

**AGREEMENT
BETWEEN
THE CITY OF JACKSONVILLE
AND
JACKSONVILLE UNIVERSITY
FOR
CONTINUING MANATEE PROTECTION STUDIES**

THIS AGREEMENT is made and entered into in duplicate this ____ day of November, 2023, by and between the CITY OF JACKSONVILLE, a municipal corporation existing under the Constitution and the laws of the State of Florida, (hereinafter referred to as the “CITY”) and JACKSONVILLE UNIVERSITY, a Florida non-profit corporation with a business address at 2800 University Boulevard N., Jacksonville, Florida 32211, (hereinafter referred to as the “CONSULTANT”), for continuing studies of manatees in Duval County waters (hereinafter referred to as the “Project”).

WITNESSETH:

WHEREAS, subject to an appropriation by the Council of the City of Jacksonville, the CITY desires to retain CONSULTANT for the Project; and

WHEREAS, Ordinance 2023-____ -E authorized the Mayor and the Corporation Secretary to execute an agreement with the CONSULTANT for the Project and waives conflicting provisions of the CITY’s Purchasing Code in the selection and retention of the CONSULTANT; and

WHEREAS, the CITY and the CONSULTANT have negotiated mutually satisfactory terms for the execution of this Agreement; now therefore

IN CONSIDERATION of the premises and of the mutual covenants and agreements hereinafter contained, the CITY hereby engages the CONSULTANT for the Project in accordance with the following:

ARTICLE 1: Engagement of CONSULTANT:

1.1 CITY hereby engages CONSULTANT and CONSULTANT hereby accepts said engagement for the purpose of providing to CITY professional services for continuing manatee protection studies, as described in and according to the provisions of: “Scope of Services”, attached hereto as **Exhibit “A”**(the “Services”) and, by this reference, made a part hereof.

1.2 If any services, functions, or responsibilities not specifically described in Agreement are necessary for the proper performance and provision of the Services, they shall be deemed to be implied by and included within the scope of Services to the same extent and in the same manner as if specifically described in this Agreement and/or the Scope of Services. The CONSULTANT shall be responsible for providing the equipment, supplies, personnel (including management, employees, and training), and other resources as necessary to provide the Services.

ARTICLE 2: Coordination and Services Provided by CITY:

CITY shall designate for the Services received a Project Coordinator who will, on behalf of the CITY, coordinate with CONSULTANT and administer this Agreement according to the terms and conditions contained herein and in the exhibit(s) attached hereto and made a part hereof. It shall be the responsibility of CONSULTANT to coordinate all project related activities with the designated Project Coordinator. CITY’s Project Coordinator shall be: Eric Hinton, Planner II, Planning and Development Department.

ARTICLE 3: Duration of Agreement, Termination, Renewal and Default:

3.1. The term of this Agreement shall become effective as of the day and year first above written and shall continue and remain in full force and effect as to all its terms, conditions, and provisions as set forth herein for one (1) year from that date or when the maximum indebtedness

under Section 7.1.2 has been met unless sooner terminated by either party, with or without cause, by giving of not less than thirty (30) days' prior written notice to the other party to this Agreement.

3.2. This Agreement may be renewed, in the sole discretion of the CITY, for up to four (4) additional one (1) year periods, upon terms and conditions mutually acceptable to the parties.

3.3. Should either party default in its obligations under this Agreement, the non-defaulting party shall provide written notice to the defaulting party of the default. The defaulting party shall be given ten (10) business days from receipt of the notice of default (or any such other amount of time agreed to by the parties, in writing) to remedy the default. If the default is not remedied within such time frame, the non-defaulting party may terminate this Agreement as provided in Section 3.1 hereof.

3.4. Notwithstanding the foregoing, or any other provision of this Agreement to the contrary, the CITY may terminate this Agreement at any time in the event of loss of funding for any reason by giving CONSULTANT twenty-four (24) hours' oral notice with written confirmation following. In the event this Agreement is terminated, the CONSULTANT shall be paid for any unpaid billings for all Services performed up to the date of receiving notice of termination, reasonable costs and fees associated with an orderly close-out of the work to the extent authorized in writing by the CITY.

3.5. Notwithstanding the foregoing, or any other provision of this Agreement to the contrary, in the event of a default, the non-defaulting party shall be entitled to all available remedies at law or equity.

ARTICLE 4. Meetings and Public Hearings:

The CONSULTANT will attend all meetings and public hearings relative to the Services being performed by it where its presence is determined to be necessary and requested by CITY and CONSULTANT can reasonably schedule its appearance.

ARTICLE 5: Delays:

Neither party shall be considered in default in the performance of its obligations hereunder to the extent that the performance of such obligation is prevented or delayed by any cause beyond the reasonable control of the affected party, and the time for performance of either party hereunder shall in such event be extended for a period equal to any time lost due to such prevention or delay.

ARTICLE 6: Suspension of Services:

The CITY may suspend the performance of the Services rendered by providing five (5) days' written notice of such suspension. Schedules for performance of the Services shall be amended by mutual agreement to reflect such suspension. In the event of suspension of Services, the CONSULTANT shall resume the full performance of the Services when directed in writing to do so by the Project Coordinator. Suspension of Services for reasons other than the CONSULTANT's negligence or failure to perform shall not affect the CONSULTANT's compensation as outlined in this Agreement.

ARTICLE 7: Payments for Services of CONSULTANT:

7.1. The CITY will compensate the CONSULTANT for the Services rendered hereunder in accordance with the following terms:

7.1.1. The CONSULTANT's professional fees under the terms of the Agreement shall be billed no more frequently than monthly for Services provided using invoices and such other

documentation satisfactory to the CITY to allow and authorize payment. Payments shall be made within forty-five (45) days after receipt of said invoices or other documentation by the CITY. To the extent that professional fees include reimbursement for travel or travel-related expenses, such fees shall be subject to and governed by the provisions and limitations of Chapter 106, Part 7, *Ordinance Code* of the CITY.

7.1.2. The maximum indebtedness of the CITY for all fees, reimbursable items ,or other costs for Services provided by CONSULTANT pursuant to this Agreement shall not exceed the sum of NINETY THOUSAND AND 00/100 DOLLARS (\$90,000.00) for the term of this Agreement.

7.2. The CITY's obligations under this Agreement are contingent upon availability of lawfully appropriated funds for the Project and this Agreement.

ARTICLE 8: Indemnity: Indemnity provisions are attached as **Exhibit "B."**

ARTICLE 9: Insurance: Insurance requirements are attached as **Exhibit "C."**

ARTICLE 10: Accuracy of Work:

10.1 The CONSULTANT shall be responsible for the accuracy of its work, including work by any subcontractors, and shall promptly make necessary revisions or corrections resulting from errors and omissions on the part of the CONSULTANT or subcontractors without additional compensation. Acceptance of the work by the CITY shall not relieve the CONSULTANT of the responsibility for subsequent corrections of any such errors and the clarification of any ambiguities.

10.2. At any time during the construction of the Project provided for by the Contract Documents or during any phase of work performed by others based on data furnished by the

CONSULTANT under this Agreement, the CONSULTANT shall confer with the CITY for the purposes of interpreting the information furnished and/or correcting any errors and/or omissions made by the CONSULTANT. The CONSULTANT shall prepare all drawings or data to correct its errors and/or omissions without added compensation, even though final payment may have already been received therefor.

10.3 The CONSULTANT shall be and shall remain liable in accordance with applicable law for all damages to the CITY caused by the CONSULTANT's breach of contract or its negligent performance of any of the Services furnished under this Agreement. The CONSULTANT shall not be responsible for any time delays in the Project caused by circumstances beyond the CONSULTANT's control.

Article 11: Nonwaiver:

Failure by either party to insist upon strict performance of any of the provisions hereof, either party's failure or delay in exercising any rights or remedies provided herein, the CITY's payment for the services or any part or combination thereof, or any purported oral modification or rescission of this Agreement by an employee or agent of either party shall not release either party from its obligations under this Agreement, shall not be deemed a waiver of any rights of either party to insist upon strict performance hereof or of either party's rights or remedies under this Agreement or by law, and shall not operate as a waiver of any of the provisions hereof.

ARTICLE 12: Ownership of Documents and Equipment:

The CONSULTANT agrees that upon completion of the services, all drawings, designs, specifications, renderings, notebooks, tracings, photographs, negatives, reports, findings, recommendations, software, source codes, data, and memoranda of every description arising out

of or relating to the Services rendered by the CONSULTANT under this Agreement are to become the property of the CITY, as well as all reference books, equipment, expendable equipment, and materials purchased with Project funds. The use of these materials in any manner by the CITY shall not support any claim by the CONSULTANT for additional compensation. The CONSULTANT shall have no liability to the CITY for damages, claims, and losses, including defense costs, arising out of any use of the aforementioned documents for any purpose other than as set forth in this Agreement without the written authorization of the CONSULTANT.

ARTICLE 13: Compliance with State and Other Laws/Licenses and Certifications:

In the provision of the Services, the CONSULTANT must comply with any and all applicable federal, state and local laws, rules, regulations, and ordinances, as the same exist and may be amended from time to time. Such laws, rules, regulations, and ordinances shall include, but are not limited to, Chapter 119, Florida Statutes, (the Florida Public Records Law) and Section 286.011, Florida Statutes, (the Florida Sunshine Law). Such laws, rules, regulations, and ordinances must also include, but are not limited to, obtaining and maintaining all licenses and certifications that are required to perform the Services contemplated in this Agreement in the City of Jacksonville, State of Florida. If any of the obligations of this Agreement are to be performed by a subcontractor, the provisions of this section shall be incorporated into and become a part of the subcontract.

ARTICLE 14: Nondiscrimination Provisions:

In conformity with the requirements of Section 126.404, *Ordinance Code*, CONSULTANT represents that it has adopted and will maintain throughout the term of this Agreement a policy of nondiscrimination or nonharassment against any person with regard to race,

color, sex (including pregnancy), sexual orientation, gender identity or expression, religion, political affiliation, national origin, disability, age, marital status, veteran status, or any other impermissible factor in recruitment, hiring, compensation, training, placement, promotion, discipline, demotion, transfers, layoff, recall, termination, working conditions, and related terms and conditions of employment. The CONSULTANT agrees that on written request it will permit reasonable access to its records of employment, employment advertisement, application forms, and other pertinent data and records by the Executive Director of the Community Relations Commission or successor agency or commission for the purpose of investigation to ascertain compliance with the nondiscrimination provisions of this Agreement; *provided however*, that the CONSULTANT shall not be required to produce for inspection records covering periods of time more than one (1) year prior to the day and year first above written. The CONSULTANT agrees that if any of the Services to be provided pursuant to this Agreement are to be performed by a subcontractor, the provisions of this Article 14 shall be incorporated into and become a part of the subcontract.

ARTICLE 15: Equal Employment Opportunity.

The Equal Opportunity clause in Title 41, Part 60-1.4 of the Code of Federal Regulations (Paragraphs 1 through 7 of President's Executive Order 11246), the provisions of the Equal Opportunity for Individuals with Disabilities Act in 42 U.S.C. Sections 12112, the Listing of Employment Openings for Veterans Clause in Title 41, Part 50-260.2 of the Code of Federal Regulations, and the Disabled Veterans and Veterans of the Vietnam era Clause in Title 41, Part 60-250.5 of the Code of Federal Regulations are incorporated herein by reference if and to the extent applicable. If the CONSULTANT is exempt from any of the above-cited terms, written

evidence of such exempt status must be provided to the CITY.

ARTICLE 16: Contingent Fees Prohibited:

In conformity with Section 126.306, *Ordinance Code*, CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of these provisions, the CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

ARTICLE 17: Truth in Negotiation:

In conformity with Section 126.305, *Ordinance Code*, CONSULTANT understands and agrees that execution of this Agreement by the CONSULTANT shall be deemed to be simultaneous execution of truth-in-negotiation certificate under this provision to the same extent as if such certificate had been executed apart from this Agreement, such certificate being required by Section 126.305, *Ordinance Code*, for professional services contracts over sixty-five thousand dollars. Pursuant to such certificate, the CONSULTANT hereby states that the wage rates and other factual unit costs supporting the compensation hereunder are accurate, complete, and current at the time of contracting. Further, the CONSULTANT agrees that the compensation hereunder shall be adjusted to exclude any significant sums where the CITY determines the contract price

was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs, provided that any and all such adjustments shall be made within one (1) year following the completion date of this Agreement.

ARTICLE 18: Independent Contractor:

In the performance of this Agreement, the CONSULTANT shall be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer, or associate of the CITY. The CONSULTANT shall be solely responsible for the means, methods, techniques, sequences, and procedures utilized in the full performance of this Agreement.

ARTICLE 19: Retention of Records/Audit:

19.1 The CONSULTANT must establish and maintain books, records, contracts, subcontracts, papers, financial records, supporting documents, statistical records, goods, services, and all other documents in whatsoever form or format, including but not limited to electronic storage media, (for purposes of this Article 19, hereinafter referred to as the "Records") sufficient to reflect all receipt and expenditures of funds provided by the CITY under this Agreement.

19.2 The CONSULTANT must retain all Project Records pertinent to this Agreement for a period of three (3) years after completion of the Project. If an audit has been initiated and audit findings have not been resolved at the end of six years, the Records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement, at no additional cost to the CITY. Records shall be retained for longer periods when the retention period exceeds the time frames required by law or ordinance.

19.3 Upon demand, at no additional cost to the CITY, the CONSULTANT must facilitate the duplication and transfer of any Records during the required retention period in Section 19.2 hereof.

19.4 The CONSULTANT must provide these Records at all reasonable times for inspection, review, copying, and/or audit by the CITY.

19.5 At all reasonable times for as long as the Records are maintained, The CONSULTANT must allow persons duly authorized by the CITY to have full access to and the right to examine any of the CONSULTANT's Records relative to the Project, regardless of the form in which kept.

19.6 The CONSULTANT, at its sole and exclusive cost and expense, must provide audits or reports as requested by the CITY and must insure that all related party transactions are disclosed to the auditor.

19.7 The CONSULTANT must comply and cooperate immediately with any inspections, reviews, and investigations, deemed necessary by the CITY.

19.8 The CONSULTANT must permit the CITY to interview any employees, subcontractors, and subcontractor employees of the CONSULTANT to assure the CITY of the satisfactory performance of the terms and conditions of this Agreement. Following such review, if performance of the CONSULTANT is, in the opinion of the CITY, deficient, the CITY will deliver to the CONSULTANT a written report of the deficiencies and request for development by the CONSULTANT of a corrective action plan. The CONSULTANT hereby agrees to prepare and submit, to the CITY, said corrective action plan within ten (10) days of receiving the CITY's written report. Thereafter, the CONSULTANT must correct all deficiencies in the corrective

action plan within ten (10) days from the CITY's receipt of the corrective action plan.

19.9 All reports, audits, and other information provided by the CONSULTANT pursuant to this section shall contain the following statement: "The information provided to the City of Jacksonville in this submittal is submitted under penalties of perjury, under Section 837.06, Florida Statutes."

19.10 To the extent that the CONSULTANT uses subcontractors in the performance of the Services under this Agreement, or assigns this Agreement with prior CITY consent, the CONSULTANT must include the aforementioned audit, inspections, investigations, and record keeping requirements in all subcontracts and assignments.

ARTICLE 20: Governing State Law/Venue/Severability:

The rights, obligations, and remedies of the parties as specified under this Agreement shall be interpreted and governed in all aspects by the laws of the State of Florida. Should any provision of this Agreement be determined by the courts to be illegal or in conflict with any law of the State of Florida, the validity of the remaining provisions shall not be impaired. Venue for litigation of this Agreement shall be in courts of competent jurisdiction located in Jacksonville, Duval County, Florida.

ARTICLE 21: Article Headings:

Article headings appearing herein are inserted for convenience or reference only and shall in no way be construed to be interpretations of text.

ARTICLE 22: Construction:

Both parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Therefore any doubtful or ambiguous provisions

contained herein shall not be construed against the party who physically prepared this Agreement. The rule sometimes referred to as “*Fortius Contra Proferentem*” shall not be applied to the interpretation of this Agreement.

ARTICLE 23: Successors and Assigns/Personal Liability:

The CITY and the CONSULTANT each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this Agreement, and any assignment or transfer by the CONSULTANT of its interests in this Agreement without the prior written consent of the CITY shall be void, in the sole discretion of the CITY. Nothing herein shall be construed as creating any personal liability on the part of any officer, employee, or agent of the CITY.

ARTICLE 24: Notice:

All notices under this Agreement shall be delivered by certified mail, return receipt requested, or by other delivery with receipt to the following:

As to the CITY:

Eric Hinton, Planner II
Planning and Development Department
Ed Ball Building
214 N. Hogan Street, Suite 300
Jacksonville, Florida 32202

With a copy to:
Office of General Counsel
Attn: Government Operations Department
117 West Duval Street, Suite 480
Jacksonville, FL 32202

As to the CONSULTANT:

Dr. Gerard Pinto
Assoc. Research Scientist

Marine Science Research Institute
Jacksonville University
2800 University Boulevard N.
Jacksonville, FL 32211

ARTICLE 25: CONSULTANT Defined:

As used herein, the term “CONSULTANT” shall include but not be limited to Jacksonville University, its officers, employees, agents, subconsultants, and other persons, firms, partnerships, corporations, or other entities working for it or on its behalf.

ARTICLE 26: Ethics in Professional Service Agreements:

The CONSULTANT represents that it has reviewed the provisions of the Jacksonville Ethics Code, as codified in Chapter 602, *Ordinance Code*, and the provisions of the Jacksonville Purchasing Code, as codified in Chapter 126, *Ordinance Code*.

ARTICLE 27: Conflict of Interest:

The parties will follow the provisions of Section 126.110, *Ordinance Code*, with respect to required disclosures by public officials who have or acquire a financial interest in a bid or contract with the CITY, to the extent the parties are aware of the same.

ARTICLE 28: Public Entity Crimes Notice:

The parties are aware and understand that a person or affiliate who has been placed on the State of Florida Convicted Vendor List following a conviction for a public entity crime may not: submit a bid on a contract to provide any goods or services to a public entity; submit a bid on a contract with a public entity for the construction or repair of a public building or public work; submit bids on leases of real property to a public entity; be awarded or perform work as a contractor, supplier, subcontractor, or CONSULTANT under a contract with any public entity; or, transact business with any public entity, in excess of \$35,000.00, for a period of thirty-six (36)

months from the date of being placed on the Convicted Vendor List.

ARTICLE 29: Entire Agreement/Amendments:

This Agreement constitutes the entire agreement between the parties hereto for the Services to be performed and furnished by the CONSULTANT hereunder. No statement, representation, writing, understanding, agreement, course of action, or course of conduct made by either party or any representative of either party which is not expressed herein shall be binding. All changes to, additions to, modifications of, or amendments to this Agreement or any of the terms, provisions, and conditions hereof shall be binding only when in writing and signed by the authorized officer, agent, or representative of each of the parties hereto.

ARTICLE 30: Prompt Payment:

30.1 Generally. When CONSULTANT receives payment from the CITY for labor, services, or materials furnished by subconsultants or subcontractors and suppliers hired by the CONSULTANT, the CONSULTANT shall remit payment due (less proper retainage) to those subconsultants, subcontractors, and suppliers within fifteen (15) calendar days after the CONSULTANT's receipt of payment from the CITY. Nothing herein shall prohibit the CONSULTANT from disputing, pursuant to the terms hereof, all or any portion of a payment alleged to be due to its subconsultants, subcontractors, and suppliers. In the event of such dispute, CONSULTANT may dispute the disputed portion of any such payment only after the CONSULTANT has provided notice to the CITY and to the subconsultant, subcontractor, and supplier whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and, (iv) be delivered to the CITY and said subconsultant, subcontractor, or supplier within ten (10) calendar days after

CONSULTANT's receipt of payment from the CITY. The CONSULTANT shall pay all undisputed amounts due within the time limits imposed by this section.

30.2. Jacksonville Small and Emerging Business Enterprise and Minority Business Enterprise Participation. Notwithstanding Chapter 126, Part 6 of the Jacksonville Ordinance Code, Contractor shall pay all contracts awarded with certified Jacksonville Small and Emerging Business Enterprises ("JSEB") and Minority Business Enterprises ("MBE"), as defined therein, their pro rata share of their earned portion of the progress payments made by Buyer under the Contract within seven (7) business days after Contractor's receipt of payment from Buyer (less proper retainage). The pro-rata share shall be based on all work completed, materials and equipment furnished, or services performed by the certified JSEB or MBE at the time of payment. As a condition precedent to progress and final payments to Contractor, Contractor shall provide to Buyer, with its requisition for payment, documentation that sufficiently demonstrates that Contractor has made proper payments to its certified JSEB's or MBE's from all prior payments Contractor has received from Buyer. Contractor shall not unreasonably withhold payments to certified JSEB's and MBE's if such payments have been made to Contractor. If Contractor withholds payment to its certified JSEB's or MBE's, which payment has been made by Buyer to Contractor, Contractor shall return said payment to Buyer. Contractor shall provide notice to Buyer and to the certified JSEB's or MBE's whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and (iv) be delivered to Buyer and said JSEB's or MBE's within five (5) calendar days after Contractor's receipt of payment from Buyer. Contractor shall pay all undisputed amounts due within the time limits imposed in this Section. The failure to pay undisputed amounts to the

JSEB's or MBE's within seven (7) business days shall be a breach of the Contract, compensable by one percent (1%) of the outstanding invoice being withheld by Buyer, not as a penalty, but as liquidated damages to compensate for the additional contract administration by Buyer.

30.3. Third Party Liability. The Prompt Payment requirements hereunder shall in no way create any contractual relationship or obligation between the CITY and any subconsultant, subcontractor, supplier, JSEB, MBE, or any third party or create any CITY liability for CONSULTANT's failure to make timely payments hereunder. However, CONSULTANT's failure to comply with the Prompt Payment requirements shall constitute a material breach of CONSULTANT's contractual obligations to the CITY. As a result of said breach, the CITY, without waiving any other available remedy it may have against the CONSULTANT, may (i) issue joint checks and (ii) charge the CONSULTANT a 0.2% daily late payment interest charge or charges specified in said Chapter 126 of the Code for JSEBs or MBEs and in Chapter 218, Florida Statutes, for non-JSEBs or non-MBEs, whichever is greater.

ARTICLE 31: Incorporation by Reference:

The "Whereas" recitals at the beginning of this Agreement are true and correct and, by this reference, are made a part hereof and are incorporated herein. Similarly, all exhibits and other attachments to this Agreement that are referenced in this Agreement are by this reference made a part hereof and are incorporated herein.

ARTICLE 32: Order of Precedence:

In the event of any conflict between or among the provisions of this Agreement and those of any exhibit attached hereto or of any amendment, the priority, in decreasing order of precedence shall be: 1) fully executed amendment; 2) provisions in this Agreement; and 3) exhibits to this

Agreement.

ARTICLE 33: Counterparts

This Agreement, and all amendments thereto may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

ARTICLE 34: Public Records

34.1. In accordance with Section 119.0701, Florida Statutes, Contractor shall:

34.1.1. Keep and maintain public records required by City to perform the services; and

34.1.2. Upon request from City's custodian of public records, provide City with a copy of the requested records or allow records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for in Chapter 119, Florida Statutes, or as otherwise provided by law; and

34.1.3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of this Contract if Contractor does not transfer the records to City; and

34.1.4. Upon completion of this Contract, transfer to City at no cost all public records in possession of Contractor or keep and maintain public records required by City to perform the service. If Contractor transfers all public records to City upon completion of this Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt

from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of this Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to City upon request from City's custodian of public records in a format that is compatible with City's information technology systems.

34.2. The above requirements apply to a "Contractor" as defined in Section, 119.0701, Florida Statutes.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT (904) 630-7678; PRR@COJ.NET; CITY OF JACKSONVILLE, PUBLIC RECORDS REQUEST, 214 N. HOGAN STREET, SUITE 1180, JACKSONVILLE, FLORIDA 32202.

[Remainder of page intentionally left blank. Signature page to follow.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

ATTEST:

CITY OF JACKSONVILLE

By _____
James R. McCain, Jr.
Corporation Secretary

By _____
Donna Deegan, Mayor

ATTEST:

JACKSONVILLE UNIVERSITY

By Beverly A. Reid
Signature
Beverly A. Reid
Type/Print Name
Executive Assistant to CFO
Title

By [Signature]
Signature
Randal J. Freebourn
SVP/CFO
Title

In accordance with the *Ordinance Code*, of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; and that provision has been made for the payment of monies provided therein to be paid.

Director of Administration and Finance
CITY Contract Number: _____

Form Approved:

Office of General Counsel

Exhibit "A"
"Scope of Services"

Exhibit A – Scope of Services

Manatee Protection Project

Continuation

City of Jacksonville

Duval County, Florida

October 1, 2023 - September 30, 2024

Prepared by:

Gerard Pinto, Ph.D.

Jacksonville University
Jacksonville, FL 32211

I. General Information:

Request for Proposal from: City of Jacksonville, Florida
Waterways Commission

Subject: Maintaining a Comprehensive Database
for a Manatee Management Protection
Plan and Manatee Awareness Program;
Consultant to Waterways Commission on
Water related matters

Location: Duval County, Florida

II. A - Background and General Information:

This proposal is to continue the contract to maintain the comprehensive database for the Duval County Manatee Protection Plan that was approved by the State of Florida. This proposal is for the period October 1, 2023, to September 30, 2024.

The City of Jacksonville has embarked on a focused vision to activate the St. Johns River with extensive effort to promote development and increase boating activity on the St. Johns River. The Florida Manatee (Trichechus manatus) is Florida's State Marine mammal and is a significant concern to the people of Duval County, as well as the entire state. Throughout Florida, the manatee, which is protected under state and federal law, has suffered increasing mortality with the majority of the deaths repeatedly related to boating activities. Northeast Florida, including Duval County, has shown a general decline in manatee deaths over the last several years.

The St. Johns River provides habitat for the manatee along with supporting a tremendous recreational and industrial use. Boat traffic in the river is very diverse. It includes port facilities for large industrial and commercial shippers, commercial fishing, sport fishing and recreational activity. More than 200 large commercial boats/ships per month enter and exit the mouth of the St. Johns River in Duval County with the number expected to increase over the next decade with the possible deepening of the port channel. These vessels represent a significant economic factor for Duval County and the entire First Coast area. In addition, there are almost 30,000 recreational boats registered in Duval County.

A wide range of manatee usage of the St. Johns River has been observed. Manatees are most often seen traveling, or moving from one location to another. Manatees were also observed feeding, cavorting/mating and resting. Distribution varies throughout the year with sightings of manatees during the late winter season being uncommon. Manatee abundance in Duval County waters increased during the spring and peaked during the late summer (Valade 1991, White 2002). Jacksonville University has conducted additional studies to build a significant database to be used to develop a Manatee Management Plan.

The large amount of boating activity on the St. Johns River and the number of manatees which have been documented using the river make it critical that a comprehensive management plan for the waters of Duval County be enacted to protect both manatee and human activity. We have been accumulating information on the manatee usage of the St. Johns River in an effort to provide a complete database and foundation for a comprehensive management plan. Several areas of research are necessary to continue to document the habitat, manatee usage and human usage of the St. Johns River.

Jacksonville University has been gathering existing information concerning manatee behavior and natural history including studies performed by various state, county, city agencies, along with universities and consultants. Studies on boaters including industrial, commercial sport and commercial fishing and recreation have also been included in the database.

Although a diverse amount of information exists concerning the manatee, very little information exists on the effects of boating on the manatee population. This proposal will expand the Manatee Awareness Program and examine boating activity on manatee behavior.

B. Description of Project:

This proposal outlines a “Scope of Services” for the continuation of the Manatee Protection Plan. The study/project is to continue to assemble and analyze an information database in order to update the management plan so that it continues to provide adequate protection for all concerned. In addition, public support of the plan can be enhanced through education and input from concerned citizens and industries.

In addition, this proposal includes environmental consulting services to the Waterways Commission on water related issues concerning the St. Johns River, its tributaries and near shore waters of the Atlantic Ocean. Any additional scope of services can be negotiated on per-need cost basis.

III. Scope of Work:

JU Manatee Contract Deliverables – 2023-2024

TASK 1 Support Jacksonville Waterways Commission - Monthly

Provide monthly updates on manatee research, artificial reefs, and relevant water-related issues in Duval County. At the end of the year, provide summary of discussion topics.

TASK 2 Continuation of Manatee Sighting – 3 times per year

Continuation of manatee sighting flights for the county by aerial surveillance to determine movement patterns of manatees. This information will be collected using surveys conducted approximately three times a year, with additional flights when possible.

TASK 3 Waterways/ Manatee Signage

Jacksonville University will continue to monitor and report signage issues that need to be maintained and/or corrected to FWC and maintain a database, including location, condition, and type, of all COJ manatee information signs and kiosks, which will include all commercial and multi-family marinas and docks.

TASK 4 Community Education Efforts

- A. JU will report summaries of educational efforts to the City quarterly.
- B. When requested, JU will work with the COJ, JSO, FWC, and FWS LE to develop up-to-date pamphlets to be distributed via boat facilities and/or mail outs. Pamphlets will include boating safety and manatee protection zones. JU is not responsible for printing and mailing of pamphlets.
- C. Explore and develop new education and awareness programs when requested.
- D. Maintain JU website, ju.edu/MARCO.
- E. Track number of calls to JU Manatee Hot Line and related contacts via email and social media.
- F. Maintain and update, as necessary, PowerPoint presentation for educational programming.

TASK 5 Port Education/Awareness Reporting – Report quarterly

Upon reconstitution of the Jacksonville Marine Transportation Exchange (JMTX), or the establishment of a similar association of commercial and governmental organizations, as described in the Duval County Manatee Protection Plan, 4th edition, JU shall:

- A. Work with port entities to track level of shipping activity, determine which of the manatee efforts are working, and assist in making manatee programs effective.
- B. Educate commercial ship operators about manatee safe-docking procedures.

- C. Work to decrease incidents of large ships displacing or destroying waterway signage.
- D. Attend meetings as necessary.

TASK 6 Law Enforcement Efforts – Report quarterly

- A. Attend COJ Law Enforcement Task Force meetings.
- B. Through the Law Enforcement Task Force, work with JSO to provide information requested by USFWS.
- C. Track law enforcement efforts and direct JSO to target certain areas for the most efficient and effective use of resources.

At the end of the year, summarize law enforcement activities and make recommendations for better coordination and communication.

TASK 7 Marine Facility Inventory

Provide COJ with updated marine facility inventory database of all facilities with five more slips in Duval County, indicating any significant changes in 2022-2023. Database will include:

- A. List of all marinas – wet and dry storage, public and private, and multi-family.
- B. Number of slips and percentage of occupancy.
- C. List of all boat ramps and number of parking spaces and launch lanes.
- D. List of all commercial facilities and number of slips.
- E. Provide database to the City.

TASK 8 – 5-Yr MPP Review

Work with FWC and USFWS to develop expectations and a timeline for the update.

TASK 9 MPP Implementation Report – Provide report at end of the year

Compile and write yearly implementation summary report due to FWC. Analyze and summarize all MPP data collected and compare protection and education efforts to past years. Report to include but not limited to the following tasks:

- A. All manatee education presentations provided by COJ, JU, and JSO. Documented items will include:
 - 1. The number and types of presentations.
 - 2. Type of group: public or private.
 - 3. The intensity of use of various educational materials.
 - 4. Gauge of public reception.
 - 5. Any other information that will help evaluate manatee awareness program effectiveness.
- B. Manatee Mortality Data – Provide to COJ end of the year report/maps.
- C. Manatee Habitat Resource Map – Provide to COJ updated GIS map.
- D. Summarize JSO law enforcement efforts based on JSO reports and input.
- E. Make recommendations on all MPP implementation tasks.

IV. Budgetary Schedule.

Funding of this project is a fixed fee of \$90,000. Both JU benefits costs and flight costs have increase for the next year. The budget includes all specific objectives, all consultant's fees, direct labor, benefits (30%), travel, materials, aerial survey and overhead (10%). Any additional services will be negotiated on an as needed basis.

V. Insurance Requirements.

Jacksonville University shall procure and maintain during the entire life of this agreement insurance of the types and in the minimum amounts as required by the City of Jacksonville.

VI. Fee Submittal.

Invoices will be submitted monthly and are payable upon receipt by the City of Jacksonville.

JU Manatee Study - Insurance Requirements

Without limiting its liability under this agreement, the Consultant and/or its sub-consultants shall procure and maintain at their sole expense, during the term of the project, insurance of the type and in the minimum amount stated below:

SCHEDULE

Workers Compensation
Employer's Liability
(including appropriate Federal Acts)

LIMITS

Florida Statutory Coverage
\$100,000 Each Accident
\$500,000 Disease Policy Limit
\$100,000 Each Employee/Disease

Commercial General Liability
Premises- Operations
Products- Completed Operation
Contractual Liability
Independent Contractors

\$2,000,000 General Aggregate
\$2,000,000 Products/Comp. Ops. Agg.
\$1,000,000 Personal/Advertising Injury
\$1,000,000 Each Occurrence
\$50,000 Fire Damage
\$5,000 Medical Expenses

(The City of Jacksonville shall be named as an additional insured under a/l of the above Commercial General Liability coverage)

Automobile Liability.
(All Automobiles-Owned, Hired or Non-owned)

\$1,000,000 Combined Single Limit

Professional Liability

\$1,000,000

(Professional Liability coverage will be provided on an Occurrence Form or a Claims made Form with a retroactive date equal to at least the first date of this agreement and with a three year reporting option beyond the annual expiration date of the policy)

Aircraft Liability

\$1,000,000

(The City of Jacksonville shall be named as an additional insured under Aircraft Liability coverage)

Watercraft Liability (Protection and Indemnity)

\$1,000,000

(The City of Jacksonville shall be named as additional insured under the Watercraft Liability coverage)

Depending on the nature of the work required in this project and its accompanying exposures and liabilities, the CITY may, at its sole option, require additional security instruments (e.g. bonds) and insurance coverage of the types and in the amounts responsive to those liabilities which may or may not require the CITY also be named as an additional insured.

Said insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida Statutes. Such insurance shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City. Such insurance shall be written by an insurer with an A. M. Best Rating of A X or better. Prior to commencing any work on the project, Certificates of Insurance approved by the City's Division of Insurance & Risk Management evidencing the maintenance of the required insurance shall be furnished to the City. The certificates shall provide that no material alteration or cancellation, including expiration and non-renewal shall be effective until thirty (30) days after receipt of written notice by the City.

Anything to the contrary notwithstanding, the liabilities of the Consultant under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverages. Neither approval nor failure to disapprove insurance furnished by the consultant shall relieve the consultant or its subconsultants from responsibility to provide insurance as required by the contract.

Manatee Protection Plan

Baseline Study

Cost Estimate Summary.

Direct Labor

Salary Senior Scientist	\$ \$60,000
Benefits @ 30% of Direct Labor	<u>\$ 18,000</u>
	\$ 78,000

Travel \$ 500

Material and Supplies \$ 500

Aviation \$2,800

Subtotal \$81,800

Overhead - 10% of Subtotal \$8,200

Total \$90,000

Note: Benefits to include, as appropriate, social security, medical insurance and retirement contributions.

Exhibit B
Indemnification

Consultant shall hold harmless, indemnify, and defend the City of Jacksonville and City's members, officers, officials, employees and agents (collectively the "Indemnified Parties") from and against, without limitation, any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs and expenses of whatsoever kind or nature, which may be incurred by, charged to or recovered from any of the foregoing Indemnified Parties for:

1. General Tort Liability, for any negligent act, error or omission, recklessness or intentionally wrongful conduct on the part of the Indemnifying Parties that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Indemnifying Parties' performance of the Contract, operations, services or work performed hereunder; and

2. Environmental Liability, to the extent this Contract contemplates environmental exposures, arising from or in connection with any environmental, health and safety liabilities, claims, citations, clean-up or damages whether arising out of or relating to the operation or other activities performed in connection with the Contract; and

3. Intellectual Property Liability, to the extent this Contract contemplates intellectual property exposures, arising directly or indirectly out of any allegation that the Services, any product generated by the Services, or any part of the Services as contemplated in this Contract, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right. If in any suit or proceeding, the Services, or any product generated by the Services, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Parties shall, immediately, make every reasonable effort to secure within 60 days, for the Indemnified Parties a license, authorizing the continued use of the Service or product. If the Indemnifying Parties fail to secure such a license for the Indemnified Parties, then the Indemnifying Parties shall replace the Service or product with a non-infringing Service or product or modify such Service or product in a way satisfactory to Buyer, so that the Service or product is non-infringing.

If an Indemnified Party exercises its right under this **Contract**, the Indemnified Party will (1) provide reasonable notice to the Indemnifying Party of the applicable claim or liability, and (2) allow Indemnifying Party, at its own expense, to participate in the litigation of such claim or liability to protect its interests. **The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by, any insurance provided pursuant to the Contract or otherwise. Such terms of indemnity shall survive the expiration or termination of the Contract.**

In the event that any portion of the scope or terms of this indemnity is in derogation of Section 725.06 or 725.08 of the Florida Statutes, all other terms of this indemnity shall remain in full force and effect. Further, any term which offends Section 725.06 or 725.08 of the Florida Statutes will be modified to comply with said statutes.

Exhibit C
Insurance Requirements

Without limiting its liability under this Contract, Consultant shall at all times during the term of this Contract procure prior to commencement of work and maintain at its sole expense during the life of this Contract (and Consultant shall require its, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

Insurance Coverages

Schedule	Limits
Worker's Compensation	Florida Statutory Coverage
Employer's Liability	\$ 1,000,000 Each Accident
	\$ 1,000,000 Disease Policy Limit
	\$ 1,000,000 Each Employee/Disease

This insurance shall cover the Consultant (and, to the extent they are not otherwise insured, its subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employers' Liability Act, USL&H and Jones, and any other applicable federal or state law.

Commercial General Liability	\$2,000,000	General Aggregate
	\$2,000,000	Products & Comp. Ops. Agg.
	\$1,000,000	Personal/ Advertising Injury
	\$1,000,000	Each Occurrence
	\$ 50,000	Fire Damage
	\$ 5,000	Medical Expenses

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City's Office of Insurance and Risk Management. An Excess Liability policy or Umbrella policy can be used to satisfy the above limits.

Automobile Liability	\$1,000,000	Combined Single Limit
(Coverage for all automobiles, owned, hired or non-owned used in performance of the Contract)		

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

Watercraft Liability \$1,000,000 Per Occurrence
(to the extent that watercraft is utilized by the Consultant.)

Additional Insurance Provisions

- A. Certificates of Insurance. Consultant shall deliver to the City of Jacksonville Certificates of Insurance that shows the corresponding City Contract , Bid Number or PO if applicable in the Description, Additional Insured, Waivers of Subrogation and s t a t e m e n t as provided below. The certificates of insurance shall be insurance certificate shall be made available upon request of the City of Jacksonville.
- B. Additional Insured: All insurance except Worker's Compensation shall be endorsed to name the City of Jacksonville and their respective members, officers, officials, employees, and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and, if products and completed operations is required, CG2037, Automobile Liability in a form no more restrictive than CA2048.
- C. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville its respective members, officers, officials, employees and agents
- D. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to Chapter 624, Florida Statutes or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.
- E. Insurance Primary. The insurance provided by the Consultant shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City of Jacksonville and their respective members, officers, officials, employees, and agents
- F. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Agreement shall remain the sole and exclusive responsibility of the named insured Consultant. Under no circumstances will the City of Jacksonville its respective members, officers, officials, employees, and agents be responsible for paying any deductible or self-insured retention related to this Contract.
- G. Agreement Insurance Additional Remedy. Compliance with the insurance requirements of this Agreement shall not limit the liability of the Consultant or its subcontractors, employees, or agents to the City of Jacksonville its respective members, officers, officials, employees, and agents and shall be in addition to and not in lieu of any other remedy available under this Agreement or otherwise.

- H. Waiver/Estoppel. Neither approval by City of Jacksonville nor its failure to disapprove the insurance furnished by Consultant shall relieve the Consultant of the University's and OCEARCH's full responsibility to provide insurance as required under t h i s Contract.
- I. Notice. The Consultant shall provide an endorsement issued by the insurer to provide the City of Jacksonville thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including through expiration or non-renewal. If such endorsement is not provided, the Consultant, shall provide said thirty (30) days written notice of any change in the above coverages or limits, or of coverages being suspended, voided, cancelled, including through expiration or non-renewal.
- J. Survival. Anything to the contrary notwithstanding, the liabilities of the Consultant under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.
- K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City of Jacksonville may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City of Jacksonville and its respective members, officers, officials, employees and agents also be named as an additional insured.
- L. Special Provision: Prior to executing this Agreement, Consultant shall present this Agreement and insurance requirements to its Insurance Agent Affirming: 1) that the agent has personally reviewed the insurance requirements of the Agreement Documents, and (2) that the agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Contract.