

SECOND AMENDMENT
AND REINSTATED AGREEMENT
BETWEEN THE
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT
AND
POLK COUNTY
FOR
POLK COUNTY DIRECT POTABLE REUSE FEASIBILITY AND PILOT (Q209)

This AMENDMENT effective December 31, 2024, 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 POLK COUNTY, a political subdivision of the State of Florida, having an address of 330 West Church Street, Bartow, Florida 33831-9005, hereinafter referred to as the "COOPERATOR."

WITNESSETH:

WHEREAS, the DISTRICT and the COOPERATOR entered into an agreement effective October 1, 2020, as amended, October 19, 2021 (Agreement No. 21CF0003413) that expired on December 31, 2024, hereinafter referred to as the "Existing Agreement," for a direct potable reuse feasibility study and 14,400 gallon per day (gpd) educational/testing pilot project; and

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

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 Project Contacts and Notices Paragraph is hereby amended to replace the DISTRICT'S Contract Manager with Devon Villareal, Alternative Water Supply Specialist.
3. The first paragraph of the Funding Paragraph is hereby replaced in its entirety with the following:

The parties initially anticipated that the total cost of the PROJECT would be One Million Five Hundred Ninety Thousand Dollars (\$1,590,000) (Initial Board-Approved Project Amount). Subsequently, the COOPERATOR advised the DISTRICT that the anticipated total cost of the PROJECT increased to Two Million Five Hundred Ninety-One Thousand Five Hundred Eighty-Two Dollars (\$2,591,582). The DISTRICT'S maximum funding amount is Seven Hundred Ninety-Five Thousand Dollars (\$795,000). The

COOPERATOR'S funding match is One Million Seven Hundred Ninety-Six Thousand Five Hundred Eighty-Two Dollars (\$1,796,582) 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.

4. 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.

5. 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 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 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. This Subparagraph shall survive the expiration or termination of this Agreement.

6. Subparagraph 9 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. 21CF0003413), are allowable, allocable, properly documented, and are in accordance with the approved Project Budget. This invoice includes \$___ of contingency funds expenditures.

As set forth in this Agreement, the Initial Board-Approved Project Amount is _____. The Cooperator expects the total Project cost to be _____. The Cooperator received a total of \$_____ in federal or state appropriations, or grant monies for the Project not passing through the District, at the time of this invoice. Written notice on how that funding has been allocated for the Project is included as a reference in accordance with subparagraph 3 of the Funding Paragraph: The Cooperator 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”

7. 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 Initial Board-Approved Project Amount for contingency reimbursement. The DISTRICT'S total reimbursement obligation of contingency expenses is limited to its funding percentage of the Initial Board-Approved Project Amount. If an invoice includes expenditures of contingency funds, the COOPERATOR shall complete and submit the Contingency Funds Justification form attached hereto and made a part of this Agreement, to explain the basis of each line item expenditure.

8. The Contract Period Paragraph is hereby amended to extend the expiration date of December 31, 2024 to September 30, 2025.
9. The Diversity In Contracting and Subcontracting Paragraph is hereby amended to delete Subparagraphs 1 and 2.
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

The remainder of this page intentionally left blank.

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

PROJECT SCHEDULE

DESCRIPTION	COMMENCE	COMPLETE
Project Management	10/01/2020	2/01/2025
Source Water Characterization & Treatment Technology Evaluation and Preliminary Costing Report – Advanced Treatment System Preliminary Design and Demonstration Test Plan Technical Memorandum	10/01/2020	03/31/2021
Final Feasibility Report	04/01/2021	5/30/2021
Design and Permitting	02/09/2021	10/01/2023
Bidding and Contract Award	08/04/2021	10/28/2021
Construction	10/29/2021	09/15/2023
Construction Engineering & Inspection (CEI)	10/29/2021	09/15/2023
GIS, As-Built Survey, Record Drawings & Certificate of Substantial Completion	06/04/2022	12/15/2023
Demonstration Testing	01/01/2023	08/16/2024
Education/Communication Plans	10/01/2020	12/31/2024
Draft Published Project Results and Recommendations	01/01/2024	11/27/2024
Final Published Results and Recommendations	2/28/2025	3/31/2025

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.

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


SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

By: _____ Date _____
Jay Hoecker, PMP
Bureau Chief, Water Supply

POLK COUNTY

By: _____ Date _____
Name: _____
Title: _____
Authorized Signatory

Reviewed as to form and legal sufficiency


County Attorney's Office _____ Date _____

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