

PINELLAS COUNTY, FLORIDA

UTILITY INFRASTRUCTURE AGREEMENT

THIS AGREEMENT is made and entered into by and between PINELLAS COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing body thereof, hereinafter referred to as the "COUNTY," and Flowerwood Club Park Association, Inc., a Florida Corporation, authorized to undertake these obligations in the State of Florida, hereinafter referred to as the "COMMUNITY".

R E C I T A L S:

WHEREAS, the COMMUNITY is the owner of a sanitary sewer collection system located within the boundaries of Pinellas County, Florida; and

WHEREAS, pursuant to its governmental powers as provided in Florida law, the Pinellas County Charter, and the Pinellas County Code, the COUNTY is authorized to facilitate the adequate and efficient provision of water and sewerage facilities and to conserve, develop, utilize, and protect natural resources within its jurisdiction; and

WHEREAS, the COUNTY has applied for and been awarded funding from various granting sources including Florida State and Federally managed grant sources, that are available to support the work necessary to design and construct new infrastructure within the COMMUNITY as further defined in the Agreement and Attachments attached thereto, provided that the COUNTY will thereafter own, maintain, and operate the infrastructure as part of its sanitary sewer system; and

WHEREAS, the COMMUNITY wishes to transfer sufficient rights and interests to the COUNTY to enable the COUNTY to own, operate, and maintain a sanitary sewer collection system within the COMMUNITY and serving the various homes and facilities located therein; and

WHEREAS, the COUNTY has determined that undertaking the provision of sewer service within the COMMUNITY will benefit the COUNTY's existing infrastructure, ensure best engineering practices are utilized in the maintenance of the System, and is in the public interest; and

WHEREAS, consistent with the public interest supporting the projects described herein, the COUNTY has received grant funding to design and execute the work related to the overall project, and the COUNTY therefore intends to pursue the work contemplated by this Agreement and to construct and maintain improvements within the COMMUNITY in accordance with the expectations and goals of the United States Federal and Florida State agencies providing grant funds, upon the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the above Recitals and benefits to be derived from the mutual observation of the covenants contained herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

SECTION 1. RECITALS: The above Recitals are true and correct and form a material part of this Agreement.

SECTION 2. CONSTRUCTION OF SYSTEM IMPROVEMENTS: The COMMUNITY agrees to transfer to the COUNTY the certain rights and property interests described below to allow the COUNTY to undertake all necessary work and to make all necessary improvements and modifications to replace, construct, and maintain a sanitary sewer system (hereinafter "System") within the COMMUNITY. The COUNTY will proceed with all necessary work to construct a replacement System in accordance with the new System design, and when the project is constructed, the COUNTY will thereafter own and maintain the newly constructed System components that are located within the perpetual Utility easement, to be conveyed by the COMMUNITY to the COUNTY when the construction of the project is complete.

SECTION 3. PROPERTY INTERESTS: The COMMUNITY will assign, transfer, convey, and deliver to the COUNTY, the real property interests necessary to construct the project in its entirety, owned or otherwise possessed by the COMMUNITY, whereupon all sewer collection lines, pumping stations, and all other sewer facilities are located, which will consist of the easement rights described in the easement attached to this

Agreement as Attachment A, which is made a material part of this Agreement and incorporated herein by reference (hereinafter “Attachment A”). These easement rights will allow the COUNTY to undertake and complete construction of the project, and will be referred to hereinafter as a Temporary Construction Easement. Thereafter, the COUNTY will notify the COMMUNITY when the project is constructed and ready to close out, at which time the COMMUNITY will execute and present to the COUNTY a perpetual Utility easement, in the form referenced in Attachment B, which is a material part of this Agreement and incorporated herein by reference, which will be recorded by the COUNTY in the public records (“Attachment B”). The COUNTY has entered into this Agreement in reliance on the understanding that the property interests conveyed to the COUNTY are sufficient to enable the COUNTY to complete the project as designed in its entirety, and thereafter to own and maintain the portions of the project that are located within the perpetual Utility easement. It is the responsibility of the COMMUNITY to ensure that it possesses all rights and property interests necessary to perfect the conveyances to the COUNTY described in this Agreement, and that it will take measures to acquire and record all such property interests.

3.1 System and Connection Records: All current lists and records, as-built surveys and plans, plats, engineering and other drawings, designs, blueprints, plans and specifications, accounting and customer records, and all other information and business records in the possession of the COMMUNITY pertaining to operation of the System, to the extent they exist and are in the care, custody and control of the COMMUNITY.

SECTION 4. INTERESTS OF FUNDING GRANTORS: The COMMUNITY agrees to execute and cooperate in the recording of conveyance of rights or interests, or other documentation, that are required by one of the COUNTY grantors contributing funds to the execution of the project, including but not limited to the recordation of a notice of federal interest, such as the notice language currently set out in the attached easement documents in Attachments A and B. Furthermore, COMMUNITY acknowledges that the availability of grant funding is a material basis for the COUNTY’s ability and willingness to complete the project contemplated by this Agreement, and additionally that the expectation of the availability of the grant funds is that the completed project will be

used in a manner and for a duration that is commensurate to the realization of the objectives of the grant funding; specifically to eliminate inflow and infiltration from aging or defective sewer infrastructure and to thereby minimize the possibility of adverse environmental impacts. If the grant funding for this project becomes reduced or unavailable for any reason, the County may terminate this Agreement by promptly giving written notice to the COMMUNITY. Accordingly, in order to ensure that the value of the project design and construction is realized, the COMMUNITY agrees that: 1) no use of the property comprising the COMMUNITY necessary to the continued delivery of sanitary sewer services to the properties within the COMMUNITY will be commenced for the expected useful life, as determined by the COUNTY grantors, that would violate the restrictions stated in the notice of federal interest language included in any easement document, or that generally is adverse to the continued use of the infrastructure, or the realization of the purposes for which the project was undertaken; 2) if the COUNTY is required to repay any amount of the funds granted for the purposes of this Agreement as a result of occurrences attributable to the COMMUNITY, the COMMUNITY will reimburse the COUNTY in the full amount that the COUNTY is required by their granting agency to repay.

SECTION 5. SKETCH: Pursuant to its sole discretion, the COUNTY may have prepared, at its expense, for any of the property set out in Exhibit "A" of Attachment A, a current easement sketch and land description by a Florida-licensed surveyor in accordance with applicable law. Any defect reflected on such sketch including, but not limited to, encroachments of improvements which cross a boundary line or into an area where other utilities are located, evidence of overlaps along a property line, violation of restrictions, setback lines, possession inconsistent with the property boundaries, or any other such defect shall be treated as a title defect. The COUNTY shall have thirty (30) days after receipt of the said sketch to furnish notice to the COMMUNITY, as appropriate, of any title defect shown on the sketch that does not conform to the status of title described in SECTION 6 of this Agreement.

SECTION 6. REPRESENTATIONS AND WARRANTIES OF THE COMMUNITY: To induce the COUNTY to enter into this Agreement, the COMMUNITY represents and warrants that, at time of execution and as of closing date:

6.1 Organization, Standing, and Power: The COMMUNITY is a legal Florida entity, duly organized, validly existing, and in good standing under the laws of the State of its formation, and is authorized to do business in the State of Florida, and enter into the commitments and perform all actions required by the Agreement. The COMMUNITY has all requisite power and authority to own and convey all interests required herein and to conduct its business as it is currently being conducted.

6.2 Authority for Agreement: The COMMUNITY has the power and authority to execute and deliver this Agreement and to carry out its respective obligations hereunder, and all necessary actions have been taken to confer such power and authority on the COMMUNITY by the COMMUNITY's property owners and governing board or body. This Agreement has been duly authorized by all action required to be taken by the COMMUNITY, has been duly executed and delivered by the COMMUNITY, and constitutes a valid and legally binding obligation of the COMMUNITY, and its successors and assigns as may be applicable, enforceable in accordance with its terms.

6.3 Good and Marketable Title: Subject to the interests of Community's shareholders, the COMMUNITY has good and marketable title to the assets which must be conveyed to the COUNTY pursuant to this Agreement and necessary to accomplish the purpose of the Agreement.

6.4 No Liens or Encumbrances: Subject to the interests of Community's shareholders, except as otherwise specifically set forth herein, there are no liens, claims, or encumbrances of any type or nature upon or against the Assets including, but not limited to, financing statements or security instruments.

6.5 Litigation: The COMMUNITY has no actions, suits, or proceedings at law or in equity, pending or threatened against the COMMUNITY before any Federal, State, municipal or other court, administrative or governmental agency or instrumentality, domestic or foreign, which affects or will affect the

System or the COMMUNITY's right and ability to make and perform this Agreement; nor is the COMMUNITY aware of any facts that to its knowledge are likely to result in any such action, suit, or proceeding. The COMMUNITY is not in default with respect to any order or decree of any court or of any administrative or governmental agency or instrumentality affecting the System. The COMMUNITY agrees and warrants that it shall have a continuing duty to disclose up to and including the closing date, the existence and nature of all pending judicial or administrative suits, actions, proceedings, notices of violation, and orders which in any way relate to the operation of the System. Any such matters now known to the COMMUNITY shall be initially disclosed within ten (10) days following execution of this Agreement and shall be supplemented at any time the COMMUNITY receives notice of actions, suits, or proceedings at law or in equity, pending or threatened against the COMMUNITY before any Federal, State, municipal or other court, administrative or governmental agency or instrumentality, domestic or foreign, which affects or will affect the System or the COMMUNITY's right and ability to make and perform this Agreement, as well as on the closing date.

6.6 Appropriate Zoning: The present zoning of the property described in Exhibit "A" of Attachment A does not prohibit the operation of the System on the subject property, and within the properties and areas indicated.

6.7 New Agreements: The COMMUNITY shall not enter into any sale that would alter the existing use of the COMMUNITY and the continued operation of the System, extension, developers' agreement, or other agreement concerning or that affects the operation of the System, agreement concerning service capacity, or cause any such agreement to be modified after the date of execution of this Agreement without the prior written approval of the COUNTY, which consent shall not be unreasonably withheld.

6.8 Leases: Subject to the interests of Community's shareholders, none of the System is subject to any interest of any competing interest, lessor or lessee.

6.9 Contracts in Default: There are no existing contracts or commitments with respect to the System except for those listed in Exhibit “A” of Attachment A hereof, and the COMMUNITY is not aware of any defaults of any parties to any such agreement.

6.10 No Governmental Violations: To the best of the Community’s information and belief, the COMMUNITY is not aware and has not been notified of the existence of any violations of any governmental rules, regulations, permitting conditions, or other governmental requirements applicable to the ownership, maintenance, or operation of the System. The COMMUNITY will make reasonable efforts to inspect for illegal connections to the existing System, and will notify both the COUNTY as well as the individual responsible for the illegal connection of each such illegal connection discovered. The COMMUNITY will remedy any known violations, and will additionally advise all of its residents of the requirements and prohibitions contained in the Pinellas County Code related to connection to the COUNTY sewer. In the interest of clarity, by way of example only, an illegal connection includes, but is not limited to, any modification that would allow the introduction of stormwater into the System.

6.11 No Record Violations: The use of the System on the property set out in Exhibit “A” of Attachment A is consistent with and does not violate any restrictions or conditions of record.

6.12 Absence of Changes: Since the date of execution of this Agreement, the COMMUNITY shall not and has not:

6.12.1 Undergone any material change in its condition (financial or otherwise) of properties, assets, liabilities, business, or operations other than changes in the ordinary course of business which have not been, either in any case or in the aggregate, materially adverse.

6.12.2 Suffered any damage, destruction, or loss, whether or not covered by insurance, adversely affecting its properties, assets, or business.

6.12.3 Mortgaged, pledged, or subjected to any lien, lease, security interest, or other change or encumbrance any of its properties or assets, tangible or intangible.

6.12.4 Acquired or disposed of any assets or properties of material value except in the ordinary course of business that do not concern the continued operation of the system.

6.13 Financial Statements: Within sixty (60) days of execution hereof, if requested by the COUNTY, the COMMUNITY at its expense, agrees to provide to the COUNTY, true, correct, and complete copies of all financial statements, tax returns, and other financial records and annual reports for the period stated in the request. The records shall fairly present the financial condition and results of operations of the COMMUNITY at the dates and for the periods of time thereof and disclose all of the assets, liabilities, net worth, revenues, and expenses of the COMMUNITY existing as of the dates and for the periods of time thereof.

6.14 Disclosure: No representation or warranty made by the COMMUNITY, to the best of the COMMUNITY's knowledge, in this Agreement contains or will contain any untrue statement of material facts or omits or will omit to state any material fact that would make the statements, herein contained, misleading or untrue.

6.15 Survival of Covenants: The COMMUNITY agrees that its representations and warranties set forth herein are true and correct as of the date of the execution hereof, shall be true and correct at the time of execution of the easements required by this Agreement and shall survive thereafter following recordation.

SECTION 7. CONDUCT PENDING PROJECT COMMENCEMENT: The COMMUNITY covenants that pending the commencement of the project:

7.1 Business Conduct: Except as otherwise consented to in writing by the COUNTY, for the period beginning on the date of execution of this Agreement and continuing until work commences on the project, the COMMUNITY shall:

7.1.1 Carry on its businesses in, and only in, the usual, regular, and ordinary course and nevertheless comply with and uphold all applicable governmental requirements and law.

7.1.2 Maintain all of its material structures, equipment, and other tangible personal property related the System in good repair, order, and condition, except for depletion, depreciation, ordinary wear and tear, and damage by unavoidable casualty.

7.1.3 Use its best efforts to keep in full force and effect insurance comparable in amount and scope of coverage to insurance now carried by it.

7.1.4 Perform, in all material respects, all of its obligations under agreements, contracts, and instruments relating to or affecting the System.

7.1.5 Use its best efforts to maintain System sites and components.

7.1.6 Comply in all material respects with all statutes, laws, ordinances, rules, and regulations applicable to it.

7.1.7 Not amend its Certificate or Articles of Incorporation or Bylaws or Partnership Documents in any way that would affect the System.

7.1.8 Promptly advise the COUNTY, in writing, of any material adverse change in any condition relevant to this Agreement.

7.1.9 Renew all expired permits or correct system deficiencies in such permits if there is a regulatory requirement, order, or demand in existence.

7.1.10 Cooperate with the COUNTY in obtaining transfer of all permits and governmental authorizations.

7.2 No Encumbrances: From and after the date of the execution of this Agreement, the COMMUNITY will not, without the prior written consent of the COUNTY, dispose of or encumber any portion of the System.

7.3 Access to Records: The COMMUNITY will cooperate by opening records and providing access to records and facilities to assist in acquainting the COUNTY'S operating and administrative personnel in the operation of the System.

7.4 Performance of Closing Conditions: The COMMUNITY shall perform all of the conditions to closing, which the COMMUNITY is required to perform, prior to closing as provided herein.

7.5 Insurance: The COMMUNITY will use its best efforts to maintain adequate fire and extended coverage insurance to cover the cost of any repairs to the System that may be necessitated by casualty damage.

7.6 Examination and Inspection: The COMMUNITY will permit full examination including, but not limited to, physical testing by the COUNTY'S authorized representatives of all existing contractual obligations, physical systems, assets, equipment, real estate, rights-of-way, easements, permits, certificates, and inventories utilized by the COMMUNITY in connection with the System. Such facilities will be properly maintained by the COMMUNITY within the custom and usage of the industry up until the closing date.

SECTION 8. REPRESENTATIONS AND WARRANTIES OF THE COUNTY: To induce the COMMUNITY to enter into this Agreement, the COUNTY represents and warrants as follows:

8.1 Organization, Standing, and Power of the County: The COUNTY is a political subdivision of the State of Florida and has all requisite home rule power and authority to enter into this Agreement and to carry out and perform the terms and provisions of this Agreement.

8.2 Authority for Agreement: The COUNTY has the authority and power to execute and deliver this Agreement and to carry out its obligations hereunder. This Agreement has been duly authorized by all County action required to be taken by the COUNTY, has been duly executed and delivered by the COUNTY, and constitutes a valid and legally binding obligation of the COUNTY, enforceable in accordance with its terms.

8.3 Disclosure: No representation or warranty made by the COUNTY, to the best of the COUNTY'S knowledge, in this Agreement contains or will contain any untrue statement of material facts or omits or will omit to state any material fact that would make the statements herein contained misleading or untrue.

SECTION 9. EXPENSES: The cost of recording any releases, satisfactions, or corrective instruments, along with the documentary stamps and surtax, if any, on any corrective deeds, shall be paid by the COMMUNITY.

SECTION 10. ENVIRONMENTAL MATTERS:

10.1 The COMMUNITY warrants that to the best of its knowledge, without independent investigation or inquiry, the property, described in Exhibit "A" of Attachment A, and the System are in a clean and healthful condition; free of environmental contamination; or potentially harmful physical conditions, other than such contaminants or harmful conditions permitted by law; and no hazardous substance has been improperly stored upon, disposed of, spilled, or otherwise released to the environment on or in the said property or easements by the COMMUNITY or, to the best of the knowledge of the COMMUNITY, by any other party. For purposes of this Agreement the definition of the term "hazardous substance" shall be that set out in Section 101(14) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act, except that for purposes of this Agreement, the term shall also include 1) petroleum (crude oil) and natural gas (whether existing as a gas or a liquid); and 2) any substance defined as hazardous or toxic by any State or local regulatory agency having jurisdiction over the operations of the COMMUNITY.

10.2 The COMMUNITY warrants that to the best of its knowledge, without independent investigation or inquiry, the operation by the COMMUNITY of the System complies in all material respects with all applicable Federal, State, and local environmental and occupational health and safety statutes and regulations.

10.3 The COMMUNITY warrants that to the best of its knowledge, without independent investigation or inquiry, any tanks (whether above- or belowground) on or at any of the said property or easements installed or used by the COMMUNITY are in sound conditions, free of leaks which could permit any release of stored material.

10.4 The COMMUNITY warrants to the best of its knowledge, without independent investigation or inquiry, that none of the property has been used by the COMMUNITY or by any other party, for the processing, storing, or otherwise utilizing asbestos, polychlorinated biphenyls (PCBs), or radioactive substances. The COMMUNITY has received no notice that any of the foregoing materials are present on or at any of the said property or easements.

10.5 The COMMUNITY warrants that to the best of its knowledge, without independent investigation or inquiry, all hazardous wastes, resulting from the operations of the COMMUNITY on or at any of the said property or easements, have been disposed of in an environmentally sound and legal manner; and none of those wastes have been disposed of in any site where there has been, is, or, due to the manner of disposition by the COMMUNITY, will be released into the environment requiring corrective action; nor has the COMMUNITY received notice from any State or Federal environmental agency of its possible involvement with any disposal site under investigation by such agency.

10.6 The COMMUNITY warrants that to the best of its knowledge, without independent investigation or inquiry, that no contaminants on the property exceed the residential cleanup target levels set forth in F.A.C Ch. 62-777 (Contaminant Cleanup Target Levels). The COMMUNITY further warrants that no contaminants on the property will exceed applicable cleanup target levels set forth in F.A.C. Ch. 62-777 while this Agreement is in effect, unless such exceedance is attributable to the COUNTY's sole negligence. The COMMUNITY further warrants that the property will remain in full compliance with any other applicable Federal, State, and local environmental and occupational health and safety statutes and regulations while this Agreement is in effect, unless such non-compliance is attributable to the COUNTY's sole negligence.

10.7 Prior to commencing construction on the project, the COUNTY's contractor will perform a Phase 1 Environmental Site Assessment (ESA) within the easement area. The COUNTY will review the results of the Phase 1 ESA, and at the COUNTY's discretion will either proceed with the construction of the project or perform a Phase 2 ESA. If a Phase 2 ESA is performed, the COUNTY will review the results of the Phase 2 ESA, and at the COUNTY's discretion will either proceed with the construction of the project, or terminate the project, this Agreement, and will release the Temporary Construction Easement.

SECTION 11. INDEMNITY: The COMMUNITY hereby agrees to indemnify, defend, pay the cost of defense, and hold harmless the COUNTY at all times in respect to any Damages, as hereinafter defined, from any claims which arise out of facts or circumstances in any way related to the property encumbered by the easement attached

hereto as Attachment A, including the System infrastructure present as of the effective date of this Agreement, excepting those claims attributable to the sole negligence of the COUNTY. The COUNTY shall notify the COMMUNITY of any such claims within thirty (30) days of its receipt of notice thereof. Damages, as used herein, shall include any obligations, losses, costs, expenses, injunctions, suits, fines, liabilities, penalties, and damages, including reasonable attorneys' fees, whatsoever that the COUNTY incurs as a result of any claim, action, proceeding, or any judgment or order rendered by a court or agency of competent jurisdiction, that arise from 1) any materially inaccurate representation made by the COMMUNITY; 2) breach of any of the warranties made by the COMMUNITY in this Agreement; 3) breach or default in the performance by the COMMUNITY of any of the covenants, conditions, commitments, agreements, duties, or obligations to be performed pursuant to this Agreement; 4) any debts, liabilities or obligations of the COMMUNITY, whether accrued, absolute, contingent, or otherwise, due or to become due, except those obligations specifically assumed by the COUNTY in this Agreement; 5) the breach by the COMMUNITY or the failure of any act or action to occur that is the subject of any duty, obligation, covenant, condition, commitment, agreement, representation, or warranty undertaken or made by or on behalf of the COMMUNITY pursuant to this Agreement; and 6) the ownership and operation of the System by the COMMUNITY. The COMMUNITY additionally agrees to indemnify, defend, and hold the COUNTY harmless from and pay any costs, fees, penalties, or fines that are imposed by any court or agency of competent jurisdiction, upon the COUNTY or COMMUNITY by reason of the COMMUNITY's failure to fully comply with any Florida Department of Environmental Protection (FDEP), SWFWMD, or other agency order, rule, or statute.

SECTION 12. **Covenant Not to Interfere**: The COMMUNITY agrees that it will not interfere with the provision of sanitary sewer service to any location serviced by the COUNTY pursuant to this Agreement or otherwise.

SECTION 13. **County's Investigation**: Notwithstanding any investigation or other due diligence heretofore conducted by the COUNTY or its affiliates, the COMMUNITY agrees that the COUNTY is entering

into this transaction in reliance on the representations and warranties of the COMMUNITY set forth in this Agreement, which reliance the COMMUNITY acknowledges is intended and justified.

SECTION 14. EXECUTION AND RECORDATION OF EASEMENTS: A duly authorized signer for the COMMUNITY will execute the Temporary Construction Easement, attached hereto as Attachment A, in conjunction with the execution of this Agreement. The COMMUNITY will return the executed Temporary Construction Easement to the COUNTY, and the COUNTY will record it upon receipt, at which time this Agreement in its entirety will be recorded and available in the public records in association therewith. Upon completion of the project, the COUNTY will provide the COMMUNITY with a perpetual Utility easement in the form of Attachment B, prepared by the COUNTY and incorporating the survey of the completed project. The COMMUNITY will, as soon as reasonably possible after receipt, execute the easement, by notarized signature of an authorized signer with two witnesses. The COMMUNITY will return the executed easement to the COUNTY, and the COUNTY will record the perpetual Utility easement upon receipt.

SECTION 15. RESPONSIBILITY FOR PROFESSIONAL FEES AND COSTS: Each party hereto shall be responsible for its own attorneys' fees, engineering fees, accounting fees, and other costs in connection with the preparation and execution of this Agreement.

SECTION 16. ASSIGNABILITY: This Agreement shall not be assignable by the COMMUNITY or the COUNTY without the prior written consent of the other party hereto. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties hereto and their successors, any rights or remedies under or by reason of this Agreement.

SECTION 17. FURTHER ASSURANCES: Each of the parties hereto agrees that, from time to time, upon the reasonable request of the other party and at the expense of the requesting party, without further consideration, it shall execute and deliver to the requesting party any and all further instruments, affidavits, conveyances, and transfers as may be reasonably required to carry out the provisions of this Agreement.

SECTION 18. **NOTICES; PROPER FORM:** Any notices required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered when either 1) hand-delivered to the person hereinafter designated, or 2) upon receipt of such notice when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to a party at the address set forth opposite the party's name below, or at such other address as the party shall have specified by written notice to the other party delivered in accordance herewith:

COUNTY: Jeremy Waugh, P.E., PMP
Director Pinellas County Utilities
14 S Ft Harrison Ave,
Clearwater, FL 33756

COMMUNITY: Flowerwood Club Park Association, Inc.
2915 58th Ave., North
St. Petersburg, FL 33714

SECTION 19. **ENTIRE AGREEMENT:** This instrument constitutes the entire agreement between the parties and supersedes all previous discussions, understandings, and agreements between the parties relating to the subject matter of this Agreement.

SECTION 20. AMENDMENT: Amendments to and waivers to the provisions herein shall be made by the parties only in writing by formal amendment.

SECTION 21. DISCLAIMER OF THIRD-PARTY BENEFICIARIES: This Agreement is solely for the benefit of the formal parties herein, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto.

SECTION 22. BINDING AFFECT: All of the provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by legal representatives, successors, and nominees of the COUNTY and the COMMUNITY. The Agreement will continue in force and effect until terminated by the COUNTY as provided herein, or until the parties mutually agree to end the Agreement in writing by formal amendment.

SECTION 23. TIME OF THE ESSENCE: Time is hereby declared of the essence to the performance of this Agreement.

SECTION 24. **APPLICABLE LAW:** This Agreement shall be construed, controlled, and interpreted according to the laws of the State of Florida.

SECTION 25. **TERMINATION:** Notwithstanding any other provision hereof, the COUNTY may, in its sole discretion, terminate this Agreement without any liability or obligation to the COMMUNITY if 1) any material default under, material breach of, or failure of any agreement, covenant, condition, or term of this Agreement by the COMMUNITY shall have occurred; or any material misrepresentation or any material breach of any warranty of the COMMUNITY shall have occurred; 2) if the COUNTY's funding source, in whole or in part, whether through grant funds or any other funding source available to the COUNTY for the purpose of completing the undertakings described in this Agreement, becomes unavailable for any reason, including failure of appropriation on the part of the County, State, or Federal government or any other party; 3) the COUNTY determines, in its sole discretion, based on the results of either a Phase 1 or 2 ESA, or for any other reason provided that construction of the project has not yet commenced on the project site, that it is not in the COUNTY's best interests to proceed with the project; or 4) any condition is discovered on the site before or during construction that would require environmental remediation or would make the design non-constructable, in which case the COUNTY will stop construction and will return any active construction sites to the COMMUNITY in a safe and serviceable condition, and thereafter the COUNTY will not have any other obligation to remediate, improve, or construct improvements on the property.

IN WITNESS WHEREOF, the parties hereto have executed the foregoing Agreement on this
18th day of November, 2025.



PINELLAS COUNTY, FLORIDA
by and through its Board of County Commissioners

ATTEST: KEN BURKE, CLERK

By:

COMMUNITY:

BY:
President 10-21-2025

APPROVED AS TO FORM

By:
Office of the County Attorney



Attachment A

Temporary

Construction

Easement

Prepared by and return to:
Real Property Division
Attn: Amanda Gillespie
509 East Avenue South
Clearwater, FL 33756

Property Appraiser
Attention: *Utilities Dept*

TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT, entered into this 4 day of May, 2024, by
FLOWERWOOD CLUB PARK ASSOCIATION, INC., whose address is 2915 59th Avenue
North, St. Petersburg, Florida 33714 ("GRANTOR"), for property located at 2915 59th Avenue
North, St. Petersburg, Florida 33714 to PINELLAS COUNTY, a political subdivision of the
State of Florida, whose address is 315 Court Street, Clearwater, Florida, 33756 ("GRANTEE").

WITNESSETH:

THAT SAID GRANTOR, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey unto GRANTEE, its successors and assigns, this Temporary Construction Easement ("Easement") over and across the following described lands in Pinellas County, Florida, to wit:

Lands described in legal description attached as Exhibit "A" hereto and fully incorporated herein, and that are referred to throughout this document as the "Easement Area."

1. GRANTOR hereby warrants and covenants (a) that GRANTOR is the owner of the fee simple title to the premises in which the Easement Area is located, and (b) that GRANTOR has full right and lawful authority to grant and convey this Easement to GRANTEE.
2. This Easement has been acquired by GRANTEE in furtherance of the design and construction of wastewater collection system to be funded in whole or in part through the following grant awards: (a) Grant No. GNSSP21FL0023-01-00 from The Gulf Coast Ecosystem Restoration Council ("RESTORE Council" or "Council", which term also includes any successor agency to the RESTORE Council), under the Spill Impact Component of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies Act of the Gulf Coast States Act of 2012 (33 USC 1321(t)) ("RESTORE Act"); (b) Florida Department of Environmental Protection ("FDEP") Grant 22FRP09, under the Resilient Florida Program; and (c) United States (U.S.) Department of the Treasury Award SLFRP4653, under the American Rescue Plan Act (ARPA) of 2021. Subsections (a) (b), and (c) are collectively referred to herein as "Awards").

3. GRANTEE shall manage the Easement Area pursuant to the requirements of each Award ("Authorized Awards Maintenance Purposes") and in accordance with applicable Federal, State, and local law. This restriction benefits and is enforceable by the RESTORE Council and the Gulf Consortium, jointly or severally, and by their successors and assigns. The Authorized Awards Maintenance Purposes authorized under these Awards are as follows:

(a) The Awards are intended for design and construction of an improved wastewater collection system (the "Project").

4. The RESTORE Council and the U.S. Department of the Treasury has federal interest in the Easement Area to ensure that it is used and maintained for Authorized Awards Maintenance Purposes. No (i) use of the Easement Area in contravention of Authorized Awards Maintenance Purposes; (ii) encumbrance on the Easement Area in contravention of Authorized Awards Maintenance Purposes; or (iii) sale, lease, transfer, assignment, donation, or other disposition of this Easement or any right therein, shall be undertaken or effectuated without the prior express written approval of the RESTORE Council and the U.S. Department of the Treasury. Pinellas County shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, the Americans with Disabilities Act (42 U.S.C. 12204), and with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). These laws prohibit discrimination on the basis of race, religion, national origin, or disability.

5. The rights herein granted to GRANTEE by GRANTOR specifically include the right to access, inspect, alter, improve, add to, construct, repair, rebuild, relocate, and remove all existing or future facilities and infrastructure, as may be needed to undertake Authorized Awards Maintenance Purposes; ingress and egress over the Easement Area for the purpose of exercising the rights herein granted; all other rights and privileges reasonably necessary or convenient for GRANTEE's safe, reliable and efficient undertaking of Authorized Awards Maintenance Purposes; and for the enjoyment and use of the Easement for any and all other purposes described herein. Failure to exercise the rights herein granted to GRANTEE shall not constitute a waiver or abandonment.

6. GRANTOR shall bear responsibility for maintenance of the wastewater lateral pipe from the wastewater clean-out adjacent to the roadway to the residence.

7. The County will seek to obtain this temporary construction easement for the purposes of constructing the Project. As part of the construction of the Project, the contractor will produce a survey depicting the layout and boundaries of the constructed project (the "As Built Project Area"). A perpetual Utility Easement will be recorded over the As Built Project Area, at which time, this Easement will expire.

8. The grant of this Easement may allow the GRANTOR quiet enjoyment of the Easement Area to the extent that such use does not interfere with the rights herein granted to GRANTEE. GRANTOR shall only perform or permit other persons or entities to perform construction or other work within the Easement Area after prior written approval by GRANTEE and only if such construction or other

work is performed in accordance with the terms of this Easement, all applicable laws, rules and regulations, and the GRANTEE's rules and regulations as they may be modified from time to time; provided, however, that the exercise of such rights by GRANTOR does not injure or interfere with, now or in the future, any of the GRANTEE's rights in the Easement Area including, but not limited to, GRANTEE's right to undertake Authorized Awards Maintenance Purposes.

9. Except for those acts reasonably necessary to accomplish the purposes of this Easement, both parties herein also covenant not to do any acts or things which could reasonably expect to cause damage to GRANTOR's premises or existing improvements in the Easement Area or to GRANTEE's improvements as set forth herein. In the event of a party's construction, reconstruction, installation, use, operation, maintenance, repair, patrol, replacement, upgrading, or removal of its improvements, the party shall promptly restore, replace, or repair the surface of the Easement to as close to its condition immediately prior to such work as may be reasonably possible.

10. GRANTOR and GRANTEE shall each bear responsibility for all personal injury and property damage attributable to the negligent acts or omissions of that party and its officers, employees, contractors, agents, invitees, and assigns. Nothing herein shall be construed as an indemnity or waiver of sovereign immunity of the GRANTEE, as provided in Section 768.28, Florida Statutes, and as amended, or any other law providing limitations on claims that is applicable to either party.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the GRANTOR has caused this easement to be executed on this

4 day of May 2024

SIGNED IN THE PRESENCE OF:

WITNESSES:

Lael Scott
Signature of 1st Witness

DAVID GOURCET
Print Name of 1st Witness
PO Box 481
VAN BUREN MI 49185
Print Address of 1st Witness

Ridhim Ghosh
Signature of 2nd Witness

ADRIEN L'IRARD
Print Name of 2nd Witness

5964 30TH WAY N ST PETE FL
Print Address of 2nd Witness

STATE OF Florida
COUNTY OF Pinellas

The foregoing instrument was acknowledged before me this 4th day of May, 2024, by
Barrett Chapman as President of FLOWERWOOD CLUB PARK ASSOCIATION, INC.

Personally Known OR Produced Identification _____
Type of Identification produced: _____



H KEELEY
Signature of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public



Attachment B

Utility

Easement

Prepared by and return to:
Real Property Division
Attn: Amanda Gillespie
509 East Avenue South
Clearwater, FL 33756

Property Appraiser
Attention: *Utilities Dept*

UTILITY EASEMENT

SUBJECT TO AND AS LIMITED BY THE INTERESTS OF COMMUNITY'S SHAREHOLDERS, GRANTOR HEREBY WARRANTS THIS INDENTURE, made this 4 day of May, 2024, by FLOWERWOOD CLUB PARK ASSOCIATION, INC., whose address is 2915 58th Avenue North., St. Petersburg, Florida 33714 ("GRANTOR"), for property located at 2915 58th Avenue North., St. Petersburg, Florida 33714, to PINELLAS COUNTY, a political subdivision of the State of Florida, whose address is 315 Court Street, Clearwater, Florida, 33756 ("GRANTEE").

WITNESSETH:

THAT SAID GRANTOR, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant and convey unto GRANTEE, its successors and assigns, a perpetual utility easement over and across the following described lands in Pinellas County, Florida, to wit:

Lands described in legal description attached as Exhibit "A" hereto and fully incorporated herein, and that are referred to throughout this document as the "Easement Area."

1. GRANTOR hereby warrants and covenants (a) that GRANTOR is the owner of the fee simple title to the premises in which the Easement Area is located, and (b) that GRANTOR has full right and lawful authority to grant and convey this Easement to GRANTEE. All covenants, terms, provisions, and conditions herein contained shall inure and extend to and be obligatory upon the heirs, successors, lessees and assigns of the respective parties hereto.

2. This Utilities Easement ("Easement") has been acquired by GRANTEE in furtherance of the design and construction of wastewater collection system to be funded in whole or in part through the following grant awards: (a) Grant No. GNSSP21FL0023-01-00 from The Gulf Coast Ecosystem Restoration Council ("RESTORE Council" or "Council", which term also includes any successor agency to the RESTORE Council), under the Spill Impact Component of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies Act of the Gulf Coast States Act of 2012 (33 USC 1321(t)) ("RESTORE Act"); (b) Florida Department of Environmental Protection ("FDEP") Grant 22FRP09, under the Resilient Florida Program; and (c) United States (U.S.) Department of the Treasury Award SLFRP4653, under the American Rescue Plan Act

(ARPA) of 2021 ((a) (b), and (c) are collectively referred to herein as "Awards").

3. GRANTEE shall manage the Easement Area pursuant to the requirements of each Award ("Authorized Awards Maintenance Purposes") and in accordance with applicable Federal, State, and local law. This restriction benefits and is enforceable by the RESTORE Council and the Gulf Consortium, jointly or severally, and by their successors and assigns. The Authorized Awards Maintenance Purposes authorized under these Awards are as follows:

(a) Awards GNSSP21FL0023-01-00, FDEP Grant 22FRP09, and Award SLFRP4653 are intended for design and construction of an improved wastewater collection system.

4. The RESTORE Council and the U.S. Department of the Treasury has federal interest in the Easement Area to ensure that it is used and maintained for Authorized Awards Maintenance Purposes. No (i) use of the Easement Area in contravention of Authorized Awards Maintenance Purposes; (ii) encumbrance on the Easement Area in contravention of Authorized Awards Maintenance Purposes; or (iii) sale, lease, transfer, assignment, donation, or other disposition of this Easement or any right therein, shall be undertaken or effectuated without the prior express written approval of the RESTORE Council and the U.S. Department of the Treasury. Pinellas County shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, the Americans with Disabilities Act (42 U.S.C. 12204), and with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). These laws prohibit discrimination on the basis of race, religion, national origin, or disability.

5. The rights herein granted to GRANTEE by GRANTOR specifically include the right to access, inspect, alter, improve, add to, construct, repair, rebuild, relocate, and remove all existing or future facilities and infrastructure, as may be needed to undertake Authorized Awards Maintenance Purposes; ingress and egress over the Easement Area for the purpose of exercising the rights herein granted; all other rights and privileges reasonably necessary or convenient for GRANTEE's safe, reliable and efficient undertaking of Authorized Awards Maintenance Purposes; and for the enjoyment and use of the Easement for any and all other purposes described herein. Failure to exercise the rights herein granted to GRANTEE shall not constitute a waiver or abandonment.

6. GRANTOR shall bear responsibility for maintenance of the wastewater lateral pipe from the wastewater clean-out adjacent to the roadway to the residence.

7. The grant of this Easement may allow the GRANTOR quiet enjoyment of the Easement Area to the extent that such use does not interfere with the rights herein granted to GRANTEE. GRANTOR shall only perform or permit other persons or entities to perform construction or other work within the Easement Area after prior written approval by GRANTEE and only if such construction or other work is performed in accordance with the terms of this Easement, all applicable laws, rules and regulations, and the GRANTEE's rules and regulations as they may be modified from time to time; provided, however, that the exercise of such rights by GRANTOR does not injure or interfere with, now or in the future, any of the GRANTEE's rights in the Easement Area including, but not limited to, GRANTEE's right to undertake Authorized Awards Maintenance Purposes.

8. Except for those acts reasonably necessary to accomplish the purposes of this Easement, both parties herein also covenant not to do any acts or things which could reasonably expect to cause damage to GRANTOR's premises or existing improvements in the Easement Area or to GRANTEE's improvements as set forth herein. In the event of a party's construction, reconstruction, installation, use, operation, maintenance, repair, patrol, replacement, upgrading, or removal of its improvements, the party shall promptly restore, replace, or repair the surface of the Easement to as close to its condition immediately prior to such work as may be reasonably possible.

9. GRANTOR and GRANTEE shall each bear responsibility for all personal injury and property damage attributable to the negligent acts or omissions of that party and its officers, employees, contractors, agents, invitees, and assigns. Nothing herein shall be construed as an indemnity or waiver of sovereign immunity of the GRANTEE, as provided in Section 768.28, Florida Statutes, and as amended, or any other law providing limitations on claims that is applicable to either party.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the GRANTOR has caused this easement to be executed on this
4th day of May, 2024.

SIGNED IN THE PRESENCE OF:

WITNESSES:

Paul Guen

Signature of 1st Witness

David Guenette

Print Name of 1st Witness

PO Box 481 Van Durne Mc 04785

Print Address of 1st Witness

Ashley Guen

Signature of 2nd Witness

ADRIEN GUENARD

Print Name of 2nd Witness

5964 30th wayn ST PETERS

Print Address of 2nd Witness

STATE OF Florida
COUNTY OF Pinellas

The foregoing instrument was acknowledged before me this 4th day of May,
2024, by Barrett Chapman as President of Flowerwood Club Park Assn, Inc.

Personally Known ✓ OR Produced Identification _____

Type of Identification Produced: _____



Print, Type, or Stamp Commissioned Name of Notary Public


Signature of Notary Public