

SECOND AMENDMENT  
TO AGREEMENT BETWEEN THE  
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
AND  
HERNANDO COUNTY  
FOR  
CULBREATH ROAD AREA FLOOD RELIEF (N981)

This SECOND AMENDMENT effective June 30, 2023, 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 HERNANDO COUNTY, a political subdivision of the State of Florida, whose address is 20 North Main Street, Room 263, Brooksville, Florida 34601, hereinafter referred to as the "COOPERATOR."

WITNESSETH:

WHEREAS, the DISTRICT and the COOPERATOR entered into an agreement effective October 1, 2018, as amended, February 15, 2021 (Agreement No. 19CF0001825) that expired on June 30, 2023, hereinafter referred to as the "Existing Agreement," for the design, permitting, and construction of drainage improvements to an existing one mile section of Culbreath Road, which is an evacuation route, just south of Powell Road; and

WHEREAS, the parties hereto wish to amend the Existing Agreement to replace the COOPERATOR'S Project Manager, extend the contract period and modify the Project Schedule.

WHEREAS, the Cooperator 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. Except as otherwise provided herein, the terms, covenants and conditions of the Existing Agreement are incorporated herein by reference, are hereby ratified, approved and confirmed, and are binding upon the parties.
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 Five Hundred Eighty-Six Thousand Eight Hundred Sixty Dollars (\$586,860) (Board-Approved Project Amount). The DISTRICT'S maximum funding amount is Two Hundred Ninety-Three Thousand Four Hundred Thirty Dollars (\$293,430). The COOPERATOR'S funding match is Two Hundred Ninety-Three Thousand Four Hundred Thirty Dollars (\$293,430) and cannot include state or federal appropriations, or grant monies, as provided in Subparagraph 3. The

COOPERATOR agrees to provide all remaining funds necessary for the satisfactory completion of the PROJECT.

3. Subparagraph 2 of the Funding Paragraph is hereby replaced in its entirety with the following:

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 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 COOPERATOR.

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

The COOPERATOR'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'S funding amount and the COOPERATOR'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 COOPERATOR'S Board-approved match. The COOPERATOR shall provide written notice to the DISTRICT if PROJECT costs are expected to exceed the Board-Approved Project Amount, indicating the increased amount and the funding source to cover the PROJECT cost increase. This Subparagraph shall survive the expiration or termination of this Agreement.

5. Subparagraph 10 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. 19CF0001825), are allowable, allocable, properly documented, and are in accordance with the approved Project Budget. This invoice includes \$\_\_ of contingency funds expenditures. 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."

6. New Subparagraph 11 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 the 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 COOPERATOR may submit up to 5% of the anticipated total cost of the PROJECT for contingency reimbursement. The DISTRICT'S total reimbursement obligation of contingency expenses is limited to its funding percentage identified in CFI Project Agreement. If an invoice includes expenditures of contingency funds, the COOPERATOR 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 Project Contacts and Notices Paragraph is hereby amended to replace the COOPERATOR'S Project Manager with Donald S. Carey, P.E.
8. The Contract Period Paragraph is hereby amended to extend the expiration date of June 30, 2023 to February 28, 2028.
9. The Diversity in Contracting and Subcontracting Paragraph is hereby deleted in its entirety.
10. 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

11. The Project Schedule section set forth in the Project Plan is hereby replaced in its entirety with the following:

**PROJECT SCHEDULE**

DESCRIPTION	COMMENCE	COMPLETE
30 Percent Design Package	10/01/2018	06/30/2019
Third-Party Review*	07/01/2019	03/31/2020
Design	06/01/2021	01/31/2024
Permitting	02/01/2024	05/31/2024
Bidding and Contract Award	09/02/2025	03/31/2026
Construction and Construction Engineering & Inspection (CEI)	04/30/2026	04/30/2027

12. 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 Date  
Bureau Chief, Engineering and Project Management

HERNANDO COUNTY

By: \_\_\_\_\_ Date  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Authorized Signatory

Approved as to Form  
and Legal Sufficiency

By Victoria Anderson  
County Attorney's Office

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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.