



An Equal Opportunity Employer

# Southwest Florida Water Management District



2379 Broad Street, Brooksville, Florida 34604-6899

(352) 796-7211 or 1-800-423-1476 (FL only)

WaterMatters.org

### Bartow Office

170 Century Boulevard  
Bartow, Florida 33830-7700  
(863) 534-1448 or  
1-800-492-7862 (FL only)

### Sarasota Office

6750 Fruitville Road  
Sarasota, Florida 34240-9711  
(941) 377-3722 or  
1-800-320-3503 (FL only)

### Tampa Office

7601 U.S. 301 North (Fort King Highway)  
Tampa, Florida 33637-6759  
(813) 985-7481 or  
1-800-836-0797 (FL only)

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Chair, Pasco

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Vice Chair, Pinellas

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**Kelly S. Rice**

Citrus, Lake, Levy, Sumter

**Mark Taylor**

Hernando, Marion

**Michelle Williamson**

Hillsborough

**Vacant**

Hillsborough, Pinellas

**Brian J. Armstrong, P.G.**

Executive Director

February 6, 2017

David Talhouk  
Pinellas County  
14 South Fort Harrison Avenue 4<sup>th</sup> Floor  
Clearwater, Florida 33756

Subject: Pinellas Trails at 54<sup>th</sup> Avenue Stormwater Improvements  
Project No. (N788); Agreement No. 17CF0000399

Dear Mr. Talhouk:

Enclosed is one fully executed original of the agreement between the Southwest Florida Water Management District (District) and Pinellas County for the subject project.

Please accept this letter as your written Notice to Proceed.

If you have any questions, please contact me at the Brooksville office, extension 4147 or the Contract Manager, Ben Allushuski, at the Tampa office, extension 2166.

Sincerely,

*Georgia S. Hudson*

Georgia S. Hudson  
Procurement Specialist 2  
Procurement Section  
Finance Bureau

GSH

Enclosures (2)

cc: S. Tarokh, PAB  
Ben Allushuski  
Records (Contract File)

COOPERATIVE FUNDING AGREEMENT (Type 2)  
BETWEEN THE  
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
AND  
PINELLAS COUNTY  
FOR  
PINELLAS TRAIL AT 54TH AVENUE STORMWATER IMPROVEMENTS (N788)

THIS COOPERATIVE FUNDING AGREEMENT (Agreement) is made and entered into by and between the SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT, a public corporation of the State of Florida, whose address is 2379 Broad Street, Brooksville, Florida 34604-6899, hereinafter referred to as the "DISTRICT," and PINELLAS COUNTY, a political subdivision of the State of Florida, whose address is 315 Court Street, Clearwater, Florida 33756, hereinafter referred to as the "COOPERATOR."

WITNESSETH:

WHEREAS, the COOPERATOR proposed a project to the DISTRICT for funding consideration under the DISTRICT'S cooperative funding program; and

WHEREAS, the project consists of construction of stormwater improvement Coastal Low Impact Development (LID) Best Management Practices (BMPs) in the area of the Pinellas Trail at 54th Avenue, hereinafter referred to as the "PROJECT"; and

WHEREAS, the DISTRICT considers the resource benefits to be achieved by the PROJECT worthwhile and desires to assist the COOPERATOR in funding the PROJECT.

NOW THEREFORE, the DISTRICT and the COOPERATOR, in consideration of the mutual terms, covenants and conditions set forth herein, agree as follows:

1. PROJECT CONTACTS AND NOTICES.

Each party hereby designates the individual set forth below as its prime contact for matters relating to this Agreement. Notices and reports shall be sent to the attention of each party's prime contact as set forth herein by U.S. mail, postage paid, by nationally recognized overnight courier, or personally to the parties' addresses as set forth below. Notice is effective upon receipt.

Contract Manager for the DISTRICT:  
Ben Allushuski  
Southwest Florida Water Management District  
2379 Broad Street  
Brooksville, Florida 34604

Project Manager for the COOPERATOR:  
David Talhouk  
Pinellas County  
14 S. Ft. Harrison Avenue, 4th Floor  
Clearwater, Florida 33756

Any changes to the above representatives or addresses must be provided to the other party in writing.

- 1.1 The DISTRICT'S Contract Manager is authorized to approve requests to extend a PROJECT task deadline set forth in this Agreement. Such approval must be in writing, explain the reason for the extension and be signed by the Contract Manager and his or her Bureau Chief, or Director if the Bureau Chief is the Contract Manager, unless the DISTRICT'S Signature Authority provides otherwise. The DISTRICT'S Signature Authority supersedes the approval requirements provided in this provision. The DISTRICT'S Contract Manager is not authorized to approve any time extension which will result in an increased cost to the DISTRICT or which will exceed the expiration date set forth in this Agreement.
- 1.2 The DISTRICT'S Contract Manager is authorized to adjust a line item amount of the PROJECT budget contained in the Project Plan, or, if applicable, the refined budget as set forth in Subparagraph 4 of the Funding Paragraph. The authorization must be in writing, explain the reason for the adjustment, and be signed by all appropriate DISTRICT staff in accordance with the DISTRICT'S Signature Authority. The DISTRICT'S Contract Manager is not authorized to make changes to the Scope of Work and is not authorized to approve any increase in the amounts set forth in the funding section of this Agreement.

## 2. SCOPE OF WORK.

Upon receipt of written notice to proceed from the DISTRICT, the COOPERATOR shall perform the services necessary to complete the PROJECT in accordance with the COOPERATOR'S Project Plan. Any changes to this Agreement, except as provided herein, must be mutually agreed to in a formal written amendment approved by the DISTRICT and the COOPERATOR prior to being performed by the COOPERATOR. The COOPERATOR shall be solely responsible for managing and controlling the PROJECT, both during and after construction and during and after the operation and maintenance of the PROJECT, including the hiring and supervising of any consultants or contractors it engages.

The parties agree that time is of the essence in the performance of each obligation under this Agreement.

## 3. FUNDING.

The parties anticipate that the total cost of the PROJECT will be One Million Six Hundred Fifty Thousand Dollars (\$1,650,000). The DISTRICT agrees to fund PROJECT costs up to Eight Hundred Twenty Five Thousand Dollars (\$825,000), and shall have no obligation

to pay any costs beyond this maximum amount. The COOPERATOR agrees to provide all remaining funds necessary for the satisfactory completion of the PROJECT.

- 3.1 The DISTRICT'S performance and payment pursuant to this Agreement are contingent upon the DISTRICT'S Governing Board appropriating funds in its approved budget for the PROJECT in each fiscal year of this Agreement. The COOPERATOR'S payment of any financial obligation under this Agreement is subject to appropriation by the COOPERATOR'S Board of legally available funds.
- 3.2 The COOPERATOR shall pay PROJECT costs prior to requesting reimbursement from the DISTRICT. The DISTRICT shall reimburse the COOPERATOR for the DISTRICT'S share of allowable PROJECT costs in accordance with the PROJECT budget contained in the Project Plan. Reimbursement for expenditures of contingency funds is contingent upon approval by the DISTRICT. If a reimbursement request includes the expenditure of contingency funds, the COOPERATOR shall provide sufficient documentation to the DISTRICT to explain the basis of the expense. The DISTRICT shall not reimburse the COOPERATOR for any contingency funds that the DISTRICT determines, in its sole discretion, to be in excess of what was reasonably necessary to complete the PROJECT. The DISTRICT shall reimburse the COOPERATOR for fifty percent (50%) of all allowable costs in each DISTRICT approved invoice received from the COOPERATOR, but at no point in time shall the DISTRICT'S expenditure amounts under this Agreement exceed expenditures made by the COOPERATOR.
- 3.3 Unless otherwise stated in this Agreement, any federal, state, local or grant monies received by the COOPERATOR for this PROJECT shall be applied to equally reduce each party's share of PROJECT costs. The COOPERATOR shall provide the DISTRICT with written documentation detailing its allocation of any such funds appropriated for this PROJECT. This Subparagraph shall survive the expiration or termination of this Agreement.
- 3.4 The COOPERATOR may contract with consultant(s), contractor(s) or both to accomplish the PROJECT. The COOPERATOR must obtain the DISTRICT'S written approval prior to posting solicitations for consultants or contractors and prior to entering into agreements with consultants or contractors to ensure that costs to be reimbursed by the DISTRICT under those agreements are reasonable and allowable under this Agreement. The DISTRICT shall provide a written response to the COOPERATOR within fifteen (15) business days of receipt of the solicitation or agreement. Upon written DISTRICT approval, the budget amounts for the work set forth in such contract(s) shall refine the amounts set forth in the PROJECT budget and be incorporated herein by reference. The DISTRICT shall not reimburse the COOPERATOR for costs incurred under consultant and contractor agreements until the DISTRICT approvals required under this provision have been obtained.
- 3.5 Payment shall be made to the COOPERATOR within forty-five (45) days of receipt of an invoice with adequate supporting documentation to satisfy auditing purposes. Invoices shall be submitted to the DISTRICT every two (2) months electronically at [invoices@WaterMatters.org](mailto:invoices@WaterMatters.org), or at the following address:

Accounts Payable Section  
Southwest Florida Water Management District  
Post Office Box 15436  
Brooksville, Florida 34604-5436

The above-referenced payment due date shall not apply to that portion of an invoice that includes contingency expenses. The DISTRICT agrees to reimburse the COOPERATOR for contingency expenses within a reasonable time to accommodate the process provided for in Subparagraph 2 of this Funding Paragraph.

In addition to sending an original invoice to the DISTRICT'S Accounts Payable Section as required above, copies of invoices may also be submitted to the DISTRICT'S Contract Manager in order to expedite the review process. Failure of the COOPERATOR to submit invoices to the DISTRICT in the manner provided herein shall relieve the DISTRICT of its obligation to pay within the aforementioned timeframe.

The DISTRICT makes payments electronically through the Automated Clearing House (ACH) process. The COOPERATOR agrees to complete the DISTRICT'S *Vendor Registration Form* and *Vendor Electronic Payment Authorization Form* to enable payments to be sent to COOPERATOR electronically. The forms may be downloaded from the DISTRICT'S website at [www.watermatters.org](http://www.watermatters.org) under Business & Finance – Contracts and Procurement. Any questions regarding electronic payments may be directed to the DISTRICT'S Accounts Payable Lead at 352-796-7211, extension 4108.

- 3.6 If at any point during the progression of the PROJECT the DISTRICT determines that it is likely that the Measurable Benefit as set forth in the Project Plan, will not be achieved, the DISTRICT shall provide the COOPERATOR with fifteen (15) days advance written notice that the DISTRICT shall withhold payments to the COOPERATOR until such time as the COOPERATOR demonstrates that the PROJECT shall achieve the required resource benefits, to provide the COOPERATOR with an opportunity to cure the deficiencies.

Furthermore, if at any point during the progression of the PROJECT, it is determined by the DISTRICT, in its sole discretion, that the Resource Benefit as set forth in the Project Plan may not be achieved, the DISTRICT may terminate this Agreement without any payment obligation. Such termination shall be effective ten (10) days following the COOPERATOR'S receipt of written notice from the DISTRICT.

- 3.7 Any travel expenses which may be authorized under this Agreement shall be paid in accordance with Section 112.061, Florida Statutes (F.S.) as may be amended from time to time. The DISTRICT shall not reimburse the COOPERATOR for any purpose not specifically identified in the Scope of Work Paragraph. Surcharges added to third party invoices are not considered an allowable cost under this Agreement. Costs associated with in-kind services provided by the

COOPERATOR are not reimbursable by the DISTRICT and may not be included in the COOPERATOR'S share of funding contributions under this Agreement.

3.8 The DISTRICT has no obligation and shall not reimburse the COOPERATOR for any costs under this Agreement until the Notice to Proceed with construction has been issued to the COOPERATOR'S contractor.

3.9 Each COOPERATOR invoice must include the following certification, and the COOPERATOR hereby delegates authority by virtue of this Agreement to its Project Manager to affirm said certification:

"I hereby certify that the costs requested for reimbursement and the COOPERATOR'S matching funds, as represented in this invoice, are directly related to the performance under the Pinellas Trail at 54th Avenue Stormwater Improvements (N788) agreement between the Southwest Florida Water Management District and the Pinellas County (Agreement No. 17CF0000399), are allowable, allocable, properly documented, and are in accordance with the approved project budget. This invoice includes \$\_\_ of contingency expenses. The COOPERATOR has been allocated a total of \$\_\_ in federal, state, local or grant monies for this PROJECT (not including DISTRICT funds) and \$\_\_ has been allocated to this invoice, reducing the DISTRICT'S and COOPERATOR'S share to \$\_\_ / \$\_\_ respectively."

3.10 In the event any dispute or disagreement arises during the course of the PROJECT, including whether expenses are reimbursable under this Agreement, the COOPERATOR will continue to perform the PROJECT work in accordance with the Project Plan. The COOPERATOR is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute by providing the details and basis of the dispute to the DISTRICT'S Contract Manager no later than ten (10) days after the precipitating event. If not resolved by the Contract Manager, in consultation with his or her Bureau Chief, within ten (10) days of receipt of notice, the dispute will be forwarded to the DISTRICT'S Assistant Executive Director. The DISTRICT'S Assistant Executive Director in consultation with the DISTRICT'S Office of General Counsel will issue the DISTRICT'S final determination. The COOPERATOR'S continuation of the PROJECT work as required under this provision shall not constitute a waiver or any legal remedy available to the COOPERATOR concerning the dispute.

#### 4. COMPLETION DATES.

The COOPERATOR shall commence and complete the PROJECT and meet the task deadlines in accordance with the project schedule set forth in the Project Plan, including any extensions of time provided by the DISTRICT in accordance with subparagraph 1 of the Project Contacts and Notices Paragraph. In the event of hurricanes, tornados, floods, acts of God, acts of war, or other such catastrophes, or other man-made emergencies such as labor strikes or riots, which are beyond the control of the COOPERATOR, the COOPERATOR'S obligations to meet the time frames provided in this Agreement shall be suspended for the period of time the condition continues to exist. During such suspension, this Agreement shall remain in effect. When the COOPERATOR is able to

resume performance of its obligations under this Agreement, in whole or in part, it shall immediately give the DISTRICT written notice to that effect and shall resume performance no later than two (2) working days after the notice is delivered. The suspension of the COOPERATOR'S obligations provided for in this provision shall be the COOPERATOR'S sole remedy for the delays set forth herein.

5. REPAYMENT.

- 5.1 The COOPERATOR shall repay the DISTRICT all funds the DISTRICT paid to the COOPERATOR under this Agreement; if: a) the COOPERATOR fails to complete the PROJECT in accordance with the terms and conditions of this Agreement, including failing to meet the Measurable Benefit,; b) the DISTRICT determines, in its sole discretion and judgment, that the COOPERATOR has failed to maintain scheduled progress of the PROJECT thereby endangering the timely performance of this Agreement, c) the COOPERATOR fails to appropriate sufficient funds to meet the task deadlines, unless extended in accordance with Subparagraph 1 of the Project Contacts and Notices Paragraph, or d) a provision or provisions of this Agreement setting forth the requirements or expectations of a Measurable Benefit resulting from the PROJECT is held to be invalid, illegal or unenforceable during the term of this Agreement, including the duration of the operation and maintenance obligations set forth in this Agreement. Should any of the above conditions exist that require the COOPERATOR to repay the DISTRICT, this Agreement shall terminate in accordance with the procedure set forth in the Default Paragraph.
- 5.2 Notwithstanding the above, the parties acknowledge that if the PROJECT fails to meet the Measurable Benefit specified in this Agreement, the COOPERATOR may request the DISTRICT Governing Board to waive the repayment obligation, in whole or in part.
- 5.3 In the event the COOPERATOR is obligated to repay the DISTRICT under any provision of this Agreement, the COOPERATOR shall repay the DISTRICT within a reasonable time, as determined by the DISTRICT in its sole discretion.
- 5.4 The COOPERATOR shall pay the attorneys' fees and costs incurred by the DISTRICT, including appeals, as a result of COOPERATOR'S failure to repay the DISTRICT as required by this Agreement.
- 5.5 This Repayment Paragraph, including all subparagraphs, shall survive the expiration or termination of this Agreement.

6. OPERATION AND MAINTENANCE.

After construction is completed, the COOPERATOR shall operate, use and maintain the PROJECT for a minimum of twenty (20) years, in such a manner that the Measurable Benefit required under this Agreement is achieved. In the event the PROJECT is not operated, used and maintained in accordance with these requirements, the COOPERATOR shall repay the DISTRICT an amount of five percent (5%) of total DISTRICT monies contributed to the PROJECT for each year or a fraction thereof for the

early termination of the PROJECT. The rights and remedies in this provision are in addition to any other rights and remedies provided by law or this Agreement.

- 6.1 Within thirty (30) days after construction is completed, the COOPERATOR shall provide the DISTRICT with construction record drawings to include Resource Benefit calculations and methodology, signed and sealed by a professional engineer, certifying that the Measurable Benefit has been achieved. The COOPERATOR shall provide the DISTRICT with an operation and maintenance plan that ensures the Measurable Benefit will be maintained. Every two (2) years following the completion of the PROJECT, the COOPERATOR shall generate a report describing the operations and maintenance activities that took place during the reporting period that certifies that the Measurable Benefit set forth in the Project Plan has been maintained. The COOPERATOR'S obligation to generate reports shall continue until the expiration of the 20-year operation and maintenance period.
- 6.2 The DISTRICT retains the right to audit any certification and the COOPERATOR shall provide documentation as requested by the DISTRICT to support its certification that the specified Measurable Benefit has been maintained.
- 6.3 This Operation and Maintenance Paragraph, including all subparagraphs, shall survive the expiration or termination of this Agreement.

## 7. CONTRACT PERIOD.

This Agreement shall be effective October 1, 2016 and shall remain in effect through February 28, 2019, or upon satisfactory completion of the PROJECT and subsequent reimbursement to the COOPERATOR, whichever occurs first, unless amended in writing by the parties. The COOPERATOR shall not be eligible for reimbursement for any work that is commenced, or costs that are incurred, prior to the effective date of this Agreement.

## 8. PROJECT RECORDS AND DOCUMENTS.

Upon request by the DISTRICT, the COOPERATOR shall permit the DISTRICT to examine or audit all PROJECT related records and documents during or following completion of the PROJECT at no cost to the DISTRICT. Payments made to the COOPERATOR under this Agreement shall be reduced for amounts found to be not allowable under this Agreement by an audit. If an audit is undertaken by either party, all required records shall be maintained until the audit has been completed and all questions arising from it are resolved. Each party shall maintain all such records and documents for at least three (3) years following completion of the PROJECT. Each party shall allow public access to PROJECT documents and materials made or received by either party in accordance with the Public Records Act, Chapter 119, F.S. Should either party assert any exemption to the requirements of Chapter 119, F.S., the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the asserting party. This Paragraph shall survive the expiration or termination of this Agreement.



9. REPORTS.

- 9.1 The COOPERATOR shall provide the DISTRICT with a quarterly report describing the progress of the PROJECT tasks, adherence to the performance schedule and any developments affecting the PROJECT. The COOPERATOR shall promptly advise the DISTRICT of issues that arise that may impact the successful and timely completion of the PROJECT. Quarterly reports shall be submitted to the DISTRICT'S Contract Manager no later than forty-five (45) days following the completion of the quarterly reporting period. It is hereby understood and agreed by the parties that the term "quarterly" shall reflect the calendar quarters ending March 31, June 30, September 30 and December 31.
- 9.2 Upon request by the DISTRICT, the COOPERATOR shall provide the DISTRICT with copies of all data, reports, models, studies, maps or other documents resulting from the PROJECT. Additionally, one (1) set, electronic and hardcopy, of any final reports must be submitted to the DISTRICT as Record and Library copies. This Subparagraph shall survive the expiration or termination of this Agreement.
- 9.3 The COOPERATOR shall provide the DISTRICT with the proposed final design, including supporting documentation and Resource Benefit calculations and methodology, for review by the DISTRICT in order for the DISTRICT to verify that the proposed design meets the requirements of the PROJECT as set forth in the Project Plan. A professional engineer shall, at a minimum, sign and seal the proposed final design plans. The DISTRICT shall provide a written response to the COOPERATOR within ten (10) business days of receipt of the proposed design plans and supporting documentation either verifying the design plans appear to meet the requirements of the Agreement or stating its insufficiencies. The COOPERATOR shall not finalize the design or advertise the construction bid documents until the DISTRICT provides the required verification. The DISTRICT'S verification shall not constitute an approval of the design, or a representation or warranty that the DISTRICT has verified the architectural, engineering, mechanical, electrical, or other components of the construction bid documents or that such documents are in compliance with DISTRICT rules and regulations or any other applicable rules, regulations or law. The COOPERATOR shall require the design professional to warrant that the construction documents are adequate for bidding and construction of the PROJECT.
- 9.4 The COOPERATOR shall provide the data, reports and documents referenced in this provision at no cost to the DISTRICT.

10. RISK, LIABILITY, AND INDEMNITY.

- 10.1 To the extent permitted by Florida law, the COOPERATOR assumes all risks relating to the PROJECT and agrees to be solely liable for, and to indemnify and hold the DISTRICT harmless from all claims, loss, damage and other expenses, including attorneys' fees and costs and attorneys' fees and costs on appeal, arising from the design, construction, operation, maintenance or implementation of the PROJECT; provided, however, that the COOPERATOR shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission

of the DISTRICT'S officers, employees, contractors and agents. The acceptance of the DISTRICT'S funding by the COOPERATOR does not in any way constitute an agency relationship between the DISTRICT and the COOPERATOR.

- 10.2 The COOPERATOR agrees to indemnify and hold the DISTRICT harmless, to the extent allowed under Section 768.28, F.S., from all claims, loss, damage and other expenses, including attorneys' fees and costs and attorneys' fees and costs on appeal, arising from the negligent acts or omissions of the COOPERATOR'S officers, employees, contractors and agents related to its performance under this Agreement.
- 10.3 This Risk, Liability and Indemnity Paragraph, including all subparagraphs, shall not be construed as a waiver of the COOPERATOR'S sovereign immunity or an extension of COOPERATOR'S liability beyond the limits established in Section 768.28, F.S. Additionally, this Risk, Liability and Indemnity Paragraph, including all subparagraphs, will not be construed to impose contractual liability on the COOPERATOR for underlying tort claims as described above beyond the limits specified in Section 768.28, F.S., nor be construed as consent by the COOPERATOR to be sued by third parties in any manner arising out of this Agreement.
- 10.4 Nothing in this Agreement shall be interpreted as a waiver of the DISTRICT'S sovereign immunity or an extension of its liability beyond the limits established in Section 768.28, F.S., nor be construed as consent by the DISTRICT to be sued by third parties in any manner arising out of this Agreement.
- 10.5 This Risk, Liability and Indemnity Paragraph, including all subparagraphs, shall survive the expiration or termination of this Agreement.

## 11. DEFAULT.

Either party may terminate this Agreement upon the other party's failure to comply with any term or condition of this Agreement, including the failure to meet task deadlines established in this Agreement, as long as the terminating party is not in default of any term or condition of this Agreement at the time of termination. To effect termination, the terminating party shall provide the defaulting party with a written "Notice of Termination" stating its intent to terminate and describing all terms and conditions with which the defaulting party has failed to comply. If the defaulting party has not remedied its default within thirty (30) days after receiving the Notice of Termination, this Agreement shall automatically terminate. If a default cannot reasonably be cured in thirty (30) days, then the thirty (30) days may be extended at the non-defaulting party's discretion, if the defaulting party is pursuing a cure of the default with reasonable diligence. The rights and remedies in this provision are in addition to any other rights and remedies provided by law or this Agreement.

## 12. RELEASE OF INFORMATION.

The parties agree not to initiate any oral or written media interviews or issue press releases on or about the PROJECT without providing notices or copies to the other party

no later than three (3) business days prior to the interview or press release. This provision shall not be construed as preventing the parties from complying with the public records disclosure laws set forth in Chapter 119, F.S.

13. DISTRICT RECOGNITION.

The COOPERATOR shall recognize DISTRICT funding in any reports, models, studies, maps or other documents resulting from this Agreement, and the form of said recognition shall be subject to DISTRICT approval. If construction is involved, the COOPERATOR shall provide signage at the PROJECT site that recognizes funding for this PROJECT provided by the DISTRICT. All signage must meet with DISTRICT written approval as to form, content and location, and must be in accordance with local sign ordinances.

14. PERMITS AND REAL PROPERTY RIGHTS.

The COOPERATOR shall obtain all permits, local government approvals and all real property rights necessary to complete the PROJECT prior to commencing any construction involved in the PROJECT. The DISTRICT shall have no obligation to reimburse the COOPERATOR for any costs under this Agreement until the COOPERATOR has obtained all permits, approvals, and property rights necessary to accomplish the objectives of the PROJECT. In the event a permit, approval or property right is obtained but is subsequently subject to a legal challenge that results in an unreasonable delay or cancellation of the PROJECT as determined by the DISTRICT in its sole discretion, the COOPERATOR shall repay the DISTRICT all monies contributed to the PROJECT. This Paragraph shall survive the expiration or termination of this Agreement.

15. LAW COMPLIANCE.

The COOPERATOR shall comply with all applicable federal, state and local laws, rules, regulations and guidelines, including those of the DISTRICT, related to performance under this Agreement. If the PROJECT involves design services, the COOPERATOR'S professional designers and the DISTRICT'S regulation and projects staff shall meet regularly during the PROJECT design to discuss ways of ensuring that the final design for the proposed PROJECT technically complies with all applicable DISTRICT rules and regulations. However, the DISTRICT undertakes no duty to ensure compliance with such rules and regulations.

16. DIVERSITY IN CONTRACTING AND SUBCONTRACTING.

The DISTRICT is committed to supplier diversity in the performance of all contracts associated with DISTRICT cooperative funding projects. The DISTRICT requires the COOPERATOR to make good faith efforts to encourage the participation of minority owned and women owned and small business enterprises, both as prime contractors and subcontractors, in the performance of this Agreement, in accordance with applicable laws.

16.1 If requested, the DISTRICT shall assist the COOPERATOR by sharing information to help the COOPERATOR in ensuring that minority owned and woman owned and

small businesses are afforded an opportunity to participate in the performance of this Agreement.

16.2 The COOPERATOR agrees to provide the DISTRICT with a report indicating all contractors and subcontractors who performed work in association with the PROJECT, the amount spent with each contractor or subcontractor, and to the extent such information is known, whether each contractor or subcontractor was a minority owned or woman owned or small business enterprise. If no minority owned or woman owned or small business enterprises were used in the performance of this Agreement, then the report shall so indicate. The Minority/Women Owned and Small Business Utilization Report form is attached as an exhibit. The report is required upon final completion of the PROJECT prior to final payment, or within thirty (30) days of the execution of any amendment that increases PROJECT funding, for information up to the date of the amendment and prior to the disbursement of any additional funds by the DISTRICT.

17. ASSIGNMENT.

Except as otherwise provided in this Agreement, no party may assign any of its rights or delegate any of its obligations under this Agreement, including any operation or maintenance duties related to the PROJECT, without the prior written consent of the other party. Any attempted assignment in violation of this provision is void. This Paragraph shall survive the expiration or termination of this Agreement.

18. CONTRACTORS.

Nothing in this Agreement shall be construed to create, or be implied to create, any relationship between the DISTRICT and any consultant or contractor of the COOPERATOR.

19. THIRD PARTY BENEFICIARIES.

Nothing in this Agreement shall be construed to benefit any person or entity not a party to this Agreement.

20. LOBBYING PROHIBITION.

Pursuant to Section 216.347, F.S., the COOPERATOR is prohibited from using funds provided by this Agreement for the purpose of lobbying the Legislature, the judicial branch or a state agency.

21. PUBLIC ENTITY CRIMES.

Pursuant to Subsection 287.133(2) and (3), F.S., a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform

work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for Category Two, for a period of 36 months following the date of being placed on the convicted vendor list. The COOPERATOR agrees to include this provision in all contracts issued as a result of this Agreement.

22. SCRUTINIZED COMPANIES.

Pursuant to Section 287.135, F.S., a company that, at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract, is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S., or is engaged in a boycott of Israel; is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, F.S.; or is engaged in business operations in Cuba or Syria, is ineligible to, and may not bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of \$1 million or more. By signing this Agreement, COOPERATOR certifies that it is not participating in a boycott of Israel, is not on any of the aforementioned lists, and it does not have business operations in Cuba or Syria. COOPERATOR agrees to notify the DISTRICT if placement on any of the aforementioned lists occurs or if COOPERATOR is engaged in a boycott of Israel or has business operations in Cuba or Syria. The DISTRICT may terminate this Agreement if the COOPERATOR is found to have submitted a false certification; has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel; has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or has been engaged in business operations in Cuba or Syria. If the DISTRICT determines COOPERATOR submitted a false certification, the DISTRICT may bring a civil action against the COOPERATOR, which may result in a penalty equal to the greater of \$2 million or twice the amount of this Agreement and all reasonable attorney's fees and costs.

23. COMPENSATORY TREATMENT AND MITIGATION.

This PROJECT shall not be used by the COOPERATOR or any other entity as compensatory water quality treatment or wetland mitigation or any other required mitigation due to impacts for any projects. The PROJECT shall not be used for WUP withdrawal credits. In the event the PROJECT is used for compensatory water quality treatment or mitigation or WUP withdrawal credits in violation of this Paragraph, the COOPERATOR shall repay the DISTRICT all funds the DISTRICT paid to the COOPERATOR under this Agreement. The PROJECT can be used for self-mitigation due to impacts specifically associated with the construction of the PROJECT. This Paragraph shall survive the expiration or termination of this Agreement.

24. GOVERNING LAW.

This Agreement is governed by Florida law and venue for resolving disputes under this Agreement shall be exclusively in Hernando County, Florida. This Paragraph shall survive the expiration or termination of this Agreement.

25. SEVERABILITY.

If any provision or provisions of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. Notwithstanding the above, if a provision or provisions of this Agreement setting forth the requirements or expectations of a Measurable Benefit resulting from the PROJECT is held to be invalid, illegal or unenforceable during the term of this Agreement, this Agreement shall terminate in accordance with subparagraph 1 of the Repayment Paragraph. This Paragraph shall survive the expiration or termination of this Agreement.

26. ENTIRE AGREEMENT.

This Agreement and the attached exhibit(s) listed below constitute the entire agreement between the parties and, unless otherwise provided herein, may be amended only in writing, signed by all parties to this Agreement.

27. DOCUMENTS.

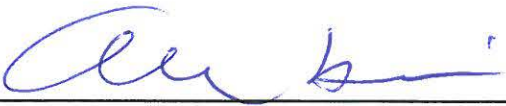
The following document(s) is/are attached and made a part of this Agreement. In the event of a conflict of contract terminology, priority shall first be given to the language in the body of this Agreement, then to Exhibit "A," and then to Exhibit "B."

Exhibit "A"    Project Plan  
Exhibit "B"    Minority/Women Owned and Small Business Utilization Report

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IN WITNESS WHEREOF, the parties hereto, or their lawful representatives, have executed this Agreement on the day and year set forth next to their signatures below.

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

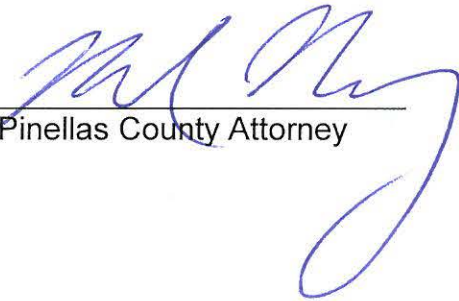
By:  2/3/2017  
Amanda Rice, P.E. Date  
Assistant Executive Director

PINELLAS COUNTY

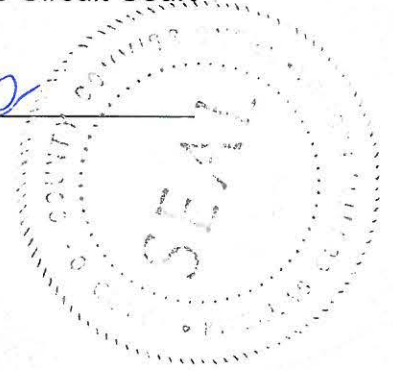
By:  1.24.17  
~~Charles Justice~~ Janet C. Long Date  
Chairman, Board of County Commissioners

Approved as to form:

Attest: Ken Burke, Clerk of the Circuit Court

By:   
Pinellas County Attorney

By:   
Deputy Clerk



COOPERATIVE FUNDING AGREEMENT (Type 2)  
BETWEEN THE  
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
AND  
PINELLAS COUNTY  
FOR  
PINELLAS TRAIL AT 54TH AVENUE STORMWATER IMPROVEMENTS (N788)

## EXHIBIT "A" PROJECT PLAN

### **PROJECT DESCRIPTION**

The PROJECT is a cooperative funding project located within Pinellas County (COOPERATOR). The PROJECT includes construction and construction management. Construction includes implementation of stormwater quality treatment facilities and flood control measures to improve water quality and the level of service for structures and roads for a 255-acre sub-basin that ultimately discharges into Long Bayou. The Best Management Practices (BMPs) will be implemented in the area of southwest Pinellas County, generally bounded by Seminole Boulevard to the west, 50<sup>th</sup> Avenue North to the south, the Pinellas Trail to the east and 66<sup>th</sup> Street to the north. The proposed improvements will lower the 100-year floodplain elevation for structures and reduce the existing flooding problems for streets during the 10-year, 24-hour storm event, and increase the overall 255-acre system conveyance to Long Bayou which will provide for subsequent additional drainage improvements in the watershed. The PROJECT'S purpose is to improve water quality and enhance flood protection. The general location of the PROJECT is shown on the attached map (Figure 1).

The COOPERATOR shall, separate to this Agreement and prior to implementation of the PROJECT, design the stormwater improvement BMPs, secure the necessary rights-of-way, easements and all necessary permits for construction.

### **RESOURCE BENEFIT**

Reduce the existing flooding problem for structures during the 100-year, 24-hour storm event and reduce the existing flooding problem for streets during the 10-year, 24-hour storm event.

### **MEASURABLE BENEFIT**

Construction of BMPs to treat stormwater runoff from a highly urbanized watershed.

### **PROJECT TASKS**

Key tasks to be performed by the COOPERATOR:

1. **BIDDING AND CONTRACT AWARD** – The COOPERATOR shall procure a contractor to implement the PROJECT based on the final design plans and approved permits in accordance with the procurement laws applicable to the COOPERATOR. Prior to bid advertisement, the COOPERATOR shall identify those bid items that are eligible for reimbursement from the DISTRICT.
2. **CONSTRUCTION** – The COOPERATOR shall construct the PROJECT in conformance with the final design plans, specifications and approved permits.
3. **CONSTRUCTION ENGINEERING AND INSPECTION (CEI)** – The COOPERATOR shall review all shop drawings, complete engineering inspections and monitor all phases of construction by means of survey, observations, and materials testing to give reasonable assurance that the construction work conforms to the permitted plans and design specifications. The COOPERATOR shall provide the DISTRICT with inspection documents and photographs.



4. AS-BUILT SURVEY, RECORD DRAWINGS AND COMPLETION CERTIFICATION – The COOPERATOR shall obtain and provide to the DISTRICT an As-Built Survey signed and sealed and certified by a licensed Florida professional surveyor and mapper, the Record Drawings and a final Certificate of Substantial Completion, signed by the professional engineer responsible for construction support, monitoring and inspection services. The COOPERATOR shall obtain the Resource Benefit calculations and methodology, signed and sealed by a professional engineer, following completion of construction.
5. OPERATION AND MAINTENANCE - The COOPERATOR shall provide for the operation and maintenance of the completed PROJECT and ensure the PROJECT functions in accordance with the final design plans, and conforms to all the conditions specified in the environmental permits issued for the PROJECT. The COOPERATOR shall be identified as the entity responsible for all operation and maintenance requirements in all permits issued for the PROJECT. The COOPERATOR shall prepare an Operation and Maintenance Plan detailing the inspection and maintenance activities to ensure optimum performance of the PROJECT improvements.

#### **DELIVERABLES**

- Quarterly status reports
- Minutes of kick-off, pre-application and progress meetings
- Design plans at proposed final design level; include electronic and CAD
- Engineer's opinion of probable cost at proposed final design and final construction drawings
- Technical Specifications and proposed final design
- Copy of all required federal, state and local environmental permit application packages, requests for additional information, and final permit approvals
- Construction bid packages for cost approval, with reimbursable items identified (prior to posting)
- Copy of contract with contractor (for cost approval, prior to execution)
- Copy of executed contract with contractor
- Copy of Notice to Proceed to contractor
- Copy of construction permits
- Dated color (digital) photographs of the construction site prior to, during, and immediately following completion of construction
- Construction inspection reports
- As-Built Survey
- Construction record drawings
- Final Certificate of Substantial Completion
- Resource Benefit calculations and methodology
- One (1) set, electronic and hardcopy, of any final reports and data files
- Minority/Women Owned and Small Business Utilization Report
- Operation and Maintenance Plan
- Upon DISTRICT request, biennial Operation and Maintenance Report

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## PROJECT SCHEDULE

| DESCRIPTION  | COMMENCE | COMPLETE |
|--|----------|----------|
| Bidding & Contract Award                                     | 07/01/17 | 10/30/17 |
| Construction and Construction Engineering & Inspection (CEI) | 11/01/17 | 05/30/18 |
| As-Built Survey, Record Drawings & Completion Certification  | 06/01/18 | 08/30/18 |

- Additional task deadlines contained in the performance schedules of the consultant and contractor contracts will be incorporated herein by reference.

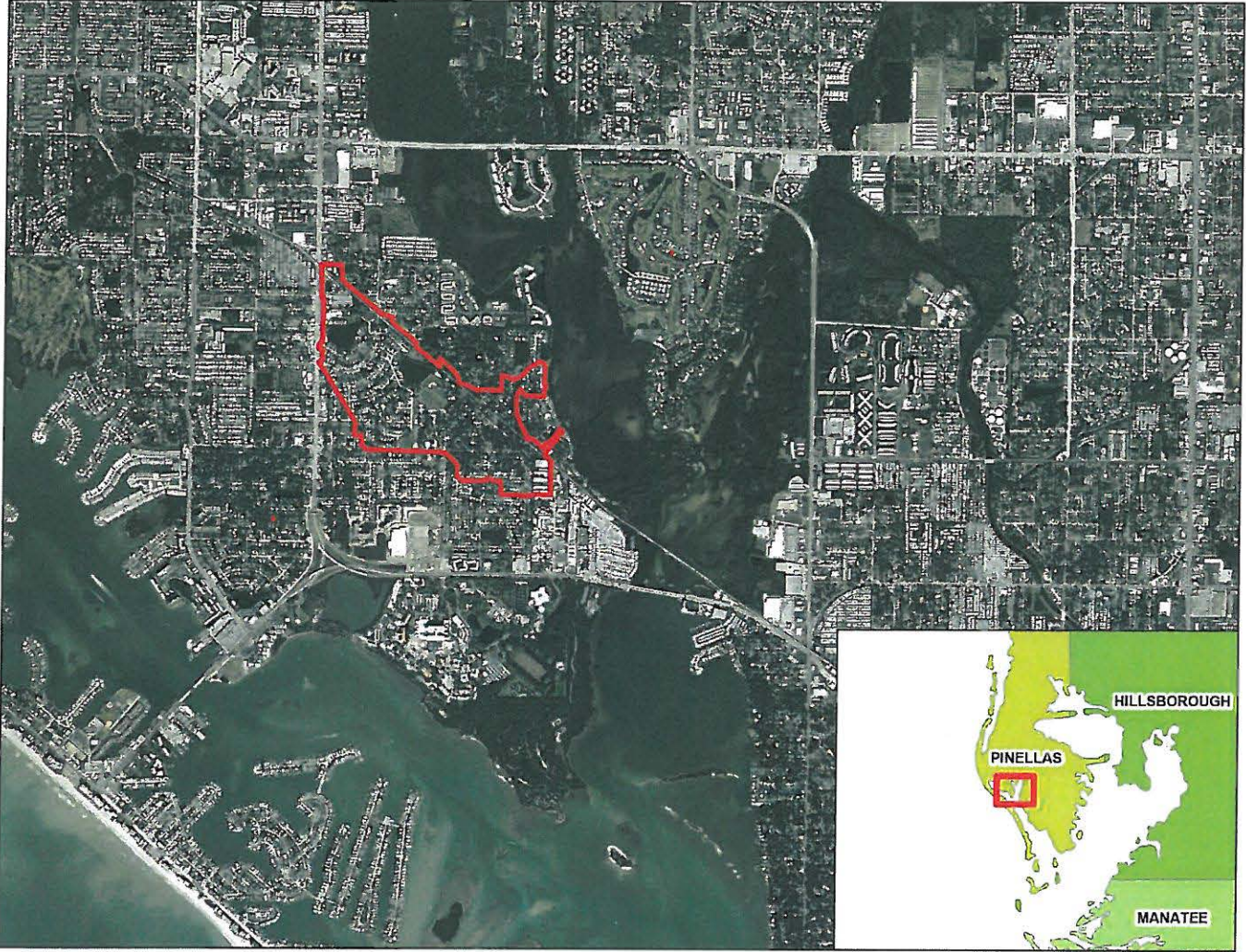
## PROJECT BUDGET

| DESCRIPTION   | DISTRICT  | COOPERATOR | TOTAL       |
|---|-----------|------------|-------------|
| Construction  | \$825,000 | \$825,000  | \$1,650,000 |
| Construction Engineering and Inspection (CEI)               | \$0       | \$0        | \$0         |
| As-Built Survey, Record Drawings & Completion Certification | \$0       | \$0        | \$0         |
| TOTAL   | \$825,000 | \$825,000  | \$1,650,000 |

- Reimbursement for expenditures of contingency funds is contingent upon DISTRICT approval in accordance with the Funding paragraph in the Agreement. Cooperator must provide justification for the expenditure that will require documentation including, but not limited to, the purpose and necessity of the expenditure, the reason the expenditure was not included in the consultant or contractor agreement with the COOPERATOR, expenditure cost comparisons and justification of the cost.

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PROJECT MAP: FIGURE 1



**EXHIBIT "B"**  
**MINORITY/WOMEN OWNED AND SMALL BUSINESS UTILIZATION REPORT**

Projects receiving \$100,000 or more in cooperative funding from the Southwest Florida Water Management District require the submission of the following information within 30 days of any amendment increasing project funding and with the final invoice. Questions regarding use of this form should be directed to Contracts Administration, Phone (352) 796-7211 ext. 4133.

| COOPERATOR: _____<br><br>AGREEMENT NO.: _____<br><br>PROJECT NAME: _____<br><br>TOTAL PROJECT COST: _____ |                   | INDICATE THE ONE CATEGORY THAT BEST DESCRIBES EACH ORGANIZATION LISTED* |  |                  |                   |                         |                 |                   |                  |                   |                         |                 |                |  |
|---|-------------------|---|--|------------------|-------------------|-------------------------|-----------------|-------------------|------------------|-------------------|-------------------------|-----------------|----------------|--|
|   |                   | BUSINESS CLASSIFICATION   |  | CERTIFIED MBE    |                   |                         |                 | NON-CERTIFIED MBE |                  |                   |                         | UNKNOWN         |                |  |
|   |                   | NON-MINORITY  | SMALL BUSINESS Section 288.703(1) F.S. | AFRICAN AMERICAN | HISPANIC AMERICAN | ASIAN/HAWAIIAN AMERICAN | NATIVE AMERICAN | AMERICAN WOMAN    | AFRICAN AMERICAN | HISPANIC AMERICAN | ASIAN/HAWAIIAN AMERICAN | NATIVE AMERICAN | AMERICAN WOMAN |  |
| NAMES OF CONTRACTORS AND SUBCONTRACTORS UTILIZED  | TOTAL AMOUNT PAID |   |  |                  |                   |                         |                 |                   |                  |                   |                         |                 |                |  |
|   |                   |   |  |                  |                   |                         |                 |                   |                  |                   |                         |                 |                |  |
|   |                   |   |  |                  |                   |                         |                 |                   |                  |                   |                         |                 |                |  |
|   |                   |   |  |                  |                   |                         |                 |                   |                  |                   |                         |                 |                |  |
|   |                   |   |  |                  |                   |                         |                 |                   |                  |                   |                         |                 |                |  |
|   |                   |   |  |                  |                   |                         |                 |                   |                  |                   |                         |                 |                |  |
|   |                   |   |  |                  |                   |                         |                 |                   |                  |                   |                         |                 |                |  |
|   |                   |   |  |                  |                   |                         |                 |                   |                  |                   |                         |                 |                |  |
|   |                   |   |  |                  |                   |                         |                 |                   |                  |                   |                         |                 |                |  |
|   |                   |   |  |                  |                   |                         |                 |                   |                  |                   |                         |                 |                |  |

\*  Our organization does not collect minority status data.

Signature \_\_\_\_\_ Date \_\_\_\_\_ Print Name and Title \_\_\_\_\_  
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