

**COST SHARING AGREEMENT
BETWEEN THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND INDIAN RIVER COUNTY
FOR CONTROLLING ABANDONED ARTESIAN WELLS**

This Cost-Sharing Agreement is entered into between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (the “District”), whose address is 4049 Reid Street, Palatka, Florida 32177, and INDIAN RIVER COUNTY (“County”), whose address is 1801 27th Street, Vero Beach, Florida 32960.

WHEREAS, the District is a special taxing district created by the Florida Legislature and given those powers and responsibilities enumerated in chapter 373, Fla. Stat., whose geographical boundaries encompass Indian River County; and

WHEREAS, pursuant to §373.207(1), Fla. Stat., the Florida legislature has directed the water management districts of the state to locate all known abandoned artesian wells, and to ensure that each well is properly controlled; and

WHEREAS, the District has established a cooperative program, known as the Abandoned Artesian Well Plugging Cost Share Program (the “Program”), for the purpose of locating and plugging abandoned artesian wells, and

WHEREAS, the County is a public body and is empowered to enter into an agreement with the District for the purposes of conserving and protecting water resources in Indian River County, Florida; and

WHEREAS, the District has determined that its needs will be best served by entering into a cooperative, cost-sharing agreement with the County for the purposes stated herein.

The District agrees to furnish and deliver all materials and perform all labor required for controlling abandoned artesian wells (the “Work”). The District shall complete the Work in conformity with this Agreement, which includes the Statement of Work (Attachment A). If any provision in the body of this Agreement conflicts with any attachment hereto, the body of this Agreement shall prevail. The parties hereby agree to the following terms and conditions.

1. **TERM.** The term of this Agreement shall be from the Effective Date to the Completion Date. Time is of the essence for each and every aspect of this Agreement. Where additional time is allowed to complete the Work, the new time limit shall also be of the essence. All provisions of this Agreement that by their nature extend beyond the Completion Date shall survive termination or expiration of this Agreement.
 - (a) **Effective Date.** The Effective Date of this Agreement shall be the date upon which the last party to this Agreement has dated and executed the same.
 - (b) **Completion Date.** The Completion Date of this Agreement shall be no later than September 30, 2026 unless extended by mutual written agreement of the parties. All Work under this Agreement shall be completed for use no later than the Completion Date.
2. **DELIVERABLES.** The Work is specified in the Statement of Work, Attachment A. The District shall deliver all products and deliverables as stated therein. The District is responsible for the professional quality, technical accuracy, and timely completion of the Work.

3. **FUNDING OF AGREEMENT.** The District and County agree to pay 50 % of the costs of controlling abandoned artesian wells in the Indian River County, up to \$60,000.00 each over the entire term of this Agreement, equally divided between the following fiscal year periods:

Fiscal Year: October 1, 2023 – September 30, 2024 Amount:.....\$ \$20,000.00

Fiscal Year: October 1, 2024 – September 30, 2025 Amount:.....\$ \$20,000.00

Fiscal Year: October 1, 2025 – September 30, 2026 Amount:.....\$ \$20,000.00

Funding for each applicable fiscal year of this Agreement is subject to District Governing Board budgetary appropriation.

4. **FUNDING CONTINGENCY**

- (a) This Agreement is 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; (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 District's Governing Board for each succeeding Fiscal Year. Should the Work not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the District shall so notify Agency and this 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.
- (b) The District and the County each intend to fulfill their obligations as stated in this Agreement, but they cannot make commitments in excess of appropriated funds authorized by law and made administratively available. If either party cannot fulfill its obligations due to funding, this Agreement may be terminated at the election of either party.

5. **PAYMENT OF INVOICES.** The District shall invoice the County quarterly (on December 31, March 31, June 30, and September 30 of each year) for payment of 50 % of the amount expended for the controlling of abandoned wells during that quarter.

6. **LIABILITY AND INSURANCE.** Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party, its officers, employees and agents. Nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available under the laws of the state of Florida, nor as a waiver of sovereign immunity of the state of Florida beyond the waiver provided for in §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.

7. **PROJECT MANAGEMENT**

- (a) 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 e-mail are deemed delivered on the date transmitted and received.

DISTRICT

Gary Foster, Project Manager
 St. Johns River Water Management District
 4049 Reid Street
 Palatka, Florida 32177-2571
 Phone: 386-329-4421
 Email: Gfoster@sjrwmd.com

COUNTY

Andrew Sobczak, Project Manager
 Indian River County
 1801 27TH STREET
 VERO BEACH, FL 32960
 Phone: (772) 226-1258
 Email: asobczak@ircgov.com

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

8. **AMENDMENTS.** The parties may not amend this Agreement except in writing. Modifications that alter, add to, or deduct from the Work, or otherwise modify the terms of this Agreement, shall be implemented through a formal amendment. The District's Project Manager may also issue a District Supplemental Instruction (DSI) form (Attachment C) to authorize minor adjustments to the Work that are consistent with the purpose of the Work. Both parties must sign the DSI. A DSI 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. **TERMINATION**

- (a) **Termination for Default.** If either party materially fails to fulfill its obligations under this Agreement, the terminating party shall provide the non-terminating party written notice of the deficiency by forwarding a Notice to Cure, citing the specific nature of the breach. The non-terminating party shall have 30 days to cure the breach. If the non-terminating party fails to cure the breach within the 30-day period, the terminating party may issue a Termination for Default Notice and this Agreement shall be terminated upon receipt or said notice.
- (b) **Termination for Convenience.** Either party may terminate this Agreement at any time for convenience upon 45 days' prior written notice to the non-terminating party. Upon District receipt of notice of termination, it shall place no further orders for materials, equipment, services, or facilities, for which reimbursement would otherwise be sought. The District shall also make every reasonable effort to cancel, upon terms satisfactory to the District, all orders or subcontracts related to the Work for which Contract 39088 compensation would otherwise be sought. In the event of such termination, the District shall be compensated for all work performed pursuant to this Agreement prior to the effective date of termination.

10. **ASSIGNMENT AND SUBCONTRACTS.** The District shall not sublet, assign, or transfer any Work involving more than twenty percent (20%) of the total cost of the Work without County's prior written consent. Neither County approval of a subcontractor nor any other provision of this Agreement creates a contractual relationship between any subcontractor and County. The District is responsible for fulfilling all work elements in any subcontracts and payment of all monies due.
11. **AUDIT; ACCESS TO RECORDS.** the District and County must preserve its books and other records involving transactions related to this Agreement and provide each other, or its duly authorized representatives, access and necessary facilities to inspect and audit those records for five years after the receipt of funds. If an examination or audit is performed, the parties must continue to maintain all required records until such audit has been completed and all questions arising from it are resolved. The parties shall refund any payment(s) that are found to not constitute allowable costs based upon an audit examination.

12. **CIVIL RIGHTS.** Pursuant to chapter 760, Fla. Stat., the parties shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, age, handicap, or marital status.
13. **COOPERATION WITH THE INSPECTOR GENERAL, PURSUANT TO §20.055(5) FLA. STAT.** County and any subcontractors understand and will comply with their duty, pursuant to §20.055(5), Fla. Stat., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.
14. **GOVERNING LAW, 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. In the event of any legal proceedings arising from or related to this Agreement: (1) each party shall bear its own attorney's fees, including appeals; and (2) for civil proceedings, the parties hereby consent to trial by the court and waive the right to jury trial.
15. **VENUE.** In the event of any legal proceedings arising from or related to this Agreement, venue for such proceedings shall be in Orange County, Florida.
16. **NON-LOBBYING.** Pursuant to §216.347, Fla. Stat., as amended, the County hereby agrees that monies received from the District pursuant to this Agreement will not be used for the purpose of lobbying the Legislature or any other state agency.
17. **PUBLIC RECORDS.** Records of County 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 County receives a public records request, County shall promptly notify the District's Project Manager. Each party reserves the right to cancel this Agreement for refusal by the other party to allow public access to all documents, papers, letters, or other materials related hereto and subject to the provisions of chapter 119, Fla. Stat., as amended.

IN WITNESS WHEREOF, the parties have signed on the day and year written below each of their names. This Agreement may be executed in separate counterparts, which shall not affect its validity. 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.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

INDIAN RIVER COUNTY

By: *May Ellen Winkler for*
Michael A. Register, P.E., Executive Director
Asst. Executive Director

By: _____
Title: _____

Date: *August 2, 2023*

Date: _____

Attest: _____

Typed Name

- Documents attached:
- Attachment A — Statement of Work
 - Attachment B — Well Investigation Form
 - Attachment C — District Supplemental Instructions

ATTCHMENT A — STATEMENT OF WORK

The purpose of this Agreement is for controlling abandoned artesian wells in Indian River County, Florida, utilizing the services of a Florida-licensed water well contractor. The District and the County each agree to perform the work as specified. Should any change in this work be necessary, the District and the County shall execute an amendment to the Agreement, specifying the change in work, and if applicable, establishing any changes to the funding amount.

18. Responsibilities of the County:

- (a) The County shall obligate funding for 50% of the costs of controlling abandoned artesian wells in Indian River County up to the amount of \$20,000 for each fiscal year.
- (b) The County shall submit to the District written assurance of availability of funds for each fiscal year on or before September 30.
- (c) The County shall pay the District up to \$20,000 each fiscal year for the services of a water well contractor and the materials necessary for controlling abandoned artesian wells in Indian River County, Florida.
- (d) In the event well abandonment opportunities become available, the cost of which exceeds the funding amount for the current fiscal year, the County agrees to seek additional funds for funding 50% of these costs.
- (e) The County shall be responsible for locating wells that are to be controlled, and shall complete a Well Investigation Form (Attachment B) for each well and submit the form to the District.
- (f) The County shall be responsible for obtaining written consent of well owners, authorizing their wells to be plugged by the District.
- (g) The County shall provide local contact with the public regarding the identification of new wells for the District's inventory.
- (h) The County shall provide local coordination of the Program.

19. Responsibilities of the District:

- (a) The District shall administer the provisions of this Agreement.
- (b) The District shall obligate funding for 50% of the costs of controlling abandoned artesian wells up to the amount of \$20,000 for each fiscal year.
- (c) The District shall submit to the County written assurance of availability of funds for each fiscal year on or before September 30.
- (d) In the event well abandonment opportunities become available, the cost of which exceeds the funding amount for the current fiscal year, the District agrees to seek additional funds for funding 50% of these costs.
- (e) The District shall maintain the services of a qualified water well contractor for the duration of this Agreement.
- (f) The District shall provide professional and technical support necessary to address all aspects of the work carried out by the water well contractor.

GENERAL PURPOSE WELL INVESTIGATION FORM

Reported By: _____ Phone: _____

Well Owner Name & Address: _____
_____ Phone: _____

Well Location: _____

GPS Position: _____ (Latitude) _____ (Longitude)

Date of Inspection: _____ Observed By: _____

Well Diameter: _____ Well Depth: _____

Well Status: (Check All That Apply)

- | Accessible By: | Well Head: | Condition: | Action: |
|---|---|--------------------------------------|--|
| <input type="checkbox"/> Foot | <input type="checkbox"/> Visible | <input type="checkbox"/> Capped | <input type="checkbox"/> Left as Found |
| <input type="checkbox"/> Vehicle | <input type="checkbox"/> Buried | <input type="checkbox"/> Valved | <input type="checkbox"/> Temp Plug |
| <input type="checkbox"/> Boat only | <input type="checkbox"/> Discharge visible only | <input type="checkbox"/> Leaking | <input type="checkbox"/> Temp Repair |
| <input type="checkbox"/> Not accessible | <input type="checkbox"/> Under power lines | <input type="checkbox"/> Flowing | <input type="checkbox"/> Flagged or staked |
| | <input type="checkbox"/> Unable to locate | <input type="checkbox"/> Other _____ | |

Flow upon arrival _____ gpm

Flow wide open _____ gpm

Flow as left _____ gpm

Comments:

Attach photos

PROPERTY LOCATION MAP
(from major intersection & to include mileage, may attach printed map)



SITE SKETCH
(from edge of landmark to well & to include approximate feet)

ATTACHMENT C — DISTRICT'S SUPPLEMENTAL INSTRUCTIONS (sample)

DISTRICT SUPPLEMENTAL INSTRUCTIONS #

DATE:

TO: _____

, _____

FROM: Gary Foster, Project

Manager CONTRACT NUMBER: 39088

CONTRACT TITLE: Revenue-Cost Share Agreement for Controlling Abandoned Artesian Wells

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 adjustments to the work as consistent with the Contract Documents and return to the District's Project Manager.

1. CONTRACTOR'S SUPPLEMENTAL INSTRUCTIONS:

2. DESCRIPTION OF WORK TO BE CHANGED:

- 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: _____
Gary Foster, District Project Manager

Acknowledged: _____ Date: _____
Tina Spurlock, District Procurement Specialist

c: Contract file
Financial Services