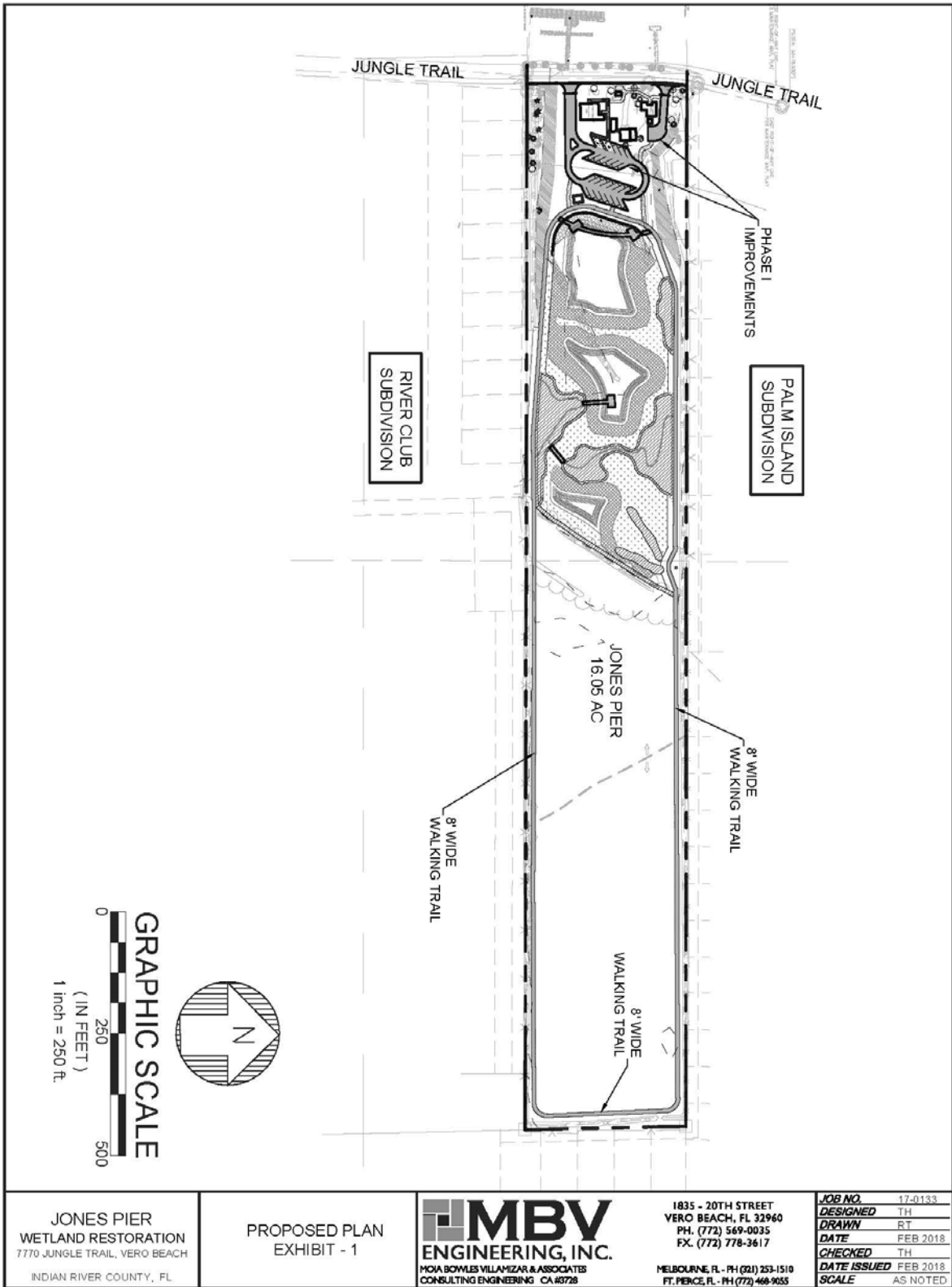
Task	Description	IRL NEP Funding	IRC Cash Contribution	IRC In-Kind Services¹
1	Project Construction	\$61,000.00	\$139,455.00	\$3,200.00
2	Preparation of Interim & Final Reports	\$0.00	\$0.00	\$3,500.00
3	Baseline Data Collection & Report	\$0.00	\$0.00	\$2,500.00
4	Design of Educational Exhibits	\$0.00	\$0.00	\$3,000.00
5	Construction of Educational Exhibits	\$0.00	\$3,000.00	\$4,500.00
	Summary Cost	\$61,000.00	\$142,455.00	\$16,700.00
	Project Total Cost			\$220,155.00

1 - The County has funded \$37,150.00 towards the completion of the Master Plan & development of the Conceptual Design. Final Design & Permitting is anticipated to include approximately \$25,000.00 of contractor fees and in kind services, which is not included in the budget presented above.

Contract# IRL2018-13

Encumbrance#s GL01-1701(\$36,000) & GL01-1895(\$25,000)

Jones' Pier Conservation Area Wetland Restoration Attachment 1
Wetland Restoration Conceptual Plan



JONES PIER
 WETLAND RESTORATION
 7770 JUNGLE TRAIL, VERO BEACH
 INDIAN RIVER COUNTY, FL

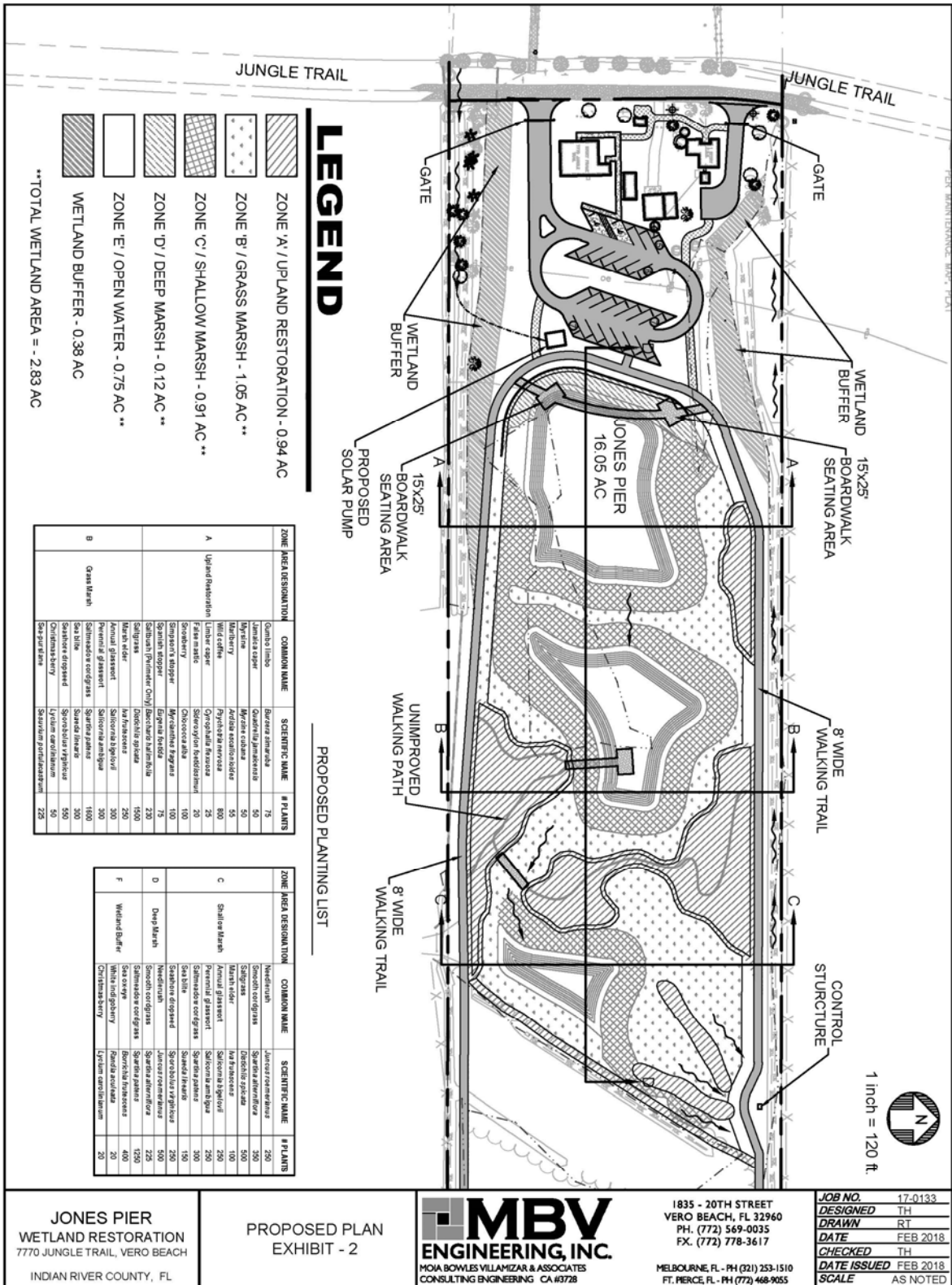
PROPOSED PLAN
 EXHIBIT - 1

MBV
 ENGINEERING, INC.
 MOYA BOWLES VILLAMIZAR & ASSOCIATES
 CONSULTING ENGINEERING CA #3728

1835 - 20TH STREET
 VERO BEACH, FL 32960
 PH. (772) 569-0035
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MELBOURNE, FL - PH (321) 253-1510
 FT. PENCE, FL - PH (772) 468-9055

JOB NO.	17-0133
DESIGNED	TH
DRAWN	RT
DATE	FEB 2018
CHECKED	TH
DATE ISSUED	FEB 2018
SCALE	AS NOTED



LEGEND

- ZONE 'A' / UPLAND RESTORATION - 0.94 AC
 - ZONE 'B' / GRASS MARSH - 1.05 AC **
 - ZONE 'C' / SHALLOW MARSH - 0.91 AC **
 - ZONE 'D' / DEEP MARSH - 0.12 AC **
 - ZONE 'E' / OPEN WATER - 0.75 AC **
 - WETLAND BUFFER - 0.38 AC
- **TOTAL WETLAND AREA = 2.83 AC

PROPOSED PLANTING LIST

ZONE	AREA DESIGNATION	COMMON NAME	SCIENTIFIC NAME	# PLANTS
A	Upland Restoration	Common Limbo	Baccharis salicoides	75
		Yamato cedar	Quercus laevis	50
		Myrtle	Myrica carolinensis	50
		Wild coffee	Psychotria nervosa	800
		Wax myrtle	Sideroxylon floridanum	20
		Provencher	Provencheria	100
		Sparganium	Sparganium angustifolium	15
		Sparganium	Sparganium angustifolium	100
		Sparganium	Sparganium angustifolium	100
		Sparganium	Sparganium angustifolium	100
		Sparganium	Sparganium angustifolium	100
		Sparganium	Sparganium angustifolium	100
B	Grass Marsh	Sea Blite	Suaeda frutescens	500
		Sea Blite	Suaeda frutescens	500
		Sea Blite	Suaeda frutescens	500
		Sea Blite	Suaeda frutescens	500
		Sea Blite	Suaeda frutescens	500
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		Sea Blite	Suaeda frutescens	500
		Sea Blite	Suaeda frutescens	500
		Sea Blite	Suaeda frutescens	500

ZONE	AREA DESIGNATION	COMMON NAME	SCIENTIFIC NAME	# PLANTS
C	Shallow Marsh	Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
D	Deep Marsh	Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
F	Wetland Buffer	Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
		Wetland	Spartina patens	250
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		Wetland	Spartina patens	250
		Wetland	Spartina patens	250

JONES PIER
 WETLAND RESTORATION
 7770 JUNGLE TRAIL, VERO BEACH
 INDIAN RIVER COUNTY, FL

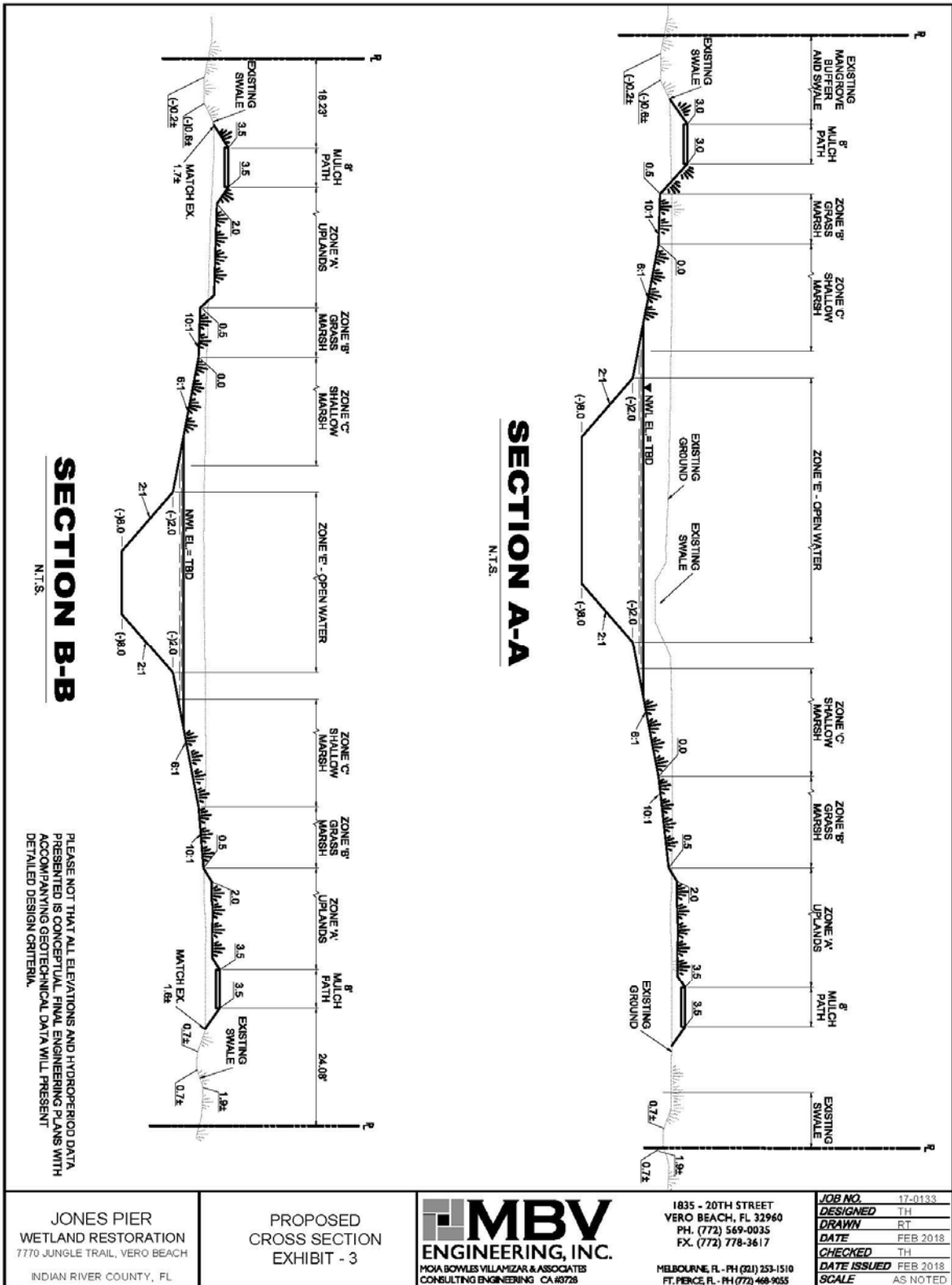
PROPOSED PLAN
 EXHIBIT - 2

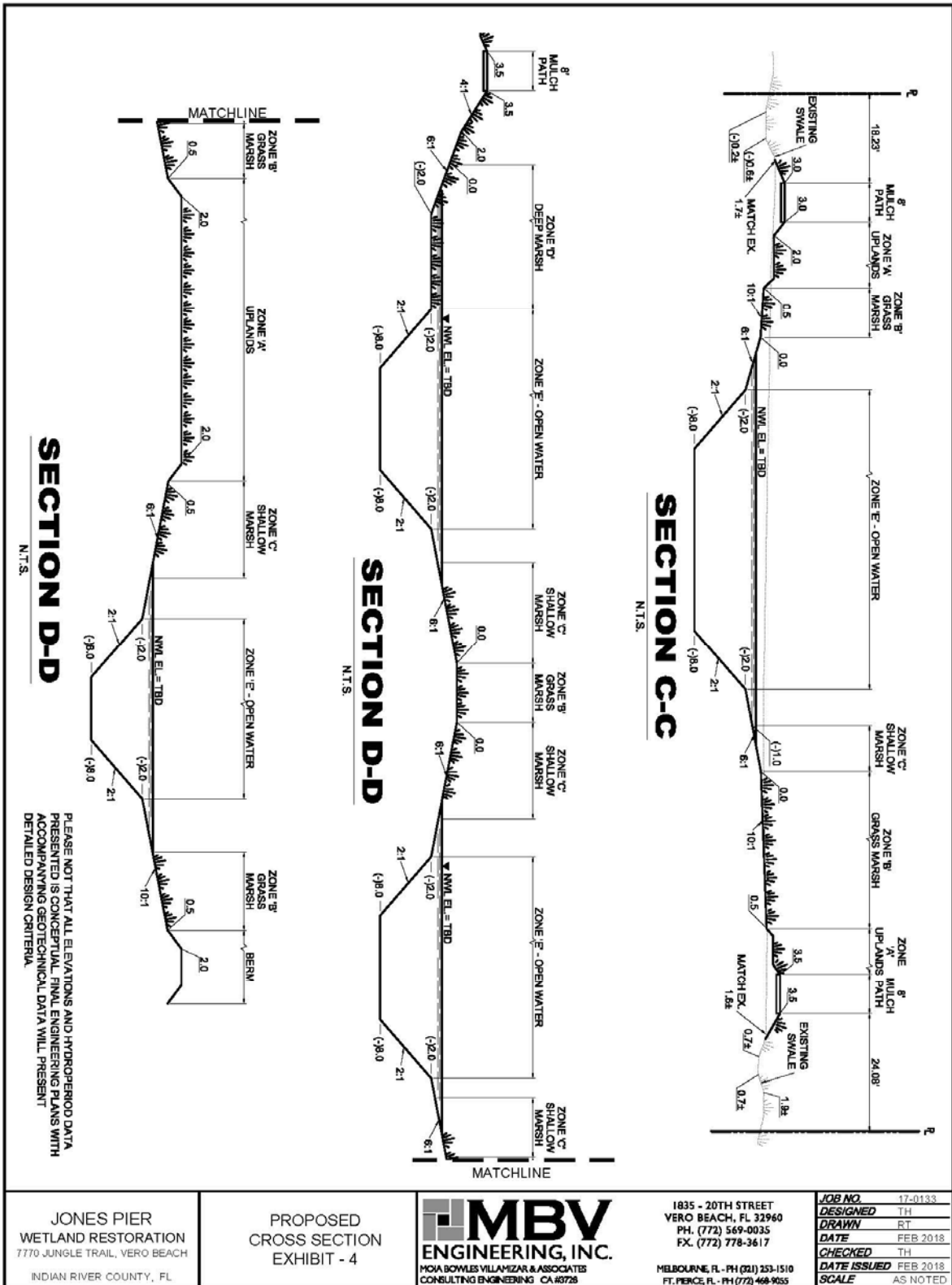
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DESIGNED	TH
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DATE	FEB 2018
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DATE ISSUED	FEB 2018
SCALE	AS NOTED





ATTACHMENT B — 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