

**SECOND AMENDMENT  
TO AGREEMENT BETWEEN THE  
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
AND  
CITY OF CLEARWATER  
AND  
PINELLAS COUNTY  
FOR  
LOWER SPRING BRANCH CONVEYANCE IMPROVEMENTS (N915)**

This **SECOND AMENDMENT** effective upon execution by both parties, by and between the **SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT**, a public corporation of the State of Florida having an address of 2379 Broad Street, Brooksville, Florida 34604-6899, hereinafter referred to as the "DISTRICT," and the **CITY OF CLEARWATER**, a municipal corporation of the State of Florida, having an address of 112 Osceola Avenue, Clearwater, Florida 33756, hereinafter referred to as the "CITY", 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 "COUNTY."

**WITNESSETH:**

**WHEREAS**, the **DISTRICT**, the **CITY** and the **COUNTY** entered into an agreement effective October 1, 2017, as amended June 15, 2021 (Agreement No. 18CF0000878), hereinafter referred to as the "Existing Agreement," for design, permitting, and construction of conveyance improvements along the Lower Spring Branch of Stevenson Creek in Pinellas County ; and

**WHEREAS**, the parties hereto wish to amend the Existing Agreement to replace the **DISTRICT'S** Contract Manager, the **CITY'S** Project Manager, the **COUNTY'S** Project Manager, extend the contract period and modify the Project Schedule, and update contract language applicable to the **DISTRICT'S** cooperatively funded projects.

**WHEREAS**, the **CITY** and the **COUNTY** acknowledges that the District will not enter into a subsequent amendment to extend the expiration date of the Agreement.

**NOW THEREFORE**, in consideration of the mutual terms, covenants and conditions contained herein, the parties hereby mutually agree to amend the Existing Agreement as follows:

1. The Project Contacts and Notices Paragraph is hereby amended to modify the **DISTRICT'S** Contract Manager with Andres Barbarossa, the **CITY'S** Project Manager with Sam Reilly, and the **COUNTY'S** Project Manager with Ivan Dimitrov.
2. The first paragraph of the Funding Paragraph is hereby replaced in its entirety with the following:

The parties anticipate that the total cost of the **PROJECT** will be Three Million Three Hundred Twenty Thousand Dollars (\$3,320,000) (Board-Approved Project Amount). The

DISTRICT'S maximum funding amount is One Million Six Hundred Sixty Thousand Dollars (\$1,660,000). The CITY'S funding match is One Million Six Hundred Sixty Thousand Dollars (\$1,660,000) and cannot include state or federal appropriations, or grant monies, as provided in Subparagraph 3. The COUNTY'S funding match is Five Hundred Thousand Dollars (\$500,000) and cannot include state or federal appropriations, or grant monies, as provided in Subparagraph 4. The CITY and the COUNTY will be the lead parties and agree to provide all remaining funds necessary for the satisfactory completion of the PROJECT.

3. Subparagraph 3 of the Funding Paragraph is hereby replaced in its entirety with the following:

The CITY and the COUNTY shall pay PROJECT costs prior to requesting reimbursement from the DISTRICT. The DISTRICT shall reimburse the CITY and the COUNTY for the DISTRICT'S share of allowable PROJECT costs in accordance with the Project Budget set forth in the Project Plan, but at no point in time will the DISTRICT'S expenditure amounts under this Agreement exceed expenditures made by the CITY and the COUNTY combined.

4. Subparagraph 4 of the Funding Paragraph is hereby replaced in its entirety with the following:

The CITY and the COUNTY'S funding match is based on the Board-Approved Project Amount and cannot include state or federal appropriations, or grant monies. The DISTRICT will not fund any PROJECT cost increases. State or federal appropriations, or grant monies, may be used to cover PROJECT cost increases. Should those state or federal appropriations, or grant monies, exceed PROJECT cost increases, the remaining funds will be used to equally reduce the DISTRICT funding amount and the CITY and the COUNTY'S Board-approved match. If PROJECT costs are equal to or less than the Board-Approved Project Amount, state or federal appropriations, or grant monies, will equally reduce the DISTRICT'S funding amount and the CITY and the COUNTY'S Board-approved match. The CITY and the COUNTY shall provide written notice to the DISTRICT if a) it intends to use state or federal appropriations, or grant monies, to fund PROJECT costs, indicating the amount and funding source, and b) PROJECT costs are expected to increase, indicating the increased amount and the funding source to cover the cost increase. If the DISTRICT provides funding for the PROJECT in excess of the amount required by this Agreement, after all state or federal appropriations, or grants monies have been applied, the COOPERATOR will promptly refund such overpaid amounts to the DISTRICT. This Subparagraph shall survive the expiration or termination of this Agreement.

5. Subparagraph 11 of the Funding Paragraph is hereby replaced in its entirety with the following:

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 certify that the costs requested for reimbursement and the Cooperator's matching funds are directly related to the performance under the Agreement between the Southwest Florida Water Management District and the Cooperator (Agreement No. 18CF0000878), are allowable, allocable, properly documented, and are in accordance with the approved Project Budget. This invoice includes \$\_\_ of contingency funds expenditures.

In accordance with Subparagraph 3 of the Funding Paragraph, the Cooperator received a total of \$\_\_ in federal or state appropriations, or grant monies for the Project, and \$\_\_ has been allocated to this invoice, reducing the District's and Cooperator's share of this invoice to \$\_\_ / \$\_\_ respectively. The Cooperator expects the Project costs will increase by \_\_\_\_ for a total Project cost of \_\_\_\_\_. The Cooperator intends to use the following state or federal appropriations, or grant monies to fund increased Project costs: \_\_\_\_\_."

6. New Subparagraph 13 of the Funding Paragraph is hereby added as follows:

Reimbursement for expenditures of contingency funds is contingent upon the DISTRICT'S approval and determination, in its sole discretion, that the expenditures were necessary to achieve the resource benefit of the PROJECT and were not in excess of what was reasonably necessary to complete the PROJECT. The term "contingency funds" shall include funds that are allocated for unanticipated or extra work needed to complete the PROJECT. Items not considered for reimbursement include those unrelated to the resource benefit or resulting from design errors and defects in the work. The CITY and the COUNTY, collectively, may submit up to 5% of the Board-Approved Project Amount for contingency reimbursement. The DISTRICT'S total reimbursement obligation of contingency expenses is limited to its funding percentage of the Board-Approved Project Amount. If an invoice includes expenditures of contingency funds, the CITY and the COUNTY shall complete and submit the Contingency Funds Justification form Exhibit "C", attached hereto and made a part of this Agreement, to explain the basis of each line item expenditure.

7. The Contract Period Paragraph is hereby amended to extend the expiration date of June 30, 2024 to December 01, 2029.
8. The Diversity In Contracting And Subcontracting Paragraph is hereby amended to delete Subparagraphs 1 and 2.
9. The Documents Paragraph is hereby replaced in its entirety with the following:

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", then to Exhibit "C".

Exhibit "A"      Project Plan  
Exhibit "C"      Contingency Funds Justification Form

10. The CITY'S Project Schedule section set forth in the Project Plan is hereby replaced in its entirety with the following:

**PROJECT SCHEDULE (CITY)**

DESCRIPTION	COMMENCE	COMPLETE
Design	05/01/2024	07/01/2024
Permitting	05/01/2024	08/01/2024
Bidding & Contract Award	03/01/2027	05/01/2027
Construction and Construction engineering & Inspection (CEI)	06/01/2027	06/01/2029
As-built Survey, Record Drawing & Substantial Completion	06/02/2029	09/01/2029

11. The terms, covenants and conditions set forth in the Existing Agreement that have not been specifically amended herein, will continue in existence, are hereby ratified, approved and confirmed, and will remain binding upon the parties hereto.

The remainder of this page intentionally left blank.

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

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

By: \_\_\_\_\_  
Scott Letasi, P.E., PMP  
Bureau Chief, Engineering and Project Management Date

CITY OF CLEARWATER

By: \_\_\_\_\_  
Bruce Rector, Mayor Date 6/7/24

By: \_\_\_\_\_  
Jennifer Poirier, City Manager Date

Approved as to form:  
\_\_\_\_\_  
Jerrold Simpson  
Assistant City Attorney

Attest: \_\_\_\_\_  
For: Rosemarie Call  
City Clerk



PINELLAS COUNTY

By: \_\_\_\_\_  
Name: Joe Lauro Date  
Title: Administrative Services Director  
Authorized Signatory

**APPROVED AS TO FORM**

By: Brendan Mackesey  
Office of the County Attorney

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## EXHIBIT "A" PROJECT PLAN

### **PROJECT DESCRIPTION**

The PROJECT is a cooperative funding project located within the City of Clearwater in Pinellas County. The PROJECT will reduce structure and street flooding during the 100 year, 24 hour storm event, providing flood relief for approximately 11 homes, by constructing conveyance improvements along the Lower Spring Branch of Stevenson Creek. The general location of the PROJECT is shown on the attached map (Figure 1).

The CITY'S portion of the PROJECT includes design, permitting and construction of conveyance improvements at the Douglas Avenue, Springtime Avenue and Overbrook Avenue crossings. The COUNTY will reimburse the CITY for 25% of the construction cost of the Douglas Avenue crossing not to exceed two hundred seventy thousand dollars (\$270,000).

The COUNTY'S portion of the PROJECT includes construction of conveyance improvements at the Sunset Point Road crossing.

The COUNTY shall, separate to this Agreement and prior to implementation of the PROJECT, design the stormwater improvement BMPs for the Sunset Point Road crossing and secure the necessary rights-of-way and easements necessary for construction.

### **RESOURCE BENEFIT**

The reduction of the existing flooding problem during the 100 year, 24-hour storm event, providing flood relief for approximately 11 homes.

### **MEASURABLE BENEFIT**

The construction of conveyance improvements at the Douglas Avenue, Springtime Avenue, Overbrook Avenue and Sunset Point Road crossings of the Lower Spring Branch system.

### **PROJECT TASKS**

Key tasks to be performed by the CITY:

1. DESIGN – The CITY shall provide the necessary services such as survey, geotechnical services, environmental services, and engineering services to develop design drawings and technical specifications for construction. At each design stage submittal, the CITY shall provide Resource Benefit calculations and methodology.
2. PERMITTING – The CITY shall prepare and submit all necessary permit applications and obtain necessary approvals.
3. BIDDING AND CONTRACT AWARD – The CITY shall procure a contractor to implement the PROJECT based on the final design drawings and approved permits in accordance with the procurement laws applicable to the CITY. Prior to bid advertisement, the CITY shall identify those bid items for which reimbursement will be requested from the DISTRICT.

4. CONSTRUCTION – The CITY shall construct its portion of the PROJECT in conformance with the final design drawings, specifications and approved permits.
5. CONSTRUCTION ENGINEERING AND INSPECTION (CEI) – For its portion of the PROJECT, the CITY 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 drawings and design specifications. The CITY shall provide the DISTRICT with inspection documents and photographs.
6. AS-BUILT SURVEY, RECORD DRAWINGS AND SUBSTANTIAL COMPLETION – For its portion of the PROJECT, the CITY 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 signed by a professional engineer, and a certification of Substantial Completion, signed by the CITY, contractor, and engineer. The CITY shall provide the Resource Benefit calculations and methodology, signed and sealed by a professional engineer, following completion of construction.
7. OPERATION AND MAINTENANCE - The CITY shall provide for the operation and maintenance of its portion of the completed PROJECT to ensure it functions in accordance with the final design drawings and conforms to all the conditions specified in the environmental permits issued for the PROJECT. The CITY shall be identified as the entity responsible for all operation and maintenance requirements in all permits issued for its portion of the PROJECT. The CITY shall prepare an Operation and Maintenance Plan detailing the inspection and maintenance activities to ensure optimum performance of its portion of the PROJECT improvements.

## **PROJECT TASKS**

Key tasks to be performed by the COUNTY:

1. BIDDING AND CONTRACT AWARD – The COUNTY shall procure a contractor to implement its portion of the PROJECT based on the final design drawings and approved permits in accordance with the procurement laws applicable to the COUNTY. Prior to bid advertisement, the COUNTY shall identify those bid items for which reimbursement will be requested from the DISTRICT.
2. CONSTRUCTION – The COUNTY shall construct its portion of the PROJECT in conformance with the final design drawings, specifications and approved permits.
3. CONSTRUCTION ENGINEERING AND INSPECTION (CEI) – For its portion of the PROJECT, the COUNTY 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 drawings and design specifications. The COUNTY shall provide the DISTRICT with inspection documents and photographs.
4. AS-BUILT SURVEY, RECORD DRAWINGS AND SUBSTANTIAL COMPLETION – For its portion of the PROJECT, the COUNTY 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 signed by a professional engineer, and a certification of Substantial Completion, signed by the COUNTY, contractor, and engineer. The COUNTY shall provide the Resource Benefit calculations and methodology, signed and sealed by a professional engineer, following completion of construction.

5. OPERATION AND MAINTENANCE - The COUNTY shall provide for the operation and maintenance of its portion of the completed PROJECT to ensure the PROJECT functions in accordance with the final design drawings, and conforms to all the conditions specified in the environmental permits issued for the PROJECT. The COUNTY shall be identified as the entity responsible for all operation and maintenance requirements in all permits issued for its portion of the PROJECT. The COUNTY shall prepare an Operation and Maintenance Plan detailing the inspection and maintenance activities to ensure optimum performance of its portion of the PROJECT improvements.

#### **DELIVERABLES (CITY)**

1. Quarterly reports
2. Minutes of kick-off, pre-application and progress meetings
3. Design drawings at 30%, 60%, 90% and final design levels
4. Estimate of proposed construction cost at 30% design
5. Engineer's opinion of probable cost at 60%, 90% and final design
6. Technical Specifications at 60%, 90% and final design
7. Copy of all required federal, state and local environmental permit approvals and permitted drawings
8. Construction bid packages for cost approval, with reimbursable items identified (prior to posting)
9. Copy of contract with consultant and contractor (for cost approval, prior to execution)
10. Copy of executed contract with consultant and contractor
11. Copy of Notice to Proceed to contractor
12. Copy of construction permits
13. Dated color (digital) photographs of the construction site prior to, during, and immediately following completion of construction
14. Construction inspection reports
15. As-Built Survey
16. Construction Record Drawings
17. Certification of Substantial Completion
18. Resource Benefit calculations and methodology
19. One (1) set, electronic and hardcopy, of any final reports and data files
20. Minority/Women Owned and Small Business Utilization Report
21. Operation and Maintenance Plan
22. Upon DISTRICT request, biennial Operation and Maintenance Report

#### **DELIVERABLES (COUNTY)**

1. Quarterly reports
2. Minutes of kick-off, pre-application and progress meetings
3. Design drawings at final design levels
4. Engineer's opinion of probable cost at final design
5. Technical Specifications at final design
6. Copy of all required federal, state and local environmental permit approvals and permitted drawings



7. Construction bid packages for cost approval, with reimbursable items identified (prior to posting)
8. Copy of contract with contractor (for cost approval, prior to execution)
9. Copy of executed contract with contractor
10. Copy of Notice to Proceed to contractor
11. Copy of construction permits
12. Dated color (digital) photographs of the construction site prior to, during, and immediately following completion of construction
13. Construction inspection reports
14. As-Built Survey
15. Construction Record Drawings
16. Certification of Substantial Completion
17. Resource Benefit calculations and methodology
18. One (1) set, electronic and hardcopy, of any final reports and data files
19. Minority/Women Owned and Small Business Utilization Report
20. Operation and Maintenance Plan
21. Upon DISTRICT request, biennial Operation and Maintenance Report

**PROJECT SCHEDULE (CITY)**

DESCRIPTION	COMMENCE	COMPLETE
Design	12/19/2017	1/21/2019
Permitting	6/18/2018	1/21/2019
Bidding & Contract Award	2/4/2019	5/6/2019
Construction and Construction Engineering & Inspection (CEI)	6/3/2019	12/7/2020
As-Built Survey, Record Drawings & Substantial Completion	12/8/2020	3/8/2021

**PROJECT SCHEDULE (COUNTY)**

DESCRIPTION	COMMENCE	COMPLETE
Bidding & Contract Award	12/29/2017	5/31/2018
Construction and Construction Engineering & Inspection (CEI)	6/29/2018	10/18/2019
As-Built Survey, Record Drawings & Substantial Completion	11/25/2019	12/27/2019

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

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**PROJECT BUDGET**

DESCRIPTION	DISTRICT	CITY	COUNTY	TOTAL
Design	\$100,000	\$100,000	\$0	\$200,000
Permitting	\$20,000	\$20,000	\$0	\$40,000
Bidding & Contract Award	\$2,500	\$2,500	\$0	\$5,000
Construction				
Douglas Avenue Crossing	\$432,500	\$432,500	\$0*	\$865,000
Springtime Crossing	\$297,500	\$297,500	\$0	\$595,000
Overbrook Crossing	\$297,500	\$297,500	\$0	\$595,000
Sunset Road Crossing	\$495,000	\$0	\$495,000	\$990,000
General Construction	\$0	\$0	\$0	\$0
Construction Engineering & Inspection (CEI)	\$0	\$0	\$0	\$0
As-Built Survey, Record Drawings & Substantial Completion	\$15,000	\$10,000	\$5,000	\$30,000
<b>TOTAL</b>	<b>\$1,660,000</b>	<b>\$1,160,000</b>	<b>\$500,000</b>	<b>\$3,320,000</b>

***\*The COUNTY will reimburse the CITY for 25% of the construction cost of the Douglas Avenue crossing not to exceed two-hundred seventy thousand dollars (\$270,000).***

Reimbursement for expenditures of contingency funds is contingent upon DISTRICT approval in accordance with the Funding Paragraph in the Agreement. The CITY and COUNTY 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 CITY and COUNTY, expenditure cost comparisons and justification of the cost.

The remainder of this page intentionally left blank.



Exhibit "C"

Cooperative Funding Construction Contingency Justification  
Submit ONE form per contingency line item requested for District  
reimbursement

Project Name:

District Project Number:

Cooperator:

Contract Number:

Contingency Request Number:

Awarded Construction Contract Total (\$):

Contingency Amount Requested (\$):

Cumulative Contingency Amount Authorized to date (\$):

Total Cumulative Contract Price Including this Request (\$):

Maximum contingency eligible for reimbursement (\$):

up to 5% (2.5% District portion)

Contingency Request Description:

Contingency Line Item Justification<sup>1</sup>:

Cooperative Funding Resource Benefit<sup>2</sup>:

Cost/Negotiation Description<sup>3</sup>:

I hereby certify that this contingency request is necessary for the resource benefit required under the cooperative agreement and scope and costs were negotiated in good faith.

Contract Manager or Engineer of Record

Date

<sup>1</sup> Justification must document the need for the contingency line item, the circumstances under which the need was discovered, and why the item was not included within the original project scope. The District may deny reimbursement for additional costs due to design errors, rework and defects in the work.

<sup>2</sup> Describe why the contingency line item is needed to fulfill the resource benefit required under the cooperative agreement.

<sup>3</sup> Costs need to be justified and demonstrated to be reasonable. Provide unit price comparison, or recent competitive cost proposals, RS Means or FDOT cost data. Attach backup documentation. If no price comparisons or competitive quotes can be provided, a certification from the Engineer of Record or appropriate Professional Engineer stating that the cost is reasonable may be considered. The certification method is not preferred and will require justification that other methods were not available.