

RESOLUTION NO. 2015- 329

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF COST-SHARE AGREEMENTS BETWEEN ST. JOHNS COUNTY, FLORIDA, AND THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, PURSUANT TO THE DISTRICT'S COOPERATIVE COST SHARE INITIATIVE PROGRAM; AND AUTHORIZING THE COUNTY ADMINISTRATOR OR DESIGNEE TO EXECUTE THE AGREEMENT ON BEHALF OF ST. JOHNS COUNTY

WHEREAS, St. Johns River Water Management District (District), and St. Johns County, Florida (County) desire to enter into Cost-Share Agreements in order to develop alternative or non-traditional water supply sources to promote conservation; and

WHEREAS, by entering into these proposed Cost-Share Agreements with the District, the County will receive a public benefit by enhancing the County's reclaimed water system, thus off-setting potable irrigation demand on limited groundwater supply and reducing nutrient loading into waterways; and

WHEREAS, the District has submitted proposed Cost-Share Agreements for the County's approval and execution; and

WHEREAS, the proposed Cost-Share Agreements will provide partial funding for two above ground storage tanks and supporting infrastructure to be located at the Anastasia Island and State Road 16 Wastewater Treatment Facilities; and

WHEREAS, the proposed Cost-Share Agreements between the County and the District set forth the rights, duties, and responsibilities of both the County and the District with respect to completing the scope of work provided in the agreements; and

WHEREAS, the County has reviewed the terms, provisions, conditions, and requirements of the proposed Cost-Share Agreements (attached hereto, and incorporated herein); and

WHEREAS, the County has determined that accepting the terms of the Cost-Share Agreements, and entering into said Agreements will serve the interests of the County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are hereby incorporated into the body of this Resolution, and are adopted as findings of fact.

Section 2. The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of the two proposed Cost-Share Agreements between St. Johns County, Florida, and the St. Johns River Water Management District.

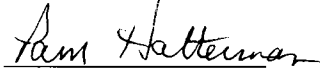
Section 3. The Board of County Commissioners authorizes the County Administrator, or designee, to execute cost share agreements in substantially the same form and format as described herein and attached hereto.

Section 4. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor, or context of this Resolution, then this Resolution may be revised, without subsequent approval of the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 3 day of November, 2015.

**BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA**

Attest: HUNTER S. CONRAD

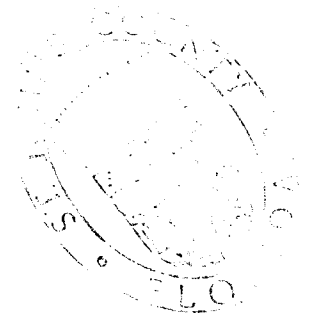


Deputy Clerk

By:


Priscilla L. Bennett, Chair

RENDITION DATE 11/5/15



**COST-SHARE AGREEMENT
BETWEEN THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS**

THIS AGREEMENT ("Agreement") is entered into by and between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (the "District"), whose address is 4049 Reid Street, Palatka, Florida 32177, and ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS ("Recipient"), 1205 State Road 16, St. Augustine, Florida 32084. 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 it has been declared to be the policy of the Legislature to promote the conservation, development, and proper utilization of surface and ground water. Pursuant to chapter 373, Fla. Stat., the District is responsible for the management of the water resources within its geographical area.

The District 2015-2016 cost-share funding program is designed to fund the construction of local stormwater management and alternative water supply projects as well as conservation implementation projects. Its goals are to contribute to: 1) reduction in water demand through indoor and outdoor conservation measures; 2) development of alternative or non-traditional water supply sources; such as reclaimed water, surface water, or seawater; 3) water quality improvements (for example, nutrient-loading reduction in springsheds or other surface-water systems); and 4) water resource development opportunities (for instance, increasing available source water through expansion or development of surface-water storage). The current cost-share funding program also recognizes the importance of providing funding opportunities for construction of flood protection and natural-systems restoration projects, which are important components of the District's core mission focus.

The District has determined that providing cost-share funding to Recipient for the purposes provided for herein will benefit the water resources and one or more of the District's missions and initiatives.

At its August 2015 meeting, the Governing Board selected Recipient's proposal for cost-share funding. The parties have agreed to jointly fund the following project in accordance with the funding formula further described in the Statement of Work, Attachment A (hereafter the "Project"):

Reclaimed Water Storage Tank at Anastasia Island Wastewater Treatment Facility Project

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 other 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, 2016 ("Completion Date"). Recipient shall not commence the Project until any required submittals are received and approved. Time is of the essence for every aspect of this Agreement, including any time extensions. Any request for an extension of time beyond the Completion Date must be made before July 1, 2016. Timely requests to extend, for longer than three months, the Completion Date of the Agreement for projects whose District contribution exceeds \$100,000 may only be approved by the District's Governing Board. Notwithstanding specific mention that certain provisions survive termination or expiration of this Agreement, all provisions of this Agreement that by their nature extend beyond the Completion Date survive termination or expiration hereof.
- (b) This Agreement constitutes an offer until authorized, signed and returned to the District 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 District's Project Manager, stating the reason(s) therefor. Request for extension of time after the forty-five (45) days will be denied. 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.
- (c) If the construction, which is eligible for District reimbursement, does not begin before September 30, 2016, or if the first invoice for non-construction projects is not submitted by September 30, 2016, the cost-share agreement will be subject to termination and the funds subject to reallocation.

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 District'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 District 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 District arising from or by reason of this Agreement.

3. **OWNERSHIP OF DELIVERABLES.** Unless otherwise provided herein, the District 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 District shall pay Recipient approximately thirty-three percent (33%) of the total construction cost of the Project, but in no event shall the District cost-share exceed \$552,750. The District 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 District's Project Manager in writing upon receipt of any additional external funding for the Project not disclosed prior to execution of this Agreement.

- (b) "Construction cost" is defined to include actual costs of constructing Project facilities, including construction management. Land acquisition, engineering design, and permitting costs are excluded. Construction cost does not include any costs incurred prior to the Effective Date, unless expressly authorized by the Statement of Work. Costs that are excluded will not be credited toward Recipient's cost-share.
- (c) Cooperative funding shall not be provided for expenses incurred after the Completion Date.

5. PAYMENT OF INVOICES.

- (a) Recipient shall submit itemized invoices as per the Statement of Work, Attachment A for reimbursable expenses by one of the following two methods: (1) by mail to the St. Johns River Water Management District, Finance Director, 4049 Reid Street, Palatka, Florida 32177, or (2) by e-mail to acctpay@sjrwmd.com. The invoices shall be submitted in detail sufficient for proper pre-audit and post-audit review. Invoices shall include a copy of contractor and supplier invoices to Recipient and proof of payment. Recipient shall be reimbursed for approximately thirty-three percent (33%) of approved cost or the not-to-exceed sum of \$552,750, whichever is less. The District shall not withhold any retainage from this reimbursement. District reimbursement is subject to annual budgetary limitation, if applicable, as provided in subsection (g). If necessary for audit purposes, Recipient shall provide additional supporting information as required to document invoices.
- (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 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 forty-five (45) days after the Completion Date; provided, however, that when the Completion Date corresponds with the end of the District's fiscal year (September 30), the final invoice must be submitted no later than thirty (30) days after the Completion Date. **Final invoices that are submitted after the requisite date shall be subject to a penalty of ten percent (10%) of the invoice. This penalty may be waived by the District, 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) District contract number; (2) District encumbrance number; (3) Recipient's name, address, and authorization to directly deposit payment into Recipient's account (if Recipient has not yet provided the District with a completed Direct Deposit Authorization form; (4) Recipient's invoice number and date of invoice; (5) District 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); (9) Diversity Report (if otherwise required herein). Invoices that do not correspond with this paragraph shall be returned without action within twenty (20) business days of receipt, stating the basis for rejection. Payments shall be made within forty-five (45) days of receipt of an approved invoice.
 - (e) **Travel expenses.** If the cost schedule for this Agreement includes a line item for travel expenses, travel expenses shall be drawn from the project budget and are not otherwise compensable. If travel expenses are not included in the cost schedule, they are a cost of providing the service that is borne by Recipient 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 2000-02.
 - (f) **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; (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 District 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 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).
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. Recipient accepts all risks arising from construction or operation of the Project. 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.

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) 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 Project not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the District 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 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.

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; or (4) e-mail. 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 are deemed delivered on the date transmitted and received.

DISTRICT

Mark E. Brandenburg, MS, CSE, PWS
Project Manager
St. Johns River Water Management District
601 South Lake Destiny Road, Suite 200
Maitland, Florida 32751
407-659-0915
E-mail: mbranden@sjrwmd.com

RECIPIENT

Gordon Smith
Project Manager
St. Johns County Utilities Department
1205 State Road 16
St. Augustine, Florida 32084
904-209-2709
E-mail: gsmith@sjcfl.us

(b) The District's Project Manager shall have sole responsibility for transmitting instructions, receiving information, and communicating District policies and decisions regarding all matters pertinent to performance of the Project. The District's Project Manager may issue a District Supplemental Instruction (DSI) form, Attachment C, to authorize minor changes in the Project that the parties agree are not inconsistent with the purpose of the Project, do not affect the District cost-share, Completion Date, or otherwise significantly modify the terms of the Agreement.

9. **PROGRESS REPORTS AND PERFORMANCE MONITORING.**

(a) **Progress Reports.** Recipient shall provide to the District quarterly 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. Recipient shall use the District's Project Progress Report form, Attachment B. Recipient

shall submit the Project Progress Reports to the District's Project Manager and District's Budget Manager within thirty (30) days after the closing date of each calendar quarter (March 31, June 30, September 30 and December 31).

- (b) **Performance Monitoring.** For as long as the Project is operational, the District 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 District any data that is requested pertaining to performance of the Project.

10. **FAILURE TO COMPLETE PROJECT.**

- (a) Should Recipient fail to complete the Project, Recipient shall refund to the District all of the funds provided to Recipient pursuant to this Agreement. However, the District, in its sole judgment and discretion, may determine that Recipient has failed to complete the Project due to circumstances that are beyond Recipient's control, or due to a good faith determination that the Project is no longer environmentally or economically feasible. In such event, the District may excuse Recipient from the obligation to return funds provided hereunder. If the Project has not been completed within thirty (30) days after the Completion Date, Recipient shall provide the District with notice regarding its intention as to completion of the Project. The parties shall discuss the status of the Project and may mutually agree to revise the time for Project completion or the scope of the Project. Failure to complete the Project within ninety (90) days after the Completion Date shall be deemed to constitute failure to complete the Project for the purposes of this provision.
- (b) In the event the Project constitutes a portion of the total functional project, this paragraph shall apply in the event the total functional project is not completed. In such event, the 90-day timeframe provided herein shall commence upon the date scheduled for completion of the total functional project at the time of execution of this Agreement, unless extended by mutual agreement of the parties. Paragraphs 10(a) and 10(b) shall survive the termination or expiration of this Agreement.

11. **TERMINATION.** If Recipient materially fails to fulfill its obligations under this Agreement, including any specific milestones established herein, the District may 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 following receipt of the notice to cure the breach. If Recipient fails to cure the breach within the thirty (30) day period, the District shall issue a Termination for Default Notice terminating this Agreement without further notice. In such event, Recipient shall refund to the District all funds provided to Recipient pursuant to this Agreement within thirty (30) days of such termination. The District may also terminate this Agreement upon ten (10) days written notice in the event of any material misrepresentations in the Project Proposal.

ADDITIONAL PROVISIONS (Alphabetical)

12. **ASSIGNMENT.** Recipient shall not assign this Agreement, or any monies due hereunder, without the District'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 District and any of Recipient's contractors or subcontractors.

13. **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 District, 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 District 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.** District funding shall be subject to repayment after expiration of this Agreement if, upon audit examination, the District 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 District for the same purpose; (4) Recipient has been advanced or paid unobligated funds; (5) Recipient has been paid funds in excess of the amount Recipient is entitled to receive under the Agreement; and/or (6) Recipient has received more than one hundred percent (100%) contributions through cumulative public agency cost-share funding.

14. **CIVIL RIGHTS.** Pursuant to chapter 760, Fla. Stat., Recipient shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, age, handicap, or marital status.

15. **DISPUTE RESOLUTION.** Recipient is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute involving performance of this Agreement by submitting a written statement to the District'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 District's Office of General Counsel, which shall issue a written decision within ten (10) business days of receipt. This determination shall constitute final action of the District and shall then be subject to judicial review upon completion of the Project.

16. **DIVERSITY REPORTING.** The District 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 District will assist Recipient by sharing information on W/MBEs. Recipient shall provide with each invoice a report describing: (1) the company names for all W/MBEs; (2) the type of minority, and (3) the amounts spent with each during the invoicing period. The report will also denote if there were no W/MBE expenditures.

17. **GOVERNING LAW, VENUE, ATTORNEY'S FEES, WAIVER OF RIGHT TO JURY TRIAL.** This Agreement shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Agreement: (1) venue for any state or federal legal proceedings shall be in Duval 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 CONTRACTORS.** The parties to this Agreement, their employees and agents, are independent contractors and not employees or agents of each other. Nothing in this Agreement shall be interpreted to establish any relationship other than that of independent contractors during and after the term of this Agreement. Recipient is not a contractor of the District. The District 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 care, and tax laws pertaining to Recipient, its officers, agents, and employees.
19. **CONFLICTING INTEREST IN RECIPIENT.** Recipient certifies that no officer, agent, or employee of the District has any material interest, as defined in section 112.312, 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 District under this Agreement shall not be used for the purpose of lobbying the Legislature or any other state agency.
21. **PERMITS.** Recipient shall comply with all applicable federal, state and local laws and regulations in implementing the Project and shall include this requirement in all subcontracts pertaining to the Project. Recipient shall obtain any and all governmental permits necessary to implement the Project. Any activity not properly permitted prior to implementation or completed without proper permits does not comply with this Agreement and shall not be approved for cost-share funding.
22. **PUBLIC ENTITY CRIME.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.
23. **PUBLIC RECORDS.** Records of Recipient that are made or received in the course of performance of the Project may be public records that are subject to the requirements of chapter 119, Fla. Stat. If Recipient receives a public records request, Recipient shall promptly notify the 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.
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 District harmless from loss to the extent allowed by Florida law.

IN WITNESS WHEREOF, the St. Johns River Water Management District 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.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

ST. JOHNS COUNTY

By: _____
Ann B. Shortelle, Ph.D., Executive Director
(or designee)

By: _____

Typed Name and Title

Date: _____

Date: _____

ONLY AS TO FORM AND LEGALITY

Attest: _____

William Abrams, Sr. Assistant General Counsel

Typed Name and Title

ATTACHMENTS

- Attachment A - Statement of Work
- Attachment B - Project Progress Report Form
- Attachment C - District Supplemental Instructions Form

2015-16 District Cost-Share Initiative
Last updated: 9-9-15

**ATTACHMENT A - STATEMENT OF WORK
ST. JOHNS COUNTY
RECLAIMED WATER STORAGE TANK AT ANASTASIA ISLAND WASTEWATER TREATMENT FACILITY**

I. INTRODUCTION/BACKGROUND

The St. Johns River Water Management District (District) is continuing its Cooperative Cost Share Initiative Program in Fiscal Year (FY) 2015-2016 to develop and implement resource and water supply development projects and promote conservation. Each project selected for funding will have a positive benefit to Minimum Flows and Levels (MFLs), water quantity, water quality, and/or natural systems and supports the District's Strategic Initiatives. St. Johns County Utility Department (Recipient) has requested and been selected as a participant in this cost share program.

On August 11, 2015 the District's Governing Board approved funding for the Recipient's Reclaimed Water Storage Tank at Anastasia Island Water Treatment Facility (WTF) for a not to exceed amount of \$552,750 towards the estimated construction cost of \$1,675,000.

II. OBJECTIVES

The objective of this contract is to provide cost share dollars that will enable the Recipient to construct a 1.0 million gallon ground storage tank and high service pumps to complement existing reuse facilities serving Marsh Creek golf course and to provide pressurized service to the new Ocean Cay residential community. Ocean Cay consists of 130 homes currently under construction. This storage tank will allow the Recipient to provide reclaimed water to new residential customers and expand reuse services to commercial areas in the future along CR 312. The project will reduce potable water demands by an estimated 9,100 gallons per day, with the potential for up to 2 MGD average daily flow of reuse to be supplied to new development up to 6,667 homes with a potable offset of 466,667 gallons per day.

III. SCOPE OF WORK AND DELIVERABLES

The Recipient shall expand the its reclaimed water system by constructing a 1.0 million gallon ground storage tank at Anastasia Island Wastewater Treatment Facility site. The tank will initially reduce approximately 1,898 pounds annually of nutrient discharges to the Matanzas River, with the future potential for eliminating 2 MGD of flow to the Matanzas River equaling nearly 97,330 pounds of nutrients reduced annually.

The project includes three main components:

- Pre-construction activities: contracts, surveys, clearing and grubbing, erosion controls, construction mobilization.
- Construction of tank, piping, upgrade pumps with variable frequency drives, controls, clearance.
- Post-construction punch list, as-built review, final site restoration, demobilization, final contract completion and acceptance.

IV. PROJECT ADMINISTRATION

The Recipient shall be responsible for the following:

- Complete and obtain final project design, construction plans, and specifications;
- Obtain all required permits, including right of access to the project sites, related to project construction and subsequent operation and maintenance of the completed work;
- Assure compliance with all permits and permit conditions;
- Provide procurement for project construction;
- Perform supervision and inspection of construction;
- Perform construction contract administration;
- Assure compliance with cost accounting practices and procedures required for reimbursement of cost share funds expended.

The Recipient shall provide the following to the District’s Project Manager:

- A copy of Recipient’s executed construction contract documents;
- A copy of any subsequent change orders to the contract;
- Timely invoices for actual construction costs in accordance with this cost share agreement (i.e. quarterly, with appropriate substantiation that demonstrates that the applicant has paid for the total work cost and is seeking reimbursement up to the match amount) to enable proper review by the District’s project manager prior to payment authorization;
- Quarterly progress reports identifying project progress to date, key milestones reached, overall project schedule versus time for project completion, key issues to be resolved, project construction photos; quarterly reports shall also be emailed to the District’s Budget Manager at mlicourt@sjrwmd.com;
- Certification of construction completion by a Professional Engineer registered in the state of Florida.

The Recipient shall ensure the three tasks in the Task Identification section below are completed.

V. TASK IDENTIFICATION AND TIME FRAMES

The expiration date of this cost share agreement is September 30, 2016. The projected schedule is as follows:

	Task Description	Anticipated Start Date	Anticipated Completion Date
Task 1	Pre-construction notice of contract award, notice to proceed, site drawings, permits, materials, survey.	10/15/15	12/23/15
Task 2	Site clearance, installation of erosion controls, construction mobilization.	12/23/15	1/13/16
Task 3	Construction of storage tank, piping, upgrade pumps, controls, clearance.	1/13/16	8/8/16
Task 4	Post-construction punch list, as-built review, site restoration, demobilization, contract close-outs.	8/8/16	9/30/16

VI. BUDGET/COST SCHEDULE

For satisfactory completion of the Project, the District shall pay Recipient approximately thirty-three (33%) of the total construction cost of the Project, but in no event shall the District's cost-share exceed \$552,750.

Recipient shall invoice the District quarterly with appropriate documentation. Invoices shall include a copy of the contractor's invoices submitted to the Recipient, proof of payment by Recipient, and other required supporting documentation for reimbursement up to match amount. For in-house expenses, Recipient shall provide copies of all receipts for materials and a system report showing documentation of staff time or other proof of staff time expenses for the Project. The final invoice shall be submitted with the final project report. If the total actual cost of this project is less than originally estimated, the District's cost-share amount shall be reduced accordingly. Recipient may invoice more frequently submitting all required documentation and include general status information. Recipient may invoice the District for Project construction work beginning October 1, 2015.

Recipient shall submit quarterly progress reports to the District's Project Manager and the District's Budget Manager within 15 days of the end of quarter for work accomplished during each quarter. The email address for the District's Budget Manager is mlicourt@sjrwmd.com. The Recipient shall submit a final project report within 30 days of Final Completion and acceptance by St. Johns County detailing the project's accomplishments and any issues resolved during the course of the work.

Cost Schedule for Reimbursement of the not to exceed amount of \$552,750 (all dollar amounts are approximate and may be reallocated between the tasks)

	Description	Estimated Task Amount	Estimated Reimbursement Amount
Task 1	Pre-construction notice of contract award, notice to proceed, site drawings, permits, materials, survey.		\$0.00
Task 2	Site clearance, installation of erosion controls, construction mobilization.	\$83,750	\$27,637.50
Task 3	Construction of storage tank, piping, upgrade pumps, controls, clearance.	\$1,507,500	\$497,475
Task 4	Post-construction punch list, as-built review, site restoration, demobilization, contract close-outs.	\$83,750	\$27,637.50

ATTACHMENT B

Contract #28418
Encumbrance #S007958

**St. Johns River Water Management District
Project Progress Report**

Date: _____
month/day/year

Report Number: _____

Contract/Project Identification

Project Name:	Reclaimed Water Storage Tank at Anastasia Island Wastewater Treatment Facility Project		
Recipient:	St. Johns County		
SJRWMD Contract Number:	28418	SJRWMD Project Manager:	Mark Brandenburg, MS, CSE, PWS
		Recipient's Project Manager:	Gordon Smith

Construction Schedule

Start Date (mm/dd/yy):	
Completion (mm/dd/yy):	

Reporting Period

Beginning Date (mm/dd/yy):	
Ending Date (mm/dd/yy):	

Budget

Total Budget:	\$	
Expended To-date:	\$	
Expended This Period:	\$	
Percent Budget Expended:		%

Duration

Planned Duration:		Weeks
Duration To-date:		Weeks
Duration This Period:		Weeks
Percent Duration Expended:		%

Anticipated Future Payment Requests:

3 Months	6 Months	9 Months	12 Months

Tasks/Milestones/Deliverables Scheduled for this Reporting Period or Within the Next 60 days:

Task Number	Tasks/Milestones/Deliverables	Start Date	Finish Date	Percent Complete	Projected Finish Date

Problems, Issues, Solutions, Anticipated deviations from schedule:

Attach an additional page of notes if necessary to explain reasons for lateness or unusual events or circumstances.

ATTACHMENT C — DISTRICT'S SUPPLEMENTAL INSTRUCTIONS (sample)
DISTRICT 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 District'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: _____
_____, District Project Manager

Acknowledged: _____ Date: _____
_____, District Contracts Administrator

cc: Contract/Purchasing file
Financial Management

Project Title: **Reclaimed Water Ground Storage Tank
at Anastasia Island Wastewater
Treatment Facility**

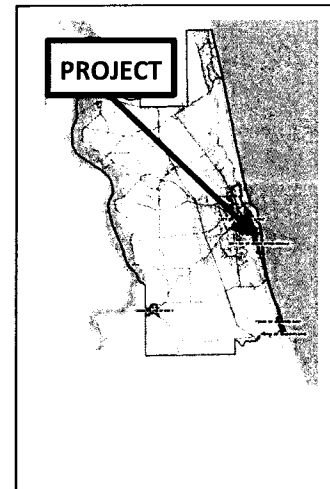
Category: AI WWTF

Status: Initiation Planning Design
 Bidding Construction Closeout

In Service Date: October, 2015

Budget: FY15 - \$1,675,000

Related Projects:

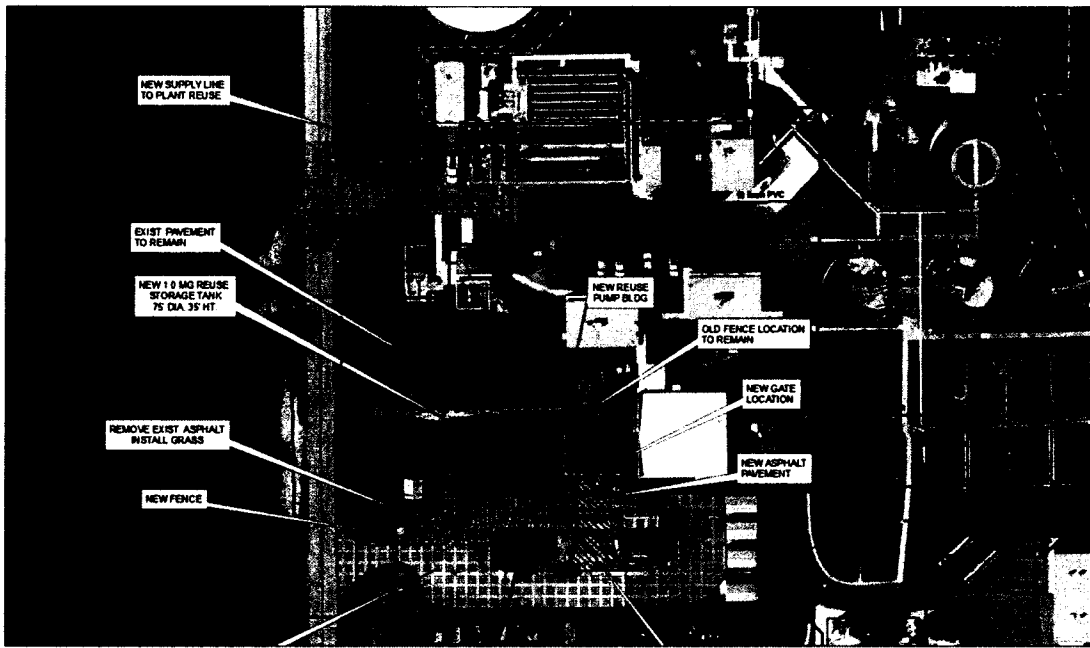


Purpose: Offset potable irrigation demand and conserve groundwater.
Reduce nutrient loading to the Matanzas River.

Background: St. Johns County Utility Department provides safe drinking water to over 100,000 people every day. Traditionally, the County has relied almost exclusively on groundwater from the underlying Floridan Aquifer. Over the next 25 years, the County's customer base is projected to grow by 87,000 people under medium-growth scenarios. During this period, demands on water resources are projected to grow to the point where traditional groundwater supplies will likely not meet the future potable water demands.

In 2013, the County initiated the development of an Integrated Water Resources Plan to provide strategies to implement short-term and long-term water resources solutions through 2040. The plan identified the future water needs of the County, developed a decision model to evaluate and rank various projects using a decision matrix, and presented a portfolio of water supply solutions. Reclaimed water and conservation projects were identified in the plan as the most cost effective projects to reduce reliance on limited groundwater resources.

Project Description: SJCUD is expanding the Mainland reuse service area by adding a 1.0 MG ground storage tank to complement the existing booster pump station serving the Marsh Landing golf course and the new Ocean Cay residential community. The addition of the storage tank will allow SJCUD to provide reclaimed water to new residential customers and expand reuse services to commercial areas along CR 312. This project should significantly reduce the potable water demands from the County's consumption use permit allocation and reduce the nutrient loading from the Anastasia Island WWTP to the Matanzas River.



Anastasia Island Reclaim Water Facility

Date: 10/13/2014



Anastasia Island Wastewater Treatment Facility – Existing Site (Location of Proposed Reclaimed Water Tank)

**COST-SHARE AGREEMENT
BETWEEN THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS**

THIS AGREEMENT ("Agreement") is entered into by and between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (the "District"), whose address is 4049 Reid Street, Palatka, Florida 32177, and ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS ("Recipient"), 1205 State Road 16, St. Augustine, Florida 32084. 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 it has been declared to be the policy of the Legislature to promote the conservation, development, and proper utilization of surface and ground water. Pursuant to chapter 373, Fla. Stat., the District is responsible for the management of the water resources within its geographical area.

The District 2015-2016 cost-share funding program is designed to fund the construction of local stormwater management and alternative water supply projects as well as conservation implementation projects. Its goals are to contribute to: 1) reduction in water demand through indoor and outdoor conservation measures; 2) development of alternative or non-traditional water supply sources; such as reclaimed water, surface water, or seawater; 3) water quality improvements (for example, nutrient-loading reduction in springsheds or other surface-water systems); and 4) water resource development opportunities (for instance, increasing available source water through expansion or development of surface-water storage). The current cost-share funding program also recognizes the importance of providing funding opportunities for construction of flood protection and natural-systems restoration projects, which are important components of the District's core mission focus.

The District has determined that providing cost-share funding to Recipient for the purposes provided for herein will benefit the water resources and one or more of the District's missions and initiatives.

At its August 2015 meeting, the Governing Board selected Recipient's proposal for cost-share funding. The parties have agreed to jointly fund the following project in accordance with the funding formula further described in the Statement of Work, Attachment A (hereafter the "Project"):

Reclaimed Water Storage Tank at the SR16 Wastewater Treatment Facility Project

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 other 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 November 30, 2016 ("Completion Date"). Recipient shall not commence the Project until any required submittals are received and approved. Time is of the essence for every aspect of this Agreement, including any time extensions. Any request for an extension of time beyond the Completion Date must be made before September 1, 2016. Timely requests to extend, for longer than three months, the Completion Date of the Agreement for projects whose District contribution exceeds \$100,000 may only be approved by the District's Governing Board. Notwithstanding specific mention that certain provisions survive termination or expiration of this Agreement, all provisions of this Agreement that by their nature extend beyond the Completion Date survive termination or expiration hereof.
- (b) This Agreement constitutes an offer until authorized, signed and returned to the District 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 District's Project Manager, stating the reason(s) therefor. Request for extension of time after the forty-five (45) days will be denied. 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.
- (c) If the construction, which is eligible for District reimbursement, does not begin before September 30, 2016, or if the first invoice for non-construction projects is not submitted by September 30, 2016, the cost-share agreement will be subject to termination and the funds subject to reallocation.

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 District'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 District 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 District arising from or by reason of this Agreement.

3. OWNERSHIP OF DELIVERABLES. Unless otherwise provided herein, the District 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 District shall pay Recipient approximately thirty-three percent (33%) of the total construction cost of the Project, but in no event shall the District cost-share exceed \$412,500. The District 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 District's Project Manager in writing upon receipt of any additional external funding for the Project not disclosed prior to execution of this Agreement.

- (b) "Construction cost" is defined to include actual costs of constructing Project facilities, including construction management. Land acquisition, engineering design, and permitting costs are excluded. Construction cost does not include any costs incurred prior to the Effective Date, unless expressly authorized by the Statement of Work. Costs that are excluded will not be credited toward Recipient's cost-share.
- (c) Cooperative funding shall not be provided for expenses incurred after the Completion Date.

5. PAYMENT OF INVOICES.

- (a) Recipient shall submit itemized invoices as per the Statement of Work, Attachment A for reimbursable expenses by one of the following two methods: (1) by mail to the St. Johns River Water Management District, Finance Director, 4049 Reid Street, Palatka, Florida 32177, or (2) by e-mail to acctpay@sjrwm.com. The invoices shall be submitted in detail sufficient for proper pre-audit and post-audit review. Invoices shall include a copy of contractor and supplier invoices to Recipient and proof of payment. Recipient shall be reimbursed for approximately thirty-three percent (33%) of approved cost or the not-to-exceed sum of \$412,500, whichever is less. The District shall not withhold any retainage from this reimbursement. District reimbursement is subject to annual budgetary limitation, if applicable, as provided in subsection (g). If necessary for audit purposes, Recipient shall provide additional supporting information as required to document invoices.
- (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 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 forty-five (45) days after the Completion Date; provided, however, that when the Completion Date corresponds with the end of the District's fiscal year (September 30), the final invoice must be submitted no later than thirty (30) days after the Completion Date. **Final invoices that are submitted after the requisite date shall be subject to a penalty of ten percent (10%) of the invoice. This penalty may be waived by the District, 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) District contract number; (2) District encumbrance number; (3) Recipient's name, address, and authorization to directly deposit payment into Recipient's account (if Recipient has not yet provided the District with a completed Direct Deposit Authorization form; (4) Recipient's invoice number and date of invoice; (5) District 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); (9) Diversity Report (if otherwise required herein). Invoices that do not correspond with this paragraph shall be returned without action within twenty (20) business days of receipt, stating the basis for rejection. Payments shall be made within forty-five (45) days of receipt of an approved invoice.
 - (e) **Travel expenses.** If the cost schedule for this Agreement includes a line item for travel expenses, travel expenses shall be drawn from the project budget and are not otherwise compensable. If travel expenses are not included in the cost schedule, they are a cost of providing the service that is borne by Recipient 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 2000-02.
 - (f) **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; (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 District 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 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).
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. Recipient accepts all risks arising from construction or operation of the Project. 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.

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) 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 Project not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the District 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 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.

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; or (4) e-mail. 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 are deemed delivered on the date transmitted and received.

DISTRICT

Mark E. Brandenburg, MS, CSE, PWS
Project Manager
St. Johns River Water Management District
601 South Lake Destiny Road, Suite 200
Maitland, Florida 32751
407-659-0915
E-mail: mbranden@sjrwmd.com

RECIPIENT

Gordon Smith
Project Manager
St. Johns County Utilities Department
1205 State Road 16
St. Augustine, Florida 32084
904-209-2709
E-mail: gsmith@sicfl.us

(b) The District's Project Manager shall have sole responsibility for transmitting instructions, receiving information, and communicating District policies and decisions regarding all matters pertinent to performance of the Project. The District's Project Manager may issue a District Supplemental Instruction (DSI) form, Attachment C, to authorize minor changes in the Project that the parties agree are not inconsistent with the purpose of the Project, do not affect the District cost-share, Completion Date, or otherwise significantly modify the terms of the Agreement.

9. **PROGRESS REPORTS AND PERFORMANCE MONITORING.**

(a) **Progress Reports.** Recipient shall provide to the District quarterly 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. Recipient shall use the District's Project Progress Report form, Attachment B. Recipient

shall submit the Project Progress Reports to the District's Project Manager and District's Budget Manager within thirty (30) days after the closing date of each calendar quarter (March 31, June 30, September 30 and December 31).

- (b) **Performance Monitoring.** For as long as the Project is operational, the District 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 District any data that is requested pertaining to performance of the Project.

10. **FAILURE TO COMPLETE PROJECT.**

- (a) Should Recipient fail to complete the Project, Recipient shall refund to the District all of the funds provided to Recipient pursuant to this Agreement. However, the District, in its sole judgment and discretion, may determine that Recipient has failed to complete the Project due to circumstances that are beyond Recipient's control, or due to a good faith determination that the Project is no longer environmentally or economically feasible. In such event, the District may excuse Recipient from the obligation to return funds provided hereunder. If the Project has not been completed within thirty (30) days after the Completion Date, Recipient shall provide the District with notice regarding its intention as to completion of the Project. The parties shall discuss the status of the Project and may mutually agree to revise the time for Project completion or the scope of the Project. Failure to complete the Project within ninety (90) days after the Completion Date shall be deemed to constitute failure to complete the Project for the purposes of this provision.

- (b) In the event the Project constitutes a portion of the total functional project, this paragraph shall apply in the event the total functional project is not completed. In such event, the 90-day timeframe provided herein shall commence upon the date scheduled for completion of the total functional project at the time of execution of this Agreement, unless extended by mutual agreement of the parties. Paragraphs 10(a) and 10(b) shall survive the termination or expiration of this Agreement.

11. **TERMINATION.** If Recipient materially fails to fulfill its obligations under this Agreement, including any specific milestones established herein, the District may 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 following receipt of the notice to cure the breach. If Recipient fails to cure the breach within the thirty (30) day period, the District shall issue a Termination for Default Notice terminating this Agreement without further notice. In such event, Recipient shall refund to the District all funds provided to Recipient pursuant to this Agreement within thirty (30) days of such termination. The District may also terminate this Agreement upon ten (10) days written notice in the event of any material misrepresentations in the Project Proposal.

ADDITIONAL PROVISIONS (Alphabetical)

12. **ASSIGNMENT.** Recipient shall not assign this Agreement, or any monies due hereunder, without the District'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 District and any of Recipient's contractors or subcontractors.

13. **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 District, 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 District 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.** District funding shall be subject to repayment after expiration of this Agreement if, upon audit examination, the District 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 District for the same purpose; (4) Recipient has been advanced or paid unobligated funds; (5) Recipient has been paid funds in excess of the amount Recipient is entitled to receive under the Agreement; and/or (6) Recipient has received more than one hundred percent (100%) contributions through cumulative public agency cost-share funding.

14. **CIVIL RIGHTS.** Pursuant to chapter 760, Fla. Stat., Recipient shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, age, handicap, or marital status.

15. **DISPUTE RESOLUTION.** Recipient is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute involving performance of this Agreement by submitting a written statement to the District'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 District's Office of General Counsel, which shall issue a written decision within ten (10) business days of receipt. This determination shall constitute final action of the District and shall then be subject to judicial review upon completion of the Project.

16. **DIVERSITY REPORTING.** The District 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 District will assist Recipient by sharing information on W/MBEs. Recipient shall provide with each invoice a report describing: (1) the company names for all W/MBEs; (2) the type of minority, and (3) the amounts spent with each during the invoicing period. The report will also denote if there were no W/MBE expenditures.

17. **GOVERNING LAW, VENUE, ATTORNEY'S FEES, WAIVER OF RIGHT TO JURY TRIAL.** This Agreement shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Agreement: (1) venue for any state or federal legal proceedings shall be in Duval 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 CONTRACTORS.** The parties to this Agreement, their employees and agents, are independent contractors and not employees or agents of each other. Nothing in this Agreement shall be interpreted to establish any relationship other than that of independent contractors during and after the term of this Agreement. Recipient is not a contractor of the District. The District 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 care, and tax laws pertaining to Recipient, its officers, agents, and employees.
19. **CONFLICTING INTEREST IN RECIPIENT.** Recipient certifies that no officer, agent, or employee of the District has any material interest, as defined in section 112.312, 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 District under this Agreement shall not be used for the purpose of lobbying the Legislature or any other state agency.
21. **PERMITS.** Recipient shall comply with all applicable federal, state and local laws and regulations in implementing the Project and shall include this requirement in all subcontracts pertaining to the Project. Recipient shall obtain any and all governmental permits necessary to implement the Project. Any activity not properly permitted prior to implementation or completed without proper permits does not comply with this Agreement and shall not be approved for cost-share funding.
22. **PUBLIC ENTITY CRIME.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.
23. **PUBLIC RECORDS.** Records of Recipient that are made or received in the course of performance of the Project may be public records that are subject to the requirements of chapter 119, Fla. Stat. If Recipient receives a public records request, Recipient shall promptly notify the 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.
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 District harmless from loss to the extent allowed by Florida law.

IN WITNESS WHEREOF, the St. Johns River Water Management District 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.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

ST. JOHNS COUNTY

By: _____
Ann B. Shortelle, Ph.D., Executive Director
(or designee)

By: _____

Typed Name and Title

Date: _____

Date: _____

ONLY AS TO FORM AND LEGALITY

Attest: _____

William Abrams, Sr. Assistant General Counsel

Typed Name and Title

ATTACHMENTS

- Attachment A - Statement of Work
- Attachment B - Project Progress Report Form
- Attachment C - District Supplemental Instructions Form

2015-16 District Cost-Share Initiative
Last updated: 9-9-15

**ATTACHMENT A - STATEMENT OF WORK
ST. JOHNS COUNTY
RECLAIMED WATER STORAGE TANK AT THE SR16 WASTEWATER TREATMENT FACILITY**

I. INTRODUCTION/BACKGROUND

The St. Johns River Water Management District (District) is continuing its Cooperative Cost Share Initiative Program in Fiscal Year (FY) 2015-2016 to develop and implement resource and water supply development projects and promote conservation. Each project selected for funding will have a positive benefit to Minimum Flows and Levels (MFLs), water quantity, water quality, and/or natural systems and supports the District's Strategic Initiatives. St. Johns County Utility Department (Recipient) has requested and been selected as a participant in this cost share program.

On August 11, 2015 the District's Governing Board approved funding for the Recipient's Reclaimed Water Storage Tank at SR16 Water Treatment Facility (WTF) for a not to exceed amount of \$412,500 towards the estimated construction cost of \$1,250,000.00.

II. OBJECTIVES

The objective of this contract is to provide cost share dollars that will enable the Recipient to construct a million gallon ground storage tank at the SR 16 WTF site to store reclaimed water, as well as the interconnect piping, upgrades to existing reuse pumps with variable frequency drives, and improving the instrumentation and controls. This project will offset potable irrigation demand and conserve groundwater use. The tank will store reclaimed water during wet weather (low demand), eliminating discharge to adjacent wetlands and allowing high demands to be met.

III. SCOPE OF WORK

The Recipient shall expand its reclaimed water system by providing a 1.0 million gallon ground storage tank at the SR 16 WTF site. The tank will store reclaimed water during wet weather, eliminating discharge to the adjacent wetlands, Cowan Swamp, a tributary of Moultrie Creek, equating to the removal of approximately 5,000 pounds of nitrogen per year from the Matanzas River. The project is estimated to conserve 59,500 gallons per day and eventually service 850 homes with reclaimed water for irrigation.

The project includes three main components:

- Pre-construction activities: contracts, surveys, clearing and grubbing, erosion controls, construction mobilization.
- Construction of tank, piping, upgrade pumps with variable frequency drives, controls, clearance.
- Post-construction punch list, as-built review, final site restoration, demobilization, final contract completion and acceptance.

IV. PROJECT ADMINISTRATION AND DELIVERABLES

The Recipient shall be responsible for the following:

- Complete and obtain final project design, construction plans, and specifications;
- Obtain all required permits, including right of access to the project sites, related to project construction and subsequent operation and maintenance of the completed work;
- Assure compliance with all permits and permit conditions;
- Provide procurement for project construction;
- Perform supervision and inspection of construction;
- Perform construction contract administration;
- Assure compliance with cost accounting practices and procedures required for reimbursement of cost share funds expended.

The Recipient shall provide the following to the District’s Project Manager:

- A copy of Recipient’s executed construction contract documents;
- A copy of any subsequent change orders to the contract;
- Timely invoices for actual construction costs in accordance with this cost share agreement (i.e. quarterly, with appropriate substantiation that demonstrates that the applicant has paid for the total work cost and is seeking reimbursement up to the match amount) to enable proper review by the District’s project manager prior to payment authorization;
- Quarterly progress reports identifying project progress to date, key milestones reached, overall project schedule versus time for project completion, key issues to be resolved, project construction photos; quarterly reports shall also be emailed to the District’s Budget Manager at mlicourt@sjrwmd.com;
- Certification of construction completion by a Professional Engineer registered in the state of Florida.

The Recipient shall ensure the three tasks in the Task Identification section below are completed.

V. TASK IDENTIFICATION AND TIME FRAMES

The expiration date of this cost share agreement is November 30, 2016. The projected schedule is as follows:

	Task Description	Anticipated Start Date	Anticipated Completion Date
Task 1	Pre-construction notice of contract award, notice to proceed, site drawings, permits, materials, survey.	12/6/15	2/13/16
Task 2	Site clearance, installation of erosion controls, construction mobilization.	2/13/16	3/5/16
Task 3	Construction of storage tank, piping, upgrade pumps, controls, clearance.	3/5/16	9/30/16
Task 4	Post-construction punch list, as-built review, site restoration, demobilization, contract close-outs.	10/3/16	11/30/16

VI. BUDGET/COST SCHEDULE

For satisfactory completion of the Project, the District shall pay Recipient approximately thirty-three (33%) of the total actual cost of the Project, but in no event shall the District's cost-share exceed \$412,500. It is anticipated that the FY breakdown will be \$371,250 for FY 2015-2016 and \$41,250 for FY 2016-2017.

Recipient shall invoice the District quarterly with appropriate documentation. Invoices shall include a copy of the contractor's invoices submitted to the Recipient, proof of payment by Recipient, and other required supporting documentation for reimbursement up to match amount. For in-house expenses, Recipient shall provide copies of all receipts for materials and a system report showing documentation of staff time or other proof of staff time expenses for the Project. The final invoice shall be submitted with the final project report. If the total actual cost of this project is less than originally estimated, the District's cost-share amount shall be reduced accordingly. Recipient may invoice more frequently submitting all required documentation and include general status information. Recipient may invoice the District for Project construction work beginning October 1, 2015.

Recipient shall submit quarterly progress reports to the District's Project Manager and the District's Budget Manager within 15 days of the end of quarter for work accomplished during each quarter. The email address for the District's Budget Manager is mlicourt@sjrwmd.com. The Recipient shall submit a final project report within 30 days of Final Completion and acceptance by St. Johns County detailing the project's accomplishments and any issues resolved during the course of the work.

Estimated Cost Schedule for Reimbursement of \$391,875 for FY 2015-16 (all dollar amounts are approximate and may be reallocated between the tasks for the two FYs)

	Description	Estimated Task Amount	Estimated Reimbursement Amount (33%)
Task 1	Pre-construction notice of contract award, notice to proceed, site drawings, permits, materials, survey.		\$0.00
Task 2	Site clearance, installation of erosion controls, construction mobilization.	\$62,500	\$20,625
Task 3	Construction of storage tank, piping, upgrade pumps, controls, clearance.	\$1,125,000	\$371,250

Estimated Cost Schedule for Reimbursement of \$20,625 for FY 2016-2017

	Description	Estimated Task Amount	Estimated Reimbursement Amount (33%)
Task 4	Post-construction punch list, as-built review, site restoration, demobilization, contract close-outs.	\$62,500	\$20,625

ATTACHMENT B

Contract #28419
Encumbrance #S007961

St. Johns River Water Management District
Project Progress Report

Date: _____
month/day/year

Report Number: _____

Contract/Project Identification

Project Name:	Reclaimed Water Storage Tank at the SR16 Wastewater Treatment Facility Project		
Recipient:	St. Johns County		
SJRWMD Contract Number:	28419	SJRWMD Project Manager:	Mark Brandenburg, MS, CSE, PWS
		Recipient's Project Manager:	Gordon Smith

Construction Schedule

Start Date (mm/dd/yy):	
Completion (mm/dd/yy):	

Reporting Period

Beginning Date (mm/dd/yy):	
Ending Date (mm/dd/yy):	

Budget

Total Budget:	\$	
Expended To-date:	\$	
Expended This Period:	\$	
Percent Budget Expended:		%

Duration

Planned Duration:		Weeks
Duration To-date:		Weeks
Duration This Period:		Weeks
Percent Duration Expended:		%

Anticipated Future Payment Requests:

3 Months	6 Months	9 Months	12 Months

Tasks/Milestones/Deliverables Scheduled for this Reporting Period or Within the Next 60 days:

Task Number	Tasks/Milestones/Deliverables	Start Date	Finish Date	Percent Complete	Projected Finish Date

Problems, Issues, Solutions, Anticipated deviations from schedule:

Attach an additional page of notes if necessary to explain reasons for lateness or unusual events or circumstances.

ATTACHMENT C — DISTRICT’S SUPPLEMENTAL INSTRUCTIONS (sample)
DISTRICT 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 District’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: _____

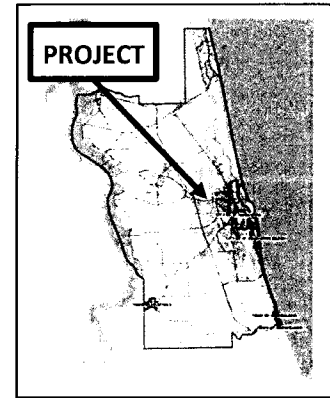
(Contractor agrees to implement the Supplemental Instructions as requested, but reserves the right to seek a Change Order in accordance with the requirements of the Agreement.)

Approved: _____ Date: _____
_____, District Project Manager

Acknowledged: _____ Date: _____
_____, District Contracts Administrator

cc: Contract/Purchasing file
Financial Management

Project Title:	Reclaimed Water Storage Tank at the SR 16 Wastewater Treatment Facility
Category:	SR 16 Wastewater Treatment Plant Improvements
Status:	<input type="checkbox"/> Initiation <input type="checkbox"/> Planning <input type="checkbox"/> Design <input checked="" type="checkbox"/> Bidding <input type="checkbox"/> Construction <input type="checkbox"/> Closeout
In Service Date:	August, 2016
Budget:	FY16 - \$1,250,000
Related Projects:	Turnbull Reuse Storage Tank



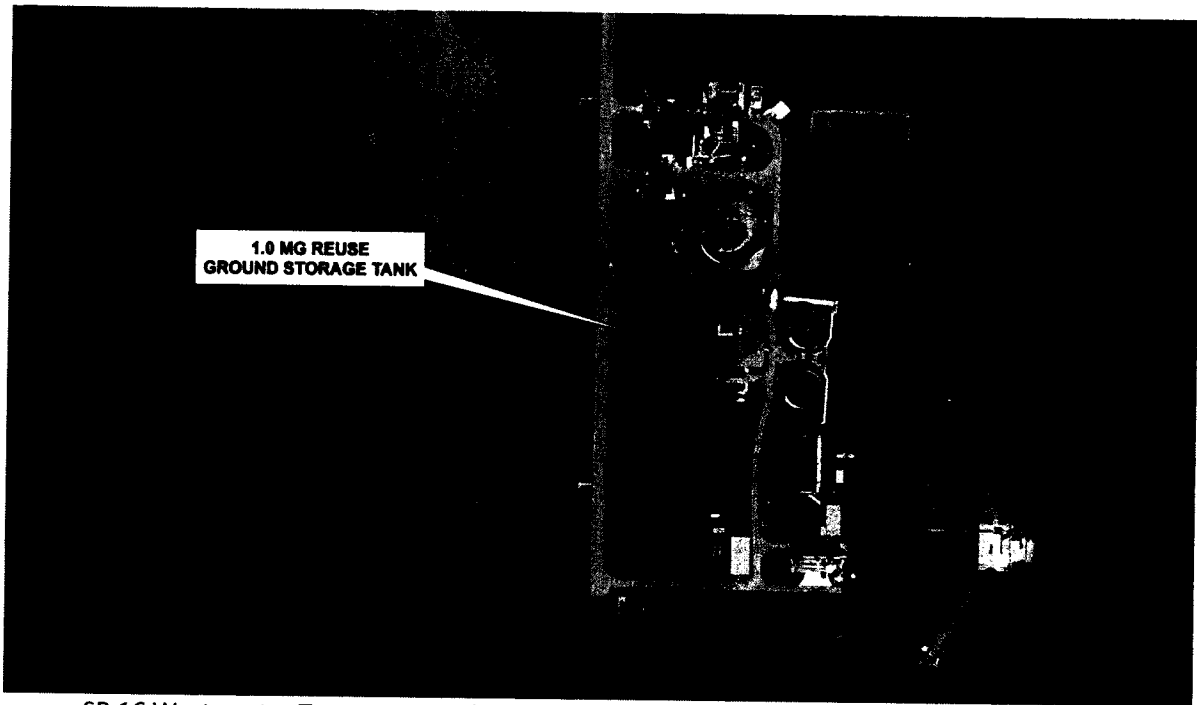
Purpose: Offset potable irrigation demand and conserve groundwater.
Reduce nutrient loading to Moultrie Creek.

Background: St. Johns County Utility Department provides safe drinking water to over 100,000 people every day. Traditionally, the County has relied almost exclusively on groundwater from the underlying Floridan Aquifer. Over the next 25 years, the County's customer base is projected to grow by 87,000 people under medium-growth scenarios. During this period, demands on water resources are projected to grow to the point where traditional groundwater supplies will likely not meet the future potable water demands.

In 2013, the County initiated the development of an Integrated Water Resources Plan to provide strategies to implement short-term and long-term water resources solutions through 2040. The plan identified the future water needs of the County, developed a decision model to evaluate and rank various projects using a decision matrix, and presented a portfolio of water supply solutions. Reclaimed water and conservation projects were identified in the plan as the most cost effective projects to reduce reliance on limited groundwater resources.

Project Description: This project will expand the County's reclaimed water system by providing a 1.0 million gallon ground storage tank at the SR 16 Wastewater Treatment Facility site to store reclaimed water, as well as associated piping and appurtenances. The facility has a treatment capacity of 1.5 million gallons per day (mgd) and a permitted capacity of 1.32 mgd due to the limited capacity of the reuse system, which consists of golf courses and landscape areas. During wet weather (low demand), the facility is permitted to discharge up to 0.5 mgd to 66 acres of hydrologically altered and man-made treatment wetlands.

The tank will store reclaimed water during wet weather, eliminating discharge to the adjacent wetlands and allowing high demands to be met. This project will also offset potable irrigation demand and conserve groundwater use for over 850 homes. By providing reclaimed water from the SR 16 Wastewater Treatment Facility, the effluent that could discharge to Cowan Swamp, a tributary of Moultrie Creek, will be reduced. This equates to approximately 5,000 pounds of nitrogen per year removed from the Matanzas River.



SR 16 Wastewater Treatment Facility – 3000 Industry Center Drive, St. Augustine, FL 32085