

## **AGREEMENT FOR DREDGING AND IMPROVEMENT OF GREEN SALT MARSH CONSERVATION AREA (AKA HEAD ISLAND)**

**THIS AGREEMENT** is entered into this 15th day of December, 2015, by and between Indian River County, a political subdivision of the State of Florida, 1801 27<sup>th</sup> Street, Vero Beach, FL 32960 (“County”) and St. Christopher’s Harbor Homeowner’s Association, Inc., a Florida non-profit corporation, 2136 Harbor Lane, Vero Beach, FL 32963 (“Association”).

**WHEREAS**, St. Christopher’s Harbor is a 14 lot subdivision located on the west side of State Highway A-1-A abutting the Indian River Lagoon. At the western end of the subdivision lies the Green Salt Marsh Conservation Area, also known as “Head Island,” a former mosquito impoundment now used as conservation land and is owned by Indian River County; and

**WHEREAS**, there is a narrow strip of land (“Land Bridge”) connecting Head Island with the subdivision that was constructed in the mid-1950s for mosquito control access at approximately the time the subdivision was originally constructed; and

**WHEREAS**, the Land Bridge impedes historical flow of tidal flushing between Head Island and St. Christopher’s Harbor, resulting in reduced water quality and prevents any boating access in the Lagoon to the north or south between Head Island and St. Christopher’s Harbor; and

**WHEREAS**, the Association has offered to enter into this written agreement (Agreement) with the County for the dredging and removal of the Land Bridge to restore tidal flow and to restore a navigable channel for boating access east of Head Island to benefit the homeowners in the subdivision; and

**WHEREAS**, removal of the Land Bridge also benefits the general public by providing more direct boater access to deep water channels in the area, thus reducing potential boating impacts to seagrasses in shallow flats that are in the path of current boater access; and

**WHEREAS**, the restoration project calls for removal of dredged material to a safe upland location and removal of exotic trees (Brazilian Pepper) from the island. The County and the Association, with the help of a grant from the Florida Inland Navigation District (FIND), are to share the cost of the above improvements on Head Island; and

**WHEREAS**, on December 16, 2014, the County entered into a contract with TSI Disaster Recovery, LLC, to perform those tasks; however, after the County approved the contract, regulating agencies advised the County they would not permit placement of dredged material on Head Island as was presumably allowed in the contract, therefore, the contractor removed the exotics only and the contract was mutually terminated; and

**WHEREAS**, the County has rebid the project of removing the Land Bridge and restoring access and tidal flow with off-site removal of dredged material using the Association's private streets ("the Project") and on August 18, 2015, the County authorized a contract with CO Services, LLC in the amount of \$159,770.41 to perform the Project; and

**WHEREAS**, the Association has offered to enter into this Agreement with the County in which FIND grant funds in the amount of \$25,376.00 would be used for the Project and the County and the Association will share the remaining cost of the Project with the Association paying \$45,884.71 and the County paying \$88,509.70; and

**WHEREAS**, the Association has already paid \$38,000.00 of their own funds for costs of engineering, permitting and consulting services; and

**WHEREAS**, the County desires to accept the Association's offer, recognizing that the Agreement will result in a public – private cooperative effort which will benefit the Lagoon and the residents of Indian River County,

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **RECITALS**. The above recitals are true and correct, and are incorporated herein.
2. **BID DOCUMENTS AND CONTRACT WITH CO SERVICES, LLC**. The bid documents, construction plans and the Contract between the County and CO Services, LLC, in the amount of \$159,770.41 to perform the Project are incorporated by reference herein.
3. **PAYMENTS TO THE COUNTY BY ASSOCIATION**. The Association shall pay and the County shall accept the sum of \$45,884.71 as the Association's contribution for the project. Since the Association will have to specially assess its members in order to acquire sufficient funds to meet its obligation, payment shall be due twelve (12) months from the date of execution of this Agreement. By entering into this Agreement, the Association affirmatively states that its members, property owners and Board of Directors have approved the expenditure of funds in the amount of \$45,884.71, said approval not to be withdrawn without the prior permission of the County.
4. **USE OF ASSOCIATION STREETS**. The Association shall permit their streets to be used by the contractor during the course of the Project for ingress, egress, mobilization, demobilization and removal of dredged materials. The County or its contractor shall have no duty to repair or replace the Association's streets due to damage sustained as a result of the Project, if any.
5. **TERM**. The term of this Agreement shall commence upon execution of the Agreement by all parties, and shall terminate 12 months after such date of execution, or upon County receipt of full payment of \$45,884.71 from the Association, whichever occurs first.

6. **TERMINATION.** The Parties shall have a right to terminate this Agreement if any regulatory authority refuses to issue any permits needed for the Project. Either Party has the right to terminate this Agreement in the event of default or material breach by the other party.

7. **DEFAULT.** Each of the following shall constitute an event of default: (a) the failure by either party to make payments when due; (b) the failure by either party to comply with any other material provision of this Agreement. Upon the occurrence of a default, the non-defaulting party shall be entitled to all remedies in law or in equity, including, without limitation, termination of the Agreement; provided, however, that an event of default shall not be grounds for termination, unless, with respect to the non-payment of payments due, such non-payment continues for seven (7) business days after receipt of written notice demanding payment, and, with respect to the failure to comply with any other material provision of this Agreement, such failure continues for fifteen (15) days after receipt, delivery to the Party of written notice demanding compliance.

8. **NOTICE.** Any notice required by this Agreement, or which either party may desire to serve upon the other, shall be in writing and shall be deemed served when hand delivered, or when actually received via U.S. Mail, postage prepaid, return receipt requested, as to

County: Indian River County Board of County Commissioners  
Attention: Community Development Director  
1801 27th Street  
Vero Beach, Florida 32960-3365

Association: St. Christopher's Harbor Homeowner's Association, Inc.  
Attention: Board of Directors  
2136 Harbor Lane  
Vero Beach, FL 32963

The above addresses may be changed by either party by written notice to the other party.

IN WITNESS WHEREOF, the County and the Association have caused this Agreement to be executed in their respective names as of the date first set forth above.

ATTEST: Jeffrey R. Smith, Clerk of Courts, and Comptroller

BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY ("County")

By: Heene Allen  
Deputy Clerk



By: Bob Solari  
Bob Solari, Chairman

Approved by BCC: December 15, 2015

Approved:

Joseph A. Baird  
Joseph A. Baird  
County Administrator

Approved as to form and legal sufficiency:

William K. DeBraal  
William K. DeBraal  
Deputy County Attorney

ST. CHRISTOPHER'S HARBOR HOMEOWNER'S ASSOCIATION, INC. ("Association")

By: Anna Gans  
Print name: Anna Barramone 3/29/16  
Print title: President

Signed, sealed and delivered in the presence of:

By: Roland M. DeBlais  
Print name: ROLAND M. DEBLAIS

By: Kelly Buck  
Print name: Kelly Buck

