

WHEREAS, the City desires to protect the health and safety of the public by trying to prevent infrastructure, sewer, and construction debris from being swept into the waters surrounding the City; and

WHEREAS, two conditions to the issuance of any state or federal permitting for the Restoration Project are that all sandbags, previously placed in the affected areas must be removed by the person or entity who placed them, prior to the project's start, and all non-beach-compatible sand contained in any such bags must be removed from the beach and disposed of in a proper manner; and

WHEREAS, the City has funded and coordinated the work necessary for the issuance of the appropriate state and federal agency permits (the "Permits") to conduct the Restoration Project, and issuance of the Permits should occur soon.

NOW THEREFORE, in consideration of the premises and the mutual covenants and promises of the Parties hereto set forth in this Agreement, the Parties agree as follows:

1. CITY'S WORK.

- A. For purposes of this Agreement, the "City's Work" is defined as all activities allowed or required by the Permits for the Restoration Project within the vicinity of the beach within Reaches One and Two as depicted in Coastal Science Engineering ("the Engineer") plans dated February 18 2026 (the "Plans") and attached herein as Exhibit 1, except as otherwise stated in this Agreement, including, but not limited to, off-shore dredging activities, consultants, construction administration, all monitoring required by the Permits, all sand tilling required by the Permits, depositing dredged sand, and sea turtle protection and monitoring activities required by the Permits.
- B. For purposes of this Agreement, the City's Work does not include any work outside of Reaches One and Two. The City is working separately on Reach Three, but that work is excluded from this Agreement and no funds from the Association will be used for any work associated with Reach Three. (See sheet six of the Plans.)
- C. For purposes of this Agreement, the City's Work includes the removal of sandbags placed by the City and some of the Association's members. This removal must happen as a condition of prior Emergency Orders issued to the City and because this condition predates this agreement, no funds from the Association will be used for the removal of sandbags.
- D. The City's Work does not include any inspections, engineering, repairs, or other costs regarding the condition, safety, or structural integrity of any building, either before, during, or after completion of the City's Work.
- E. The City's Work does not include the removal or disposal of any building debris, including, but not limited to, concrete, wood, glass, sheetrock, or pipes, which is located on or near the active beach.

2. ESTIMATED COSTS FOR THE CITY'S WORK.

- A. The cost for the City's Work under this Agreement is estimated by the City to be up to Fifteen Million Two Hundred Twenty-four Thousand Eight Hundred Sixty-Five dollars and no/100 (\$15,224,865.00) Dollars. The City's Work costs include but are not limited to all fees and costs incurred by City associated with: any additional permitting; dredging; sand placement; engineering; consultants; legal; sand tilling required by the Permits; sea turtle protection and monitoring activities required by the Permits; and all other fees and costs incurred by the City in order to comply with the Permits and complete the City's Work.
- B. The City's contribution may be reduced by contributions toward the costs of the City's Work made by any other state, federal or local political subdivision. Such outside contributions would not reduce the Association's Contribution.
- C. The City shall not perform or complete the City's Work under the Permits unless and until the balance of the costs for the City's Work has been funded by the City's Contribution, the Association's Contribution, and state / federal sources.
- D. The City agrees to maintain separate accounting records for the City's Work. All records of the City's Work shall be available for inspection by the Association at all reasonable times.

3. COST SHARING.

- A. Basis. The basis for the cost sharing between the City and the Association is the percentage of funds generated on the Island from Accommodations Taxes which in part, funds the City's Beach Preservation Fund. This percentage was determined by using the reported gross income for short term rental licenses and business licenses for the 2025 license year, not actual Accommodations Taxes collected. The Parties agree that this percentage in 2025 was 47% from members of the Association and 53% from all other properties outside of the association and the schedule of reported revenues is attached to this Agreement as Exhibit 2.
- B. Sharing Percentages. In recognition of these contributions, the City and the Association agree that they will share the costs of the City's Work on a 47% by the City - 53% by the Association as provided in the attached Exhibit 3. The City anticipates that the north end project will involve approximately 1.7 million cubic yards of sand; however, the Association acknowledges that the final scope of the project may vary due to factors beyond the City's control, including but not limited to natural conditions. The City agrees to provide the Association with reasonable notice if the anticipated scope of the project is expected to materially change.

~~B.C.~~ Additional Costs. Additional project costs will be split based on a pro rata share of placed sand as provided in 3B.

~~C.D.~~ City Exclusive Costs. The City will fund 100% of all project costs in Reach 3, located at the southern end of the Island, which is excluded from this Agreement, based on its share of the total volume of sand placed across all Reaches. An example of this calculation is provided herein as Exhibit 3.

~~D.E.~~ Change Orders. The City will not execute change orders for the construction project that change the cost or amount of sand placement without prior written approval from the Association.

4. ESCROW DEPOSIT TOWARD COSTS OF THE RESTORATION PROJECT.

A. Association's Contribution. The Association agrees to deposit the full amount of the Association's Contribution in escrow with the City no later than ~~ten (10) days from the date City Council votes on and approves this Agreement. 30 days from the date of receiving bids.~~ ten (10) days from the date City Council votes on and approves this Agreement. ~~30 days from the date of receiving bids.~~ TIME IS OF THE ESSENCE. This amount shall be placed in an interest-bearing bank account and held in trust by the City pending the execution of this Agreement, and all accrued interest shall be credited to the Association's Contribution.

B. Replenishment of Escrow Account. If at any time both parties agree to expand the scope or scale of the Restoration Project and the amounts dictated by this agreement are insufficient, the City shall provide a written amendment to this Agreement. The Association agrees to replenish the escrow account with enough money to restore the deficit within thirty (30) days from the date of City's written amendment (the "Replenishment Deposit"). TIME IS OF THE ESSENCE.

C. Refund upon failure to make Initial Deposit or Replenishment Deposit. If the Association fails to make the initial escrow deposit of the Association's Contribution as set forth in paragraph (A) of this Section or any subsequent Replenishment Deposits as set forth in paragraph (B) of this Section, then the City has the right to terminate the City's Work without further notice and withdraw its application for the Permits or, if issued, surrender or transfer the Permits. In such case, the balance of the escrow deposit, if any, will be refunded to the Association ninety (90) days after all fees and costs already incurred in connection with the City's effort to execute the City's Work pursuant to this Agreement have been satisfied.

5. REFUND OF REMAINING BALANCE UPON COMPLETION OF RESTORATION PROJECT. Substantial Completion shall occur upon the Engineer's written confirmation that all beach fill quantities included in the Base Bid and any awarded Alternates have been placed in accordance with the Contract Documents. Final Completion shall occur upon completion of all remaining Work, including final grading, demobilization, close-out documentation, and the City's formal acceptance of the Work following Engineer's

recommendation for final payment for the project. No later than ninety (90) days after Final Completion, the City will refund any remaining balance of the Association's Contribution after paying the costs of the City's Work.

6. TIME PERIOD FOR COMPLETION OF RESTORATION PROJECT. The time period for completion of the Restoration Project shall be set forth in the Permits or any extensions or amendments thereto. If extensions for the Permits are needed, the City will use commercially reasonable efforts to obtain such extensions. If the City is unable, for any reason whatsoever, to perform or complete the Restoration Project by the expiration date of the Permits or any extensions or amendments thereto, the balance of the Association's Contribution remaining in escrow, if any, will be refunded to the Association ninety (90) days after all fees and costs incurred in connection with the City's effort to execute the City's Work prior to such expiration date have been satisfied, unless otherwise requested in writing by the Association.
7. CONSTRUCTION AND RESTORATION EASEMENTS. The Association agrees to work cooperatively with the City to secure temporary easements from the owners adjacent to and abutting the City's Work area prior to the commencement of the Restoration Project.
8. ADMINISTRATION OF THE CITY'S WORK. The City shall have sole authority and control over the City's Work under the Permits. The City, in consultation with its advisers, will negotiate and enter into all contracts which will delineate the exact scope and detail of the City's Work under the Permits.
9. PERMIT APPLICATIONS.
 - A. Permits. Necessary Permits have been applied for and are nearing issuance prior to the execution of this Agreement.
 - B. Additional Permits. Additional Permits are not anticipated and not addressed herein.
10. ACKNOWLEDGEMENT OF RISKS; RELEASE AND INDEMNIFICATION OF THE CITY.
 - A. The Association understands and agrees that, due to the nature of the dynamics of storms, winds, currents and tides of the Atlantic Ocean, and the current severity of the erosion, there is no promise or guarantee from the City or any other person that the City's Work under the Permits will be successful in alleviating or eliminating erosion; continued, severe erosion may continue to occur because of natural causes during and after the administration of the Restoration Project per the Permits; a substantial portion or all of the sand placed on the beaches as part of the Restoration Project could be washed away by a major storm event or tide; and that the City's Work under the Permits and/or Additional Permits may be delayed, postponed or canceled because of permitting requirements, insufficient funding, acts of God, labor shortages, labor strikes, material shortages, or other factors beyond the reasonable control of City.

- B. The Association understands and agrees that any risk to the structural integrity of any Association owned building caused by the removal of erosion control measures, including, but not limited to, wave dissipation devices and sandbags, shall be borne by the owner of the affected building. The Association hereby releases the City and its officials, agents, employees, inspectors or advisers from any and all claims against City for property damage to the Association's property caused by the removal of such erosion control measures.
- C. The Association hereby releases the City and its officials, agents, employees, inspectors or advisers from any and all claims against City for ~~property~~ damage to the Association's property caused by erosion or the failure of the City's Work under the Permits to alleviate, eliminate or delay the erosion of Association's property. This release does not extend to any claims against the dredging contractor(s), the contractor(s) performing Erosion Mitigation Activities, or the engineer engaged by City in performance of the City's Work under the Permits.
- D. The Association, the City, the City's contractor and the City's engineer each will maintain liability insurance for its actions and omissions in an amount equal to the amount stated in the bid documents; i.e., a minimum of \$ [REDACTED] million single; \$ [REDACTED] million aggregate.
- E. The Association hereby agrees to hold harmless and indemnify the City, its officials, agents, employees, inspectors or advisers against any loss or damage, including reasonable attorney's fees and expenses, incurred as a result of any claims against the City or its officials, agents, employees, inspectors or advisers for personal injury or property damages in connection with the City's Work under the Permits except to the extent that such loss is caused by any negligent or reckless act of the City or its officials, agents, employees, inspectors or advisers. This indemnification does not extend to any claims against the dredging contractor(s), the contractor(s) performing Erosion Mitigation Activities, or the engineer engaged by City in performance of City's Work.
11. NOTICES. All notices, consents, approvals and requests required by any provision of this Agreement shall be in writing and shall be deemed to be properly given and received when personally delivered to the representatives of each party or when deposited in the United States mail, registered or certified, with return receipt requested, postage prepaid. All notices to the City of Isle of Palms shall be addressed to Mr. Douglas Kerr, City Administrator, 1207 Palm Blvd., Isle of Palms, SC 29451. Notices to any other party to this Agreement shall be mailed to the address on record with Charleston County or at such other address as the party may hereafter designate in writing to the City.
12. MISCELLANEOUS PROVISIONS.
- A. Binding Agreement. The parties hereto respectively bind themselves and their successors and assigns with respect to all covenants, agreements and obligations contained in this Agreement. Any party may assign its rights under this Agreement upon written notice to all other parties of such assignment.

- B. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to its choice of law principles. Any action arising under this Agreement shall be brought exclusively in the state courts located in Charleston County, South Carolina, and the Parties consent to the jurisdiction of such courts.
- C. **Enforcement and Remedies.** Subject to the Dispute Resolution section of this Agreement, if any party breaches this Agreement, the non-breaching party may pursue any and all remedies available at law or in equity, including specific performance and injunctive relief, and all such remedies shall be cumulative. In the event of any proceedings relating to or arising from this Agreement, the prevailing party shall be entitled to recover all of their expenses from the non-prevailing party, including, but not limited to attorneys' fees, costs, and expenses.
- D. **Dispute Resolution.** Except for claims seeking temporary, preliminary, or permanent injunctive or other equitable relief to prevent irreparable harm, the Parties shall participate in non-binding mediation as a condition precedent to filing any lawsuit or initiating any other formal legal proceeding arising out of or relating to this Agreement, its interpretation, performance, breach, or termination. The mediation shall be conducted in person in Charleston County, South Carolina, unless the Parties mutually agree in writing to conduct the mediation by videoconference or at another location. A Party seeking mediation shall provide written notice to the other Party of their desire to mediate the dispute. If the Parties are unable to agree upon a mediator within fifteen (15) days after the notice, the City and Association shall each propose a mediator, and the two proposed mediators shall select a mediator for the Parties. The mediation shall occur within sixty (60) days after delivery of the notice, subject to the mediator's availability and any mutually agreeable and written extension between the Parties. The Parties shall share the mediator's fees and administrative costs equally, unless they agree otherwise in writing. Each Party shall bear its own attorneys' fees and costs incurred in connection with the mediation. Notwithstanding the foregoing, the Parties may mutually agree in writing to forego pre-suit mediation.
- E. **No Joint Venture.** This Agreement is not to be construed as creating, nor does it create, a joint venture or partnership between the parties for any purpose, or authorizing any party to act as agent for another party.
- F. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto. Any amendments hereto shall be in writing and signed by all parties hereto.
- G. **Multiple Counterparts.** This Agreement may be executed in any number of counterparts with the same effect as if all the signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, by and through the undersigned agents, as of the date stated above.

WITNESS:

The City of Isle of Palms, SC

By: _____

Title: _____

Wild Dunes Community Association, Inc.

By: _____

Title: _____

EXHIBIT 1
(ATTACH ENGINEER'S PLANS DATED FEBRUARY ____, 2026)

EXHIBIT 2
(ATTACH 2025 LICENSE YEAR DATA)

EXHIBIT 3

(ATTACH EXAMPLE OF PROJECT COST CALCULATION)