

**MEMORANDUM OF AGREEMENT
BETWEEN THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT AND
FOR COASTAL HABITAT REHABILITATION AND
RESTORATION PROJECTS**

THIS MEMORANDUM OF AGREEMENT (“MOA”) is entered into by and between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (“DISTRICT”), whose address is 4049 Reid Street, Palatka, Florida, 32177, and _____, a political subdivision of the State of Florida, whose address is _____, hereinafter referred to as the “Project Partner.” The parties are hereafter referred to individually as a “Party,” and collectively referred to as the “Parties.”

WITNESSETH THAT:

WHEREAS, the District is a special taxing district created by the Florida Legislature and charged with the responsibility to administer and enforce Chapter 373, Florida Statutes (F.S.), and the rules promulgated thereunder;

WHEREAS, the District is authorized under §373.083, F.S. to contract with public agencies, private corporations, or other persons;

WHEREAS, the Project Partner is authorized by §125.01(1)(p), F.S., to enter into agreements with other governmental agencies within or outside the boundaries of the Project Partner for the joint performance, or performance by one unit on behalf of the other, of any of either agency’s authorized functions;

WHEREAS, public agencies (including Project Partner and the District) are authorized by 163.01(14), F.S., to enter into contracts for the performance of service functions of [such] public agencies, but shall *not be deemed to authorize the delegation of the constitutional or statutory duties* of Project Partner or District officers. The Parties *expressly deny* any intent, expressed or implied, in this MOA to provide for a delegation by the District of such constitutional or statutory duties to the Project Partner;

WHEREAS, the foregoing authorization for such agreements is granted to counties and cities for the purpose of permitting local governments to make the *most efficient use* of their powers by enabling them to cooperate with the other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities. §163.01(2), F.S.; and

WHEREAS, neither the Project Partner nor the District waives any defense of sovereign immunity beyond the limited waiver set forth §768.28, F.S., or consents to the increase the limits of its liability, upon entering into this MOA. This MOA does not contain any provision that requires one Party to indemnify or insure the other Party for the other Party’s negligence, or to assume any liability for the other Party’s negligence.

NOW THEREFORE, for and in consideration of the foregoing premises and mutual understandings of the Parties, the Parties agree as follows:

1. **RECITALS.** The above recitals are true and correct and are incorporated by reference.
2. **PURPOSE OF THE MOA.** The purpose of this MOA is to formalize multi-agency cooperation on performing impacted coastal habitat rehabilitation and restoration projects (“Project(s)”) in and around coastal estuarine waters. Each Project will have a goal to restore, rehabilitate, or enhance coastal habitats providing additional ecosystem services/functions and enhancing resilience. The Parties are entering into this MOA to memorialize the terms and conditions under which the District shall assist in support of the Projects.
3. **TERM.** This MOA is effective the date the last of the Parties has executed this MOA and, shall continue for a period of three (3) years unless otherwise terminated in accordance with the terms of this MOA. This MOA may be renewed for one or more additional three (3) year terms with the mutual written agreement of the Parties.
4. **TERMINATION.** This MOA may be terminated by either Party upon a material breach by the other Party of its obligations hereunder upon thirty (30) days prior written notice to the breaching Party and the failure of the breaching Party to cure the breach within such thirty (30) day period. Either Party may terminate this MOA without cause by providing ninety (90) days prior written notice to the other Party. Each Project Agreement (discussed herein) may be terminated as provided therein.
5. **EFFECT OF TERMINATION.**
Upon the termination of this Agreement, the underlying Project Agreements shall also terminate. On termination, the obligations of the Parties under this Agreement shall end, and neither Party shall have a claim, including any claim for termination damages, against the other; provided, however, that any provisions evidently intended to have a continuing effect shall survive termination of this Agreement.
6. **SCOPE OF SERVICES/WORK.**
 - A. **Scope of Projects.** The general scope of the Projects is as follows: (i) preconstruction activities; (ii) bidding and contractor selection; (iii) implementation/construction; and (iv) operation and management activities. However, the Parties acknowledge that the exact scope of each Project is unknown. Rather, the Parties will jointly identify feasible Projects and agree upon the division of resources needed to accomplish each individual Project. All Projects will be limited to that generally described in the Scope of Services/Work attached hereto as Exhibit A.
 - B. **Project Agreements.** When the Parties agree upon a Project, the Parties will execute a Project Agreement specifying each Party’s obligations and expectations. Project Agreements may require one Party to perform the work identified, may require the other Party to fund said work, or may be a mix, wherein the Parties share the work and funding responsibilities. A Sample Project Agreement is attached hereto as Attachment B. Nothing contained herein shall be construed as requiring a Party to execute a Project Agreement.

- C. **Contractors.** Either Party may procure contractors to perform some or all of the work identified in the Project Agreement so long as the procurement follows competitive procurement protocols as set forth in the Party's procurement policies.
- D. **Performance Monitoring.** During the execution of any Project authorized by this MOA or associated Project Agreement, the Parties shall have the right to inspect the operation of the Project and any data pertaining to performance of the Project during normal business hours upon reasonable prior notice.

7. **COMPENSATION.**

- A. **Expenditure/Revenue.** The Parties anticipate that some Projects may require expenditures solely by one Party or may require cost sharing expenditures by both Parties. Thus, some Projects will result in revenue to the Project Partner and other Projects will result in revenue to the District.
- B. **Grant Funding.** The Parties anticipate that certain Projects may be grant funded. For grant funded Projects, the Parties agree to perform the associated Project Agreements in accordance with the funding source requirements.
- C. **Funding Contingency.** This MOA and all associated Project Agreements are at all times contingent upon funding availability, which may include a single source or multiple sources, including but not limited to: (1) ad valorem tax revenues appropriated by the District's Governing Board or the Project Partner's governing body; (2) annual appropriations by the Florida Legislature, or (3) appropriations from other agencies or funding sources. *For District-funded projects:* 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 District's Governing Board 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 District shall so notify Project Partner and the applicable Project Agreement shall be deemed terminated for convenience five days after receipt of such notice, or within such additional time as the District may allow. For the purpose of this Agreement, "Fiscal Year" is defined as the period beginning on October 1 and ending on September 30.
- D. **Lobbying Expenditures.** Pursuant to §216.347, Fla. Stat., as amended, the Parties agree that no funds received under this MOA or associated Project Agreement may be used for the purpose of lobbying the Legislature or any other state agency.

8. **NO PLEDGE OF AD VALOREM TAXES.** The Parties agree that this MOA does not constitute a general indebtedness of either Party within the meaning of any constitutional, statutory, or charter provision of limitation and it is expressly agreed by the Parties that the one Party shall not have the right to require or compel the exercise of ad valorem taxing power of the other Party, or taxation of any real or personal property therein for payment of any monetary obligations due under the terms of this MOA. It is further agreed that this MOA and any funds called for to be paid hereunder shall not constitute a lien upon any real or personal property, any part thereof, and that the obligation for monetary payments called for to be made hereunder shall be deemed to exist for less than a year at any point in time and shall be entirely subject to the legislative budgetary discretion of the District and the Project Partner.

9. **NON-WAIVER OF REGULATORY POWERS.** Nothing contained in this MOA shall be construed as a waiver of or contract with respect to the regulatory and permitting authority of the District or the Project Partner under applicable laws rules, and regulations.
10. **NON-WAIVER OF SOVEREIGN IMMUNITY.** Each Party to this MOA expressly retains all rights, benefits and immunities of sovereign immunity that they presently enjoy under the Constitution and Statutes of the State of Florida, and particularly with respect to Chapter 768, Florida Statutes. Notwithstanding anything set forth in any Article of this MOA to the contrary, nothing in this MOA shall be deemed as a waiver of immunity or limits of liability of either Party beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature and any liability of either Party for damages shall not exceed the statutory limits of liability, regardless of the number or nature of any claim which may arise including but not limited to a claim sounding in tort, equity or contract. Nothing in this MOA shall inure to the benefit of any third party for the purpose of allowing any claim against any Party, which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.
11. **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. Each Party shall acquire and maintain throughout the term of this MOA such liability, workers' compensation, and automobile insurance, which may include participation in a self-insurance program, as required by its current rules and regulations. Each Party shall bear the cost of maintaining its own insurance coverages. Any specific insurance requirements pertaining to a Party's contractors shall be set forth in the terms of the associated Project Agreement.
12. **DISPUTE RESOLUTION.** The Parties to this MOA shall exercise their best efforts to negotiate and settle promptly any dispute that may arise with respect to this MOA in accordance with the provisions set forth in this Article. The District and the Project Partner Project Managers shall use reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, to address and work toward resolution of issues that arise in performance of this MOA and any applicable Project Agreement. Issues shall be escalated to successive management levels as needed.

- A. **Informal Dispute Resolution.** If a dispute develops between the Parties concerning any provision of this MOA, or the interpretation thereof, or any conduct by the other Party under these agreements, and the Parties are unable to resolve such dispute within five (5) days, that Party, known as the Invoking Party, through its applicable Project Manager, shall promptly bring the disputed matter to the attention of the non-invoking Party's Project Manager or designated representative, as the case may be, of the other Party in writing ("Dispute Notice") in order to resolve such dispute.

Upon issuance of a Dispute Notice, the Project Managers or designated representative shall furnish to each other all non-privileged information with respect to the dispute believed by them to be appropriate and germane. The Project Managers shall negotiate in an effort to

resolve the dispute without the necessity of any formal proceeding. If such dispute is not resolved by the Project Managers or designated representative within five (5) work days, the Project Managers shall escalate the dispute to their superiors.

B. **Formal Dispute Resolution.** At any point after issuance of a Dispute Notice under this Article, either Party may initiate formal non-binding mediation before a single mediator, which mediation shall be completed within thirty (30) days of initiation, in accordance with the rules of practice and procedure adopted by the Supreme Court of Florida for court-ordered mediation, Rule 1.700 et seq. of the Florida Rules of Civil Procedure, and Chapter 44, Florida Statutes. If the dispute remains unresolved after conducting such mediation, then either Party may proceed to finalize such termination remedies and commence litigation in a court of competent jurisdiction. Each Party shall bear its own costs and attorney's fees for mediation or arbitration of an issue arising under this MOA.

13. INDEPENDENT CONTRACTORS. The Parties are independent contractors under this MOA. In providing services hereunder, neither Party nor its agents shall act as officers, employees, or agents of the other Party. No partnership, joint venture, or other joint relationship is created hereby. Neither Party extends to the other, or its agents any authority of any kind to bind the Party in any respect whatsoever.

14. THIRD PARTY BENEFICIARIES. Neither the District nor the Project Partner intends to directly or substantially benefit a third party by this MOA. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this MOA. Therefore, the Parties agree that there are no third party beneficiaries to this MOA and that no third party shall be entitled to assert a claim against either of them based upon this MOA, except as otherwise provided in this MOA.

15. PROJECT MANAGEMENT/NOTICES. The Project Managers listed below shall be responsible for overall coordination and management of the Work. Either Party may change its Project Manager upon three business days' prior written notice to the other Party. Written notice of change of address shall be provided within five business days. All notices shall be in writing to the Project Managers at the addresses below and shall be sent by one of the following methods: (1) hand delivery; (2) U.S. certified mail; (3) national overnight courier; or (4) email. Notices via certified mail are deemed delivered upon receipt. Notices via overnight courier are deemed delivered one business day after having been deposited with the courier. Notices via email are deemed delivered on the date transmitted and received.

In the case of Project Partner:	with a copy of legal notices to:
Attn: _____, Project Manager Address: _____ Phone: ____ - ____ - ____ Email: _____	Attn: _____ Attorney Address: _____ Phone: ____ - ____ - ____ Email: _____
In the case of the District:	with a copy of legal notices to:

<p>Attn: Ronald E. Brockmeyer, Jr., M.S., FCCM Project Manager Address: P.O. Box 1429 Palatka, FL 32178-1429 Phone: 386-329-4495 Email: rbrockmeyer@sjrwmd.com</p>	<p>Attn: Erin Preston, General Counsel Address: P.O. Box 1429 Palatka, FL 32178-1429 Phone: 386-329-4176 Email: epreston@sjrwmd.com</p>
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16. INVOICES – DISTRICT PAYMENT. The following provisions apply to all invoices for District funding:

- A. Project Partner shall submit an invoice for the amounts set forth in the applicable Project Agreement. Any funds that have not been expended upon the termination of the applicable Project Agreement will be returned to the District. The invoice can be submitted either (1) by email to acctpay@sjrwmd.com (preferred) or (2) by mail to the St. Johns River Water Management District, Finance Director, 4049 Reid Street, Palatka, Florida 32177-2571.
- B. **End of District Fiscal Year Reporting.** The District's fiscal year ends on September 30. Irrespective of the invoicing frequency, the District is required to account for all encumbered funds at that time. When authorized under an associated Project Agreement, submittal of an invoice for Work completed as of September 30 satisfies this requirement. The invoice shall be submitted no later than October 30. If the Project Agreement does not authorize submittal of an invoice for Work completed as of September 30, Project Partner 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, Project Partner 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. All invoices shall include the following information: (1) District contract number for the applicable Project Agreement; (2) Project Partner's name, address, and authorization to directly deposit payment into Project Partner's account (if Project Partner has not yet provided the District with a completed Direct Deposit Authorization form); (3) Project Partner's invoice number and date of invoice; (4) District Project Manager; (5) Project Partner's Project Manager; (6) supporting documentation as to cost and/or Project completion (as per the cost schedule and other requirements of the Statement of Work); and (7) Progress Report (if required). **Project Partner should not include its Federal Employer Identification Number (FEIN) or its Social Security Number on the invoices.** Invoices that do not correspond with this paragraph shall be returned without action within 20 business days of receipt, stating the basis for rejection. Payments shall be made within 45 days of receipt of an approved invoice.
- D. **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. If travel expenses are not included in the cost schedule, they are a cost of

providing the service that is borne by Project Partner and are only compensable when specifically approved by the District as an authorized District traveler. In such instance, travel expenses must be submitted on District or State of Florida travel forms and shall be paid pursuant to District Administrative Directive 391.

- E. **Payments withheld.** The District 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 District from loss as a result of: (1) defective work not remedied; (2) failure to maintain adequate progress in the Project; or (3) any other material breach of this Agreement. Amounts withheld shall not be considered due and shall not be paid until all grounds for withholding payment have been remedied.
- F. **Annual budgetary limitation.** For multi-fiscal year agreements, the District must budget the amount of funds that will be expended during each fiscal year as accurately as possible. The Project Agreement 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 Project Partner anticipates that expenditures will exceed the budgeted amount during any fiscal year, Project Partner shall promptly notify the District'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 District to receive this request is August 1 of the then-current fiscal year. The District may in its sole discretion prepare a District Supplemental Instruction Form incorporating the revised work schedule and Annual Spending Plan during the then-current fiscal year or subsequent fiscal year(s).

17. **INVOICES – PROJECT PARTNER PAYMENT.** The following provisions apply to all invoices for Project Partner funding:

[to be added by Project Partner]

18. **ASSIGNMENT AND PERFORMANCE.** Neither Party may assign or otherwise convey its rights and/or obligations under this MOA without first securing the other Party's prior written consent, which consent may be withheld, limited and/or conditioned in other's sole discretion. Notwithstanding the foregoing, the Parties may procure the services of outside providers to perform the work of Project Agreements. Nothing herein shall preclude the right of either Party to waive its rights under this Article but no waiver shall be granted by either Party without amendment to this MOA.

19. **AUDIT RIGHT AND RETENTION OF RECORDS.** Either Party shall have the right to audit the books, records, and accounts of the others and its contractors and subcontractors that are related to this MOA. The Parties and their contractors and subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this MOA.

20. **CERTIFICATION.** In accordance with §§287.133, 287.134, and 287.135, Fla. Stat., each Party certifies that it has not been, is not now, and during the term of this MOA will not be (a)

placed on the Scrutinized Companies or Other Entities that Boycott Israel (§287.135, Fla. Stat.), Discriminatory (§287.134, Fla. Stat.), or Convicted (§287.133, Fla. Stat.) lists, (b) engaged in a Boycott of Israel (§287.135, Fla. Stat.), or (c) engaged in business operations in Cuba or Syria (§287.135, Fla. Stat.). Further, each Party acknowledges that pursuant to the respective statutes, a Party may terminate this MOA at its sole option if the other Party is found to have submitted a false certification or if the certification proves to be untrue during the term of this MOA.

21. **COMMON CARRIER.** Pursuant to §908.111, Fla. Stat., the District may not execute, amend, or renew a contract with a common carrier or contracted carrier, if the carrier is willfully providing any service in furtherance of transporting a person into the State of Florida with knowledge that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of a the person from the state or the U.S. Pursuant to §908.111, Fla. Stat., Contractor shall complete Attachment C, the Common Carrier or Contracted Carrier Attestation.
22. **TIME OF THE ESSENCE.** Time is of the essence for all work or services performed throughout this MOA.
23. **FORCE MAJEURE.** Neither Party shall be liable for any failure or delay in the performance of its obligations under this MOA to the extent resulting from force majeure, including, but not limited to, compliance with any government law or regulation, acts of God, act or omissions of the other Party, government acts or omissions, fires, strikes, natural disasters, wars, riots, transportation problems, and/or any other cause whatsoever beyond the reasonable control of the Parties (an such cause being referred to as a “Force Majeure Event”). Accordingly, the Parties further agree that:
 - A. Upon the occurrence of Force Majeure Event, the non-performing Party shall be excused from any further performance of those obligations under this MOA affected by the Force Majeure Event for as long as (a) the Force Majeure Event continues; and (b) the non-performing Party continues to use commercially reasonable efforts to again commence performance whenever and to whatever extent possible without delay.
 - B. Upon the occurrence of a Force Majeure Event, the non-performing Party shall notify the other Party within two (2) work days of the failure, or as soon as possible after such failure or delay if the Force Majeure Event prevents compliance within two (2) work days, of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event.
 - C. In the event of a Force Majeure Event, the time for performance by the Parties under the applicable Project Agreement shall be extended for a period of time equal to the time lost by reason of such cause through execution of a Change Order pursuant to the terms of this MOA and the impacted Project Agreement.
24. **WAIVER OF BREACH AND MATERIALITY.** Failure to enforce any provision of this MOA shall not be deemed a waiver of such provision or modification of this MOA. A waiver

of any breach of a provision of this MOA shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this MOA.

25. PUBLIC RECORDS QUESTIONS CONTACT.

IF PROJECT PARTNER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO PROJECT PARTNER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE DISTRICT'S CUSTODIAN OF PUBLIC RECORDS AT:

**DISTRICT CLERK
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
4049 REID STREET, PALATKA, FLORIDA 32177-2571
(386) 329-4127 CLERK@SJRWMDCOM**

IF DISTRICT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO DISTRICT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE PROJECT PARTNER'S CUSTODIAN OF PUBLIC RECORDS AT:

**PROJECT PARTNER
ATTN. PUBLIC RECORDS CUSTODIAN**

26. **COMPLIANCE WITH LAWS.** Each Party shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this MOA. The Parties shall include this requirement in all subcontracts pertaining to this MOA and associated Project Agreements. Each Party performing work under an associated Project Agreement 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 MOA and shall not be approved for project funding under an associated Project Agreement.
27. **CHANGES DUE TO PUBLIC WELFARE.** The Project Partner and the District agree to enter into good faith negotiations regarding modifications to this MOA, which may be required in order to implement changes in the interest of the public welfare or due to change in law.
28. **SEVERANCE.** In the event this MOA or a portion of this MOA is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless the Project Partner or the District elect to terminate this MOA. The election to terminate

this MOA based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

29. **ENTIRE AGREEMENT.** This MOA contains the entire agreement between the District and the Project Partner pertaining to matters contained herein. Any modifications to this MOA shall not be binding unless in writing and signed by both Parties.
30. **APPLICABLE LAW AND WAIVER OF JURY TRIAL.** This MOA shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. By entering into this MOA, the District and the Project Partner hereby expressly waive any rights either Party may have to a trial by jury of any civil litigation related to this MOA. Each Party agrees to bear its own costs and attorney's fees relating to any dispute arising under this MOA.
31. **AMENDMENTS.** No modification, change order, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this MOA and executed by the Project Partner and the District.
32. **PRIOR AGREEMENTS.** This document represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The Parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this MOA that is not contained in this written document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.
33. **CONSTRUCTION OF AGREEMENTS.** This MOA and any associated Project Agreements shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by one of the Parties, it being recognized that both Parties have contributed substantially and materially to the preparation hereof.
34. **SURVIVAL** All provisions of this MOA which impose or contemplate continuing obligations on a Party shall survive the expiration or termination of this MOA.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties to this Memorandum of Agreement have caused the same to be signed by their duly authorized representatives on the dates indicated below.

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

By: _____
Name: Mary Ellen Winkler, J.D.
Title: Assistant Executive Director

Dated: _____

Project Partner

By: _____
Name: _____
Title: _____

Dated: _____

ATTACHMENT A
SCOPE OF SERVICES/WORK
Coastal Habitat Restoration and Rehabilitation

I. BACKGROUND

Coastal habitats perform a vast array of ecosystem functions. These functions (ecological services) include providing food that supports biological productivity and diversity; serving as habitats for species that support fisheries; attenuating or dissipating waves; controlling erosion; purifying water by sequestering nutrients, pollutants, and sediments; sequestering carbon; and providing aesthetic and recreational value. Appropriately, rehabilitation or restoration of impacted coastal habitats has been a high priority management goal since the District started its work in coastal systems. It was included in the Indian River Lagoon (IRL) Field Committee Report to the Governor (1986), IRL Joint Reconnaissance Report (Chapter 6, 1987), IRL Surface Water Improvement and Management (SWIM) Plan and its updates (1988, 1989, 1994, 2003), the Northern Coastal Basins (NCB) SWIM Plan (2003, 2016 draft), and the National Estuary Program's IRL Comprehensive Conservation and Management Plan and its updates (1996, 2008, 2019). It is currently one of the key efforts in the District resilience planning to enhance coastal resilience.

There are four main types of impacted coastal habitats commonly targeted for rehabilitation or restoration: impounded wetlands, wetlands impacted by dragline ditching, wetlands altered by dredging or filling, and degraded oyster reefs. In addition to these efforts, the creation of “living shorelines”, represents an integrated approach that combines restoration with shoreline protection. Rather than using hard infrastructure like bulkheads or riprap, living shorelines stabilize eroding or disturbed shorelines by establishing submergent and/or emergent wetland habitat along the shoreline. Another key challenge to wetland resilience involved areas that have not kept pace with relative sea level rise and can no longer support coastal wetland vegetation. In such cases, restoration techniques exist to raise the surface elevation and reestablish functional vegetated wetlands. Most projects of this type do not require ongoing operation and maintenance efforts once constructed as the restored ecosystem provides ongoing activities such as sediment capture, and carbon sequestration that create sustainable benefits. The District has successfully implemented projects across all of these restoration categories (Brockmeyer et al. 1997, 2021).

Achieving large-scale project outcomes necessitates broad stakeholder engagement and the integration of varied financial, technical, and institutional resources. The complexity of land management and ownership, and jurisdictional authority across impacted wetlands led the District to establish successful partnerships that support coordinated remediation efforts and ensure alignment with the ecological goals outlined in relevant plans and initiatives. Furthermore, these partnerships have leveraged significant cost-share dollars, grant funds, and in-kind services; thus, multiplying the District's investment several-fold and achieving large-scale wetland rehabilitation. With our long history of work in coastal systems, we are in an excellent position to lead efforts toward resilience and sustainability of wetlands and other coastal habitats. Public ownership of the impacted wetland system can facilitate their rehabilitation or restoration. The acquisition and management of coastal wetlands with an emphasis on disturbed areas, has been one of the District's long-standing goals. Collaboration with other governmental entities has been critical to many of these successful projects.

II. OBJECTIVE

The overall intent of this MOA is to facilitate rehabilitation or restoration of impacted coastal habitats (including impoundments) within the coastal systems.

III. SCOPE OF WORK

Over the term of this MOA, Project Agreements issued hereunder will implement Projects that restore, rehabilitate, or enhance coastal habitats providing additional ecosystem services/functions and enhancing resilience.

IV. TASK IDENTIFICATION

Detailed tasks for each implementation Project initiated under this MOA will be jointly defined by the Parties and enumerated in each Project Agreement.

VI. BUDGET / COST SCHEDULE

Each Project Agreement will include specific budget details, address spending authority, and a project timeline. Project costs, including matching funds and/or in-kind services, will be established by mutual agreement of the Parties and detailed in writing in each Project Agreement. The Project schedule will be jointly established by Project Managers for each Party and stated in each Project Agreement. This schedule shall include Project implementation milestones, invoicing, and Project completion. These Project Agreements will persist until a Party or all Parties terminate.

Related Literature

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Donnelly MJ, Walters L, Shaffer M. 2018. Shoreline characterization for northern Indian River Lagoon and Mosquito Lagoon. CEELAB Research Data. Orlando, FL: University of Central Florida. <https://stars.library.ucf.edu/ceelab-researchdata/1>, accessed March 2022.

Ford, M. A., Cahoon, D. R., & Lynch, J. C. 1999. Restoring marsh elevation in a rapidly subsiding salt marsh by thin-layer deposition of dredged material. *Ecol. Eng.* 12(3):189-205.

Gilmore, R.G., Cooke, D.W, and Donohoe, C.J. 1982. A comparison of the fish populations and habitat in open and closed salt marsh impoundments in east-central FL. *NE Gulf Sci.* 5: 25-37.

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Haydt, P.J., and D Frazel. 2003. Northern Coastal Basins SWIM Plan. St. Johns River Water Management District, Palatka, FL.

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**ATTACHMENT B – SAMPLE PROJECT AGREEMENT
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
Coastal Habitat Rehabilitation and Restoration Project Agreement**

This Project Agreement is entered into between the Parties named below, pursuant to section 163.01(14), Fla. Stat. and the Memorandum of Agreement MOA referenced below:

Memorandum of Agreement between the St. Johns River Water Management District and
_____ for Coastal Habitats Rehabilitation and Restoration Projects (Contract #
xxxxx)

The terms and conditions of the MOA are hereby incorporated into this Project Agreement. In the event of a conflict, the terms of this Project Agreement shall be given precedence over the MOA. The terms of this Project Agreement may be modified only through a written amendment executed by both Parties.

1. Parties:

District: St. Johns River Water Management 4049 Reid Street Palatka, FL 32177	Project Partner: 9 MGD
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2. Project:

Project Description: 9 in Z 4/4 N B 3/4 3/4 3/4 3/4

A map of the Project area is attached as Exhibit XX.

3. Project Agreement Term:

Effective Date: The later of 9 مارس ٢٠٢٤ or the date both Parties execute the Project Agreement.

This Project Agreement can be terminated under the same mechanisms set forth in Article 4 of the MOA.

4. Project Funding:

Not to Exceed Amount	Source
\$ 9,100,000.00	<input type="checkbox"/> District <input type="checkbox"/> Project Partner
\$ 9,100,000.00	<input type="checkbox"/> District <input type="checkbox"/> Project Partner
\$ 9,100,000.00	<input type="checkbox"/> District <input type="checkbox"/> Project Partner

Funding shall be reimbursed to the Funding Recipient for satisfactory completion of the Project.

5. Funding Recipient:

All Project Tasks as set forth below are to be completed by the Party indicated below, who shall be the recipient of the Project Funding:

District Partner

The Funding Recipient shall submit invoices in accordance with Articles 16 & 17 of the MOA and as outlined in the Statement of Work. Except as provided in paragraph 4 above, the Funding Recipient shall provide and pay for all materials, labor, and other facilities and equipment necessary for the performance of the Project.

Upon the other Party's written request, the Funding Recipient shall submit written progress reports to the other Party. The progress reports shall provide an updated progress schedule, taking into account all delays and proved changes in the Project. Failure to provide a progress report will be cause to withhold payment.

6. Insurance Requirements.

The Funding Recipient shall require its contractors, if any, to maintain insurance coverage of such types and with such terms and limits as described below throughout the term of this Project Agreement. The Funding Recipient shall require all subcontractors, if any, to make compliance with the insurance requirements of this Project Agreement a condition of all contracts that are related to this Project Agreement. The cost of acquiring insurance coverages and payments of deductibles are not reimbursable costs under this Project Agreement. Receipt of Certificates of Insurance indicating less coverage than required does not constitute a waiver of the Insurance Requirements.

Insurance Policy Requirements for Funding Recipient's Subcontractors

General Liability policy shall include Endorsement CG 20 10 04 13, or equivalent, naming the Parties as Additional Insured. All required policies shall include:

(1) endorsement that waives any right of subrogation (Endorsement CG 24 04 05 09, or equivalent) against the Parties for any policy of insurance provided under this requirement or under any state or federal worker's compensation or employer's liability act; (2) endorsement to give the Parties no less than 30 days' notice in the event of cancellation or material change. Certificates of Insurance must be accompanied by copies of the requested endorsements.

Any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the Parties. Approval will not be unreasonably withheld. Subcontractor is responsible for any deductible or self-insured retention. Insurance must be placed with insurers having an A.M. Best rating of A-V or greater. Receipt of insurance certificates providing less than the required coverage does not waive these insurance requirements.

- (a) **Workers' Compensation Insurance.** Workers' compensation and employer's liability coverage, including maritime workers' compensation, if applicable, in not less than the minimum limits required by Florida law. If Subcontractor claims an exemption from workers' compensation coverage, Subcontractor must provide a copy of the Certificate of Exemption from the Florida Division of Workers' Compensation for all officers of a corporation or members of an LLC claiming exemption who will be participating in the work. In addition, Subcontractor must provide a completed District "Affidavit (Non-Construction)" for non-construction contracts.
- (b) **General Liability.** Commercial General Liability Insurance on an "Occurrence Basis," with limits of liability for each occurrence of not less than \$2,000,000 for personal injury, bodily injury, and property damage, with a(n) project aggregate of \$4,000,000. Coverage shall include: (1) contractual liability, (2) perils generally known as XCU (explosion, collapse, and underground property damage), subsidence, absolute earth movement (excepts as it pertains to earthquake peril only) or any equivalent peril, (3) products and completed operations, (4) independent contractors, and (5) property in the care, control, or custody of Subcontractor. Extensions shall be added or exclusions deleted to provide the necessary coverage.
- (c) **Automobile Liability.** \$500,000 combined single limit.
- (d) **Umbrella Policy.** Minimum limits of \$2,000,000 per occurrence.
- (e) **Pollution Liability Policy.** Minimum limits of \$1,000,000 per occurrence.

7. Project Management:

District Project Manager	Project Partner Project Manager
Name: Ronald E. Brockmeyer, Jr.	Name: 9 1/2 x 11 1/2
Address: P.O. Box 1429 Palatka, FL 32178-1429	Address: 9 1/2 x 11 1/2
Phone: (386) 329-4495	Phone: 9 1/2 x 11 1/2
Email: rbrockmeyer@sjrwm.com	Email: 9 1/2 x 11 1/2

8. Project Tasks. As part of this Agreement, the Parties agree to complete the following tasks (refer to Statement of Work for further description):

Task	Responsible Party
	<input type="checkbox"/> District <input type="checkbox"/> Project Partner
	<input type="checkbox"/> District <input type="checkbox"/> Project Partner
	<input type="checkbox"/> District <input type="checkbox"/> Project Partner
	<input type="checkbox"/> District <input type="checkbox"/> Project Partner
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	<input type="checkbox"/> District <input type="checkbox"/> Project Partner

9. Special Conditions. Add any Project-specific special conditions, such as property access or grant requirements.

IN WITNESS WHEREOF, the Parties have caused this Project Agreement to be executed on the date written below by their duly authorized representatives. This Project Agreement may be executed in separate counterparts, which shall not affect its validity. Upon execution, this Project Agreement constitutes the entire agreement between the Parties and cannot be changed by any means other than written amendments referencing this Project Agreement and signed by both Parties.

Party

By

(Authorized Signature or Designee)

Date Signed

Print Name and Title of Signor

Party

By

(Authorized Signature or Designee)

Date Signed

Print Name and Title of Signor

**ATTACHMENT C - COMMON CARRIER OR CONTRACTED CARRIER
ATTESTATION FORM**

This form must be completed by Project Partner, _____. Capitalized terms used herein have the definitions ascribed in §908.111, F.S. Project Partner acknowledges that the District may terminate this Agreement upon receipt of knowledge or information that Project Partner is a carrier with which the District is prohibited from contracting with under §908.111, F.S.

Project Partner (check one statement below):

Is not a Common Carrier or contracted carrier and this Agreement does not involve common carrier or contracted carrier services.

OR

Is a Common Carrier or contracted carrier and is not willfully providing and will not willfully provide any service during the Agreement term in furtherance of transporting a person into this state knowing that the person is an Unauthorized Alien, except to facilitate the detention, removal, or departure of the person from this state or the United States.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Printed Name: _____

Title: _____

Signature: _____