

**MEMORANDUM OF AGREEMENT FOR USE OF WEATHERSTEM STATIONS
BETWEEN
THE FLORIDA DIVISION OF EMERGENCY MANAGEMENT
AND**

This Memorandum of Agreement ("MOA") is entered into by and between the **Florida Division of Emergency Management** ("FDEM") and _____ ("Recipient").

WHEREAS, the Florida Legislature appropriated \$1,900,000.00 to the Executive Office of the Governor, Division of Emergency Management, to fund the Florida Severe Weather Mesonet (FSWN) - WeatherSTEM; and,

WHEREAS, a portion of this appropriation was to provide FDEM with enhanced water level monitoring across the state to provide critical information to assist in response activities, operational decision support, and the deployment of resources to impacted areas during times of severe weather; and,

WHEREAS, FDEM has contracted with WeatherSTEM for the purchase and installation of water level sensors ("Water Sensor") in designated locations throughout the state, including operations and maintenance services for five (5) years; and,

WHEREAS, FDEM has coordinated with the Recipient regarding the installation locations of the Water Sensors, contingent upon the Recipient's completion of an accurate site survey to establish the vertical datum, with preferred reporting in the North American Vertical Datum of 1988 (NAVD88); and,

WHEREAS, ownership of the Water Sensors will be transferred to the Recipient upon installation; and,

WHEREAS, to ensure that the water level monitored piece of the FSWN continues to benefit the state, the Recipient will agree to maintain each Water Sensor it receives for an additional five (5) years following the end of the initial WeatherSTEM 60-month maintenance agreement; and,

WHEREAS, WeatherSTEM maintenance costs are eligible for recovery under the Emergency Management Preparedness and Assistance (EMPA) Grant and may also be eligible under the Emergency Management Performance Grant (EMPG) Program.

NOW THEREFORE, in consideration of the mutual promises and conditions herein contained, the Parties agree to the following terms:

1. Recipient agrees to be fully responsible for surveying the proposed installation location and provide site elevation and calibration data in the required vertical datum (NAVD88) to FDEM and WeatherSTEM; failure to complete initial site survey prior to installation will result in forfeiture of the allocated Water Sensor to the Recipient.

2. Recipient agrees to take ownership of the Water Sensor(s) within its geographical control from FDEM immediately upon installation of the Water Sensor.
3. FDEM agrees to prepay for the maintenance of the Water Sensor(s) for five (5) years following its installation by WeatherSTEM.
4. Recipient expressly agrees to be fully responsible for the maintenance, repair, software updates, and any other costs of the Water Sensor(s) for the duration of their estimated lives following the expiration of the prepaid five (5) year maintenance agreement with WeatherSTEM. A Water Sensor's expected equipment life, or technological relevance, is estimated to be ten (10) years. WeatherSTEM provided Recipient with the estimated annual cost for maintaining a Water Sensor. At its option, Recipient may separately contract with WeatherSTEM to maintain the Water Sensor for the duration of the MOA.
5. Recipient agrees to use the Water Sensor(s) for their intended purpose and provide data to WeatherSTEM and its users as required by WeatherSTEM and FDEM.
6. Proof of installation of the Water Sensor(s), to include a serial number, location address, and other relevant information, is incorporated by reference and shall be attached to this MOA without need for further agreement by the Parties.
7. All notices provided under or pursuant to this MOA shall be in writing, and sent via certified mail return receipt requested, along with a courtesy copy via electronic mail, to the representatives and addresses identified below:

For FDEM:

Caitlyn Gillespie, Deputy State
Meteorologist Florida Division of Emergency
Management 2555 Shumard Oak Boulevard
Tallahassee, FL 32399
(850) 688-2119
Caitlyn.Gillespie@em.myflorida.com

For Recipient

8. Term
 - a. The Term of this MOA is ten (10) years from the date of installation of the Water Sensor, or until the Water Sensor ceases operation in accordance with section 8.b of this Agreement, whichever occurs first.
 - b. If the Water Sensor ceases operation prior to the end of its estimated ten-year life, or if the Water Sensor is destroyed by an accident not otherwise covered by insurance, neither party is obligated to replace the Water Sensor and the MOA shall terminate unless the parties agree otherwise. If WeatherSTEM, after consulting with the Recipient, replaces the damaged

Water Sensor, the Recipient is responsible for the maintenance of the new unit through the remainder of the original Term of this MOA.

- c. Provisions surviving the Term of this MOA: (1) the Recipient shall allow WeatherSTEM to continue collecting water level and weather data from the Water Sensor until the Water Sensor ceases to function; (2) WeatherSTEM and the Recipient may mutually agree who is responsible for maintaining the Water Sensor following the end of the Term of this MOA.

9. Miscellaneous

- a. This MOA shall be governed by the laws of the State of Florida and venue shall be in Leon County, Florida.
- b. The Parties agree that nothing in this MOA serves to create an employer-employee relationship between FDEM and Recipient.
- c. This Agreement creates neither a partnership nor a joint venture, and neither Party has the authority to bind the other.
- d. Except for the attachment of proof of installation of the Water Sensor(s), any modification of this MOA or additional obligation assumed by either Party with regard to this MOA shall be binding only if evidenced in writing signed by an authorized representative of each Party.
- e. Either Party may request changes to this MOA. Any changes, modifications, revisions or amendments to this MOA that are mutually agreed upon by and between the Parties to this MOA, shall be incorporated by written instrument and effective when executed and signed by all Parties to this MOA.
- f. This MOA shall not be construed against either Party and shall be deemed to have been drafted by both Parties.
- g. Nothing contained herein shall constitute a waiver by either Party of its sovereign immunity or the provisions of section 768.28, Florida Statutes. Nothing herein shall be construed as consent by either Party to be sued by third parties.
- h. This MOA, upon execution, contains the entire Agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of this MOA.
- i. This MOA may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same MOA.

INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have caused this MOA to be executed by their undersigned officials as duly authorized.

RECIPIENT AGENCY

**FLORIDA DIVISION OF EMERGENCY
MANAGEMENT**

By:_____

By:_____

Printed Name and Title

Ian Guidicelli
Bureau Chief of Response

Date

Date

Addendum

Proof of installation of the Water Sensor(s), to include a serial number, location address, and other relevant information, is incorporated by reference and shall be attached to this MOA without need for further agreement by the Parties.

Serial Number	Address
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