



Interoffice Memorandum

April 12, 2021

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Ed Torres, MS, PE, LEED AP, Director
Utilities Department

A handwritten signature in black ink, appearing to read "Ed Torres", with a long horizontal stroke extending to the right.

**SUBJECT: BCC AGENDA ITEM – Consent Agenda
April 27, 2021 BCC Meeting
Amendment 1 to the Cost-Share Agreement between the St. Johns River
Water Management District and Orange County Contract #35782 for
Construction of a Central Sanitary Sewer System
Contact Person: Lindy A. Wolfe, P. E., LEED AP, Manager
Utilities Engineering Division
407-254-9918**

The St. Johns River Water Management District (SJRWMD) and the Florida Department of Environmental Protection (FDEP) offer funding assistance through cost-share programs and grants for construction projects that will improve water quality in the waters of the state of Florida. Orange County Utilities requested funding for the Wekiwa Springs Septic Tank Retrofit Project Phase 1 from SJRWMD in the not-to-exceed amount of \$1,500,000 towards the estimated construction cost of \$9,600,000. The request was approved by the SJRWMD's Governing Board on September 22, 2020, and Cost-Share Agreement Number 35782 was executed on October 12, 2020.

FDEP approved additional funding from the Florida Springs Grant Program in the amount of \$4,300,000 on October 16, 2020. The funding from FDEP will be provided to SJRWMD and made available to Orange County Utilities through Amendment 1 to Cost-Share Agreement Number 35782, increasing the Cost-Share Agreement by \$4,300,000, for a new not-to-exceed amount of \$5,800,000.

The County Attorney's Office and Risk Management Division reviewed the amendment and find it acceptable. Utilities Department staff recommends approval.

Action Requested: Approval and execution of Amendment 1 to the Cost-Share Agreement between the St. Johns River Water Management District and Orange County for Orange County Wekiwa Springs Septic Tank Retrofit Project Phase 1 Contract #35782 for construction of a central sanitary sewer system in an amount not-to-exceed \$5,800,000 and authorization for the County Administrator to approve scheduling or other administrative changes and execute minor amendments or other modifications to the agreement which do not affect the total aggregate amount of the budget or intent of the Project.

District 2.

**AMENDMENT 1 TO THE COST-SHARE AGREEMENT BETWEEN
THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND ORANGE COUNTY
FOR ORANGE COUNTY WEKIWA SPRINGS SEPTIC TANK RETROFIT PROJECT PHASE 1**

THIS AMENDMENT is entered into by and between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (the "District"), whose mailing address is 4049 Reid Street, Palatka, Florida 32177-2571, and ORANGE COUNTY, a charter county and political subdivision of the State of Florida ("Recipient") whose address is 201 S. Rosalind Avenue, Orlando, Florida 32801, and is effective on the date the last party has executed same.

PREMISES:

The parties entered into Agreement No. 35782 on October 12, 2020 to provide funding for the Recipient's Orange County Wekiwa Springs Septic Tank Retrofit Project Phase 1 ("Agreement"). The parties desire to amend the Agreement.

NOW, THEREFORE, in consideration of the above premises, which are hereby made a part of this amendment, the mutual covenants contained herein, and other good and valuable consideration, the parties hereby agree to amend the Agreement as follows:

1. Paragraph 4(a) **AMOUNT OF FUNDING**, is hereby deleted in its entirety and replaced with the following:
 - (a) For satisfactory completion of the Project, the District shall pay Recipient 69% of the total estimated construction cost of the Project, but in no event shall the District cost-share exceed \$5,800,000. The District cost-share is not subject to modification based upon price escalation in implementing the Project during the term of this Agreement. Recipient shall be responsible for payment of all costs necessary to ensure completion of the Project. Recipient shall notify the District's Project Manager in writing upon receipt of any additional external funding for the Project not disclosed prior to execution of this Agreement.
2. Paragraph 5(a) **PAYMENT OF INVOICES**, is hereby deleted in its entirety and replaced with the following:
 - (a) Recipient shall submit itemized invoices as per the Statement of Work, Attachment A for reimbursable expenses by one of the following two methods: (1) by email to acctpay@sjrwmd.com (preferred) or (2) by mail to the St. Johns River Water Management District, Finance Director, 4049 Reid Street, Palatka, Florida 32177-2571. The invoices shall be submitted in detail sufficient for proper pre-audit and post-audit review. Invoices shall include a copy of contractor and supplier invoices to Recipient and proof of payment. Recipient shall be reimbursed for 100% of approved cost or the not-to-exceed sum of \$5,800,000, whichever is less. The District shall not withhold any retainage from this reimbursement. District reimbursement is subject to annual budgetary limitation, if applicable, as provided in subsection (g). If necessary for audit purposes, Recipient shall provide additional supporting information as required to document invoices.
3. Paragraph 5(d) **PAYMENT OF INVOICES**, is hereby deleted in its entirety and replaced with the following:
 - (d) All invoices shall include the following information: (1) District contract number; (2) Recipient's name, address, and authorization to directly deposit payment into Recipient's account (if Recipient has not yet provided the District with a completed Direct Deposit Authorization form; (3) Recipient's invoice number and date of invoice; (4) District Project Manager; (5) Recipient's Project Manager; (6)

supporting documentation as to cost and/or Project completion (as per the cost schedule and other requirements of the Statement of Work), in addition, see Attachment D, "CONTRACT PAYMENT REQUIREMENTS FOR STATE FUNDED COST REIMBURSEMENT CONTRACTS"; (7) Progress Report (if required); (8) Diversity Report (if otherwise required herein). Invoices that do not correspond with this paragraph shall be returned without action within twenty (20) business days of receipt, stating the basis for rejection. Payments shall be made within forty-five (45) days of receipt of an approved invoice.

4. Paragraph 6 **LIABILITY AND INSURANCE**, is hereby deleted in its entirety and replaced with the following:

Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party, its officers, employees and agents. Recipient accepts all risks arising from construction or operation of the Project. Nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available under the laws of the state of Florida, nor as a waiver of sovereign immunity of the state of Florida beyond the waiver provided for in §768.28, Fla. Stat., as amended. Each party shall acquire and maintain throughout the term of this Agreement such liability, workers' compensation, and automobile insurance as required by their current rules and regulations. If Florida Department of Environmental Protection ("FDEP") funds will be used to fund all or a portion of the Agreement, additional FDEP insurance requirements applicable to the Recipient are included in the insurance attachment to the Agreement. See Attachment E - Insurance Requirements

5. Paragraph 27 **FLORIDA SINGLE AUDIT ACT**, is hereby added to this Agreement as follows:

FLORIDA SINGLE AUDIT ACT

- (a) **Applicability.** The Florida Single Audit Act (FSAA), §215.97, Fla. Stat., applies to all sub-recipients of state financial assistance, as defined in §215.97(1)(q), Fla. Stat., awarded by the District through a project or program that is funded, in whole or in part, through state financial assistance to the District. In the event Recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such Recipient, Recipient must have a state single or project-specific audit for such fiscal year in accordance with §215.97, Fla. Stat.; applicable rules of the Department of Financial Services; and chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. In determining the state financial assistance expended in its fiscal year, Recipient shall consider all sources of state financial assistance, including state financial assistance received from the District, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements. Recipient is solely responsible for complying with the FSAA.

If Recipient expends less than \$750,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of §215.97, Fla. Stat., is not required. In such event, should Recipient elect to have an audit conducted in accordance with §215.97, Fla. Stat., the cost of the audit must be paid from the non-state entity's resources (i.e., Recipient's resources obtained from other than State entities).

- (b) **Program Information** This Agreement involves the disbursement of state funding by the Florida Department of Environmental Protection (FDEP). Funding is provided under the State of Florida, Florida Springs Grant Program in the amount of \$4,300,000. The Florida Catalog of State Financial Assistance (CSFA) number for this program is CSFA No. 37.052. The District is providing funding in the amount of \$1,500,000.

- (c) **Additional Information.** For information regarding the state program under the above CSFA number, Recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa/catalog.aspx> for assistance. The following websites may be accessed for additional information: Legislature's Website at <http://www.leg.state.fl.us/>, State of Florida's website at <http://myflorida.com>, District of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen/>.
- (d) **Allowable Costs.** Recipient may only charge allowable costs to this Agreement, as otherwise provided herein. Any balance of unobligated cash that have been advanced or paid that is not authorized to be retained for direct program costs in a subsequent period must be returned to the District.
- (e) **Audit Requirements.** Recipient shall ensure that the audit complies with the requirements of §215.97(7), Fla. Stat. This includes submission of a financial reporting package as defined by §215.97(2), Fla. Stat., and chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Recipient shall comply with the program requirements described in the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/catalog.aspx>]. The services/purposes for which the funds are to be used are included in the Statement of Work.
- (f) **Financial Reporting.** Recipient shall provide the District with a copy of any reports, management letters, or other information required to be submitted in accordance with chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable, no more than 20 days after its preparation. Recipient shall indicate the date the reporting package was delivered to Recipient in correspondence accompanying the reporting package. This information shall be directed to: St. Johns River Water Management District, Finance Director, Office of Financial Services, 4049 Reid Street, Palatka, FL 32177. A copy of the report shall also be provided to the Auditor General's Office at the following address: State of Florida Auditor General, Room 401, Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.
- (g) **Monitoring.** In addition to reviews of audits conducted in accordance with §215.97, Fla. Stat., as revised, monitoring procedures may include, but not be limited to, on-site visits by District staff, limited scope audits, and/or other procedures. Recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the District. In the event the District determines that a limited scope audit of Recipient is appropriate, Recipient agrees to comply with any additional instructions provided by the District to Recipient regarding such audit. Recipient agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the District's Inspector General or the state Chief Financial Officer or Auditor General.
- (h) **Examination of Records.** In addition to the District's audit rights otherwise provided for herein, Recipient shall permit the District or its designated agent, the state awarding agency, the Department of Financial Services, the state's Chief Financial Officer and the state's Auditor General to examine Recipient's financial and non-financial records to the extent necessary to monitor Recipient's use of state financial assistance and to determine whether timely and appropriate corrective actions have been taken with respect to audit findings and recommendations, which may include onsite visits and limited scope audits.
- (i) **Records Retention.** Notwithstanding any other provision of this Agreement to the contrary, Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued, and shall allow the District, or its designee, state Chief Financial Officer, or Auditor General access to such records upon request. Recipient shall ensure that audit working papers are made available for such access for a period of three years from the date the audit report is issued, unless extended in writing by the District.

6. Attachment A, **STATEMENT OF WORK**, is hereby modified as follows:

The current Statement of Work is hereby deleted and replaced with the Revised Statement of Work attached hereto as Attachment A-1.

7. All other terms and conditions of the Agreement, including any subsequent amendments, are hereby ratified and continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have duly executed this amendment on the date set forth below.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: Wendy L. Cox
Ann B. Shortelle, Ph.D., Executive Director, or designee

By: Burton W. Brooks
Burton W. Brooks County Administrator
Typed Name and Title

Date: 5/27/21

Date: APR 27 2021



Attest: Katie Smith
Katie Smith Deputy Clerk
Typed Name and Title

- Attachments:
Attachment A-1 – Revised Statement of Work
Attachment D – Contract Payment Requirements for State-Funded Cost Reimbursement Contracts
Attachment E – Insurance Requirements

**ATTACHMENT A-1 - REVISED STATEMENT OF WORK
ORANGE COUNTY WEKIWA SPRINGS SEPTIC TANK RETROFIT PROJECT
PHASE 1**

I. INTRODUCTION/BACKGROUND

The St. Johns River Water Management District (District) is continuing its Cooperative Cost Share Initiative Program in Fiscal Year (FY) 2020-2021 to develop and implement resource and water supply development projects and promote conservation. On April 14, 2020, the District's Governing Board approved funding for Cooperative Cost Share projects. Each project selected for funding will have a positive benefit to one or more of the District's core missions; including water supply, water quality, natural systems or flood mitigation.

Orange County (Recipient) requested funding for their Wekiwa Springs Septic Tank Retrofit Project Phase 1 (Project) for the not-to-exceed amount of \$1,500,000 towards the estimated construction cost of \$9,600,000. This request was approved by the Governing Board. The Recipient is located in Orange County.

The Florida Department of Environmental Protection (FDEP) approved funding through the Florida Springs Grant Program in the amount of \$4,300,000. This amendment increases this Cost Share Agreement by \$4,300,000 for a new not to exceed amount of \$5,800,000.

II. OBJECTIVES

The objective of this contract is to provide cost share dollars that will enable the Recipient to provide a water quality benefit to the Wekiwa - Rock Springshed Priority Focus Area (PFA). The estimated nutrient load reduction to the spring is 1,471 lbs./year total nitrogen.

III. SCOPE OF WORK

The project includes the construction of a sanitary sewer main, laterals, sewer connections, lift stations, and septic tank abandonment for an estimated 213 parcels in the Sweetwater West and Wekiwa Highlands neighborhoods within the Wekiwa - Rock Springs PFA.

IV. PROJECT ADMINISTRATION AND DELIVERABLES

The Recipient shall be responsible for the following:

- Complete and obtain final project design, construction plans, and specifications;
- Obtain all required permits, including right of access to the project sites, related to project construction and subsequent operation and maintenance of the completed work;
- Assure compliance with all permits and permit conditions;
- Provide procurement for project construction;
- Perform supervision and inspection of construction;
- Perform construction contract administration;
- Assure compliance with cost accounting practices and procedures required for reimbursement of cost share funds expended.

The Recipient shall provide the following to the District's Project Manager:

- Timely invoices for actual construction costs in accordance with this cost share agreement (i.e. quarterly, with appropriate substantiation that demonstrates that the applicant has paid for the total work cost and is seeking reimbursement up to the match amount) to enable proper review by the District's Project Manager prior to payment authorization. Deliverables to be submitted with invoices include (as applicable):
 - Interim progress status summaries including inspections, meeting minutes and field notes and dated color photographs of the construction completed to include on-going work that represents the time-period being invoiced;
 - Final invoice submittals for completed construction including inspections and dated color photographs of the construction site prior to, during and immediately following completion of the construction task;
 - Construction plans, specifications, and contract documents for the site work must be made available upon request;
 - Written verification that the record drawings and any required final inspection reports for the project are received;
 - List of addresses and types of the properties connected, as well as proof of connection for each property, as evidenced by copies of invoices for the connections by a licensed plumber or a utility contractor or building contractor, or certification by a Licensed Professional Engineer
- Quarterly progress reports identifying project progress to date, key milestones reached, overall project schedule versus time for project completion, an updated spend-down plan, key issues to be resolved, project construction photos including preconstruction, construction and postconstruction with dates. Quarterly reports shall also be emailed to the District's Budget Analyst at hnbarber@sjrwmd.com.
- Certification of construction completion by a Professional Engineer registered in the state of Florida.

The Recipient shall ensure the task in the Task Identification section below is completed.

V. TASK IDENTIFICATION AND TIME FRAMES

The expiration date of this cost share agreement is September 30, 2022. The projected schedule is as follows:

Task Description	Anticipated Start Date	Anticipated Completion Date
Construction	April 2021	May 2022

VI. BUDGET/COST SCHEDULE

For satisfactory completion of the Project, the District shall pay Recipient 69% of the total construction cost of the Project, not to exceed \$5,800,000. It is anticipated that the FY breakdown will be \$2,900,000 for FY 2021 and \$2,900,000 FY 2022.

Recipient shall invoice the District quarterly with appropriate documentation. The District's Project Manager shall provide an invoice template that will be used. Invoices shall include a copy of the contractor's invoices submitted to the Recipient, proof of payment by Recipient, list of addresses and types of the properties connected and other required supporting documentation for reimbursement up to match amount. For in-house expenses, Recipient shall provide copies of all receipts for materials and a system report showing documentation of staff time or other proof of staff time expenses for the Project. The final invoice shall be submitted with the final project report. If the total actual cost of this project is less than originally estimated, the District's cost-

share amount shall be reduced accordingly. Recipient may invoice more frequently submitting all required documentation and include general status information.

Recipient shall submit quarterly progress reports to the District's Project Manager and the District's Budget Analyst within 15 days of the end of quarter for work accomplished during each quarter. The email address for the District's Budget Analyst is hnbarber@sjrwmd.com. The Recipient shall submit a final project report within 15 days of Final Completion and acceptance by Orange County detailing the Project's accomplishments and any issues resolved during the course of the work.

Estimated Cost Schedule for Reimbursement per fiscal year (all dollar amounts are approximate and may be reallocated between the construction task for the two FYs).

FY 20-21 (10/1/2020 – 9/30/2021)

Description	Estimated Task Amount	Estimated Reimbursement Amount
Construction	\$4,800,000	\$2,900,000

FY 21-22 (10/1/2021 – 9/30/2022)

Description	Estimated Task Amount	Estimated Reimbursement Amount
Construction	\$4,800,000	\$2,900,000

**ATTACHMENT D – CONTRACT PAYMENT REQUIREMENTS
FOR STATE-FUNDED COST REIMBURSEMENT CONTRACTS**

Invoices for state-funded cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation must be provided for each amount for which reimbursement is being claimed, indicating that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation shall clearly reflect the dates of service. Only expenditures for categories in the approved contract budget will be reimbursed.

Listed below are examples of the types of documentation representing the minimum requirements by cost category:

Salaries: Submit a payroll register or similar documentation showing gross salary charges, fringe benefits, other deductions, and net pay. If an individual is paid by the hour, a document reflecting the hours worked times the rate of pay is acceptable.

Fringe Benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage, rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with §112.061, Fla. Stat., which includes submission of the claim on the approved State of Florida (State) or District travel voucher.

Other direct costs: Reimbursement is based upon paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in §273.02, Fla. Stat., for subsequent transfer to the State.

In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units, times the rate being charged. The rates must be reasonable.

Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

The “Reference Guide for State Expenditures” prepared by the Florida Department of Financial Services can be found at this web address: http://www.fldfs.com/aadir/reference_guide.htm

ATTACHMENT E - INSURANCE REQUIREMENTS
Including Florida Department of Environmental Protection Insurance Requirements

Recipient shall acquire and maintain, and ensure that any sub-recipients, contractors, and subcontractors, similarly acquire and maintain, until completion of the Work the insurance coverage listed below, which constitutes primary coverage. Recipient shall not commence the Work until the District receives and approves Certificates of Insurance documenting required coverage. Recipient's General Liability policy shall include Endorsement CG 20101185, or equivalent, naming the St. Johns River Water Management District ("District") as Additional Insured. All required policies shall include: (1) endorsement that waives any right of subrogation against the District for any policy of insurance provided under this requirement or under any state or federal worker's compensation or employer's liability act; (2) endorsement to give the District no less than thirty (30) days written notice (with the exception of non-payment of premium which requires a 10-calendar-day notice) in the event of cancellation or material change. Certificates of Insurance must be accompanied by copies of the requested endorsements. In addition, Recipient's General Liability insurance and Automobile Liability insurance shall include the State of Florida, the Florida Department of Environmental Protection, and the State of Florida Board of Trustees of the Internal Improvement Trust Fund, as Additional Insureds for the entire length of the Agreement. If the Recipient is self-funded for any category of insurance, then the Recipient shall provide documentation that warrants and represents that it is self-funded for said insurance, appropriate and allowable under Florida law, and that such self-insurance offers protection applicable to the Recipient's officers, employees, servants and agents while acting within the scope of their employment with the Recipient for the entire length of the Agreement.

Any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the District. Approval will not be unreasonably withheld. Recipient is responsible for any deductible or self-insured retention. All insurance policies shall be with insurers licensed or eligible to do business in the State of Florida and having an A.M. Best rating of A-V or greater. If any work proceeds over or adjacent to water, the Recipient shall secure and maintain, as applicable, any other type of required insurance, including but not limited to, Jones Act, Longshoreman's and Harbormaster's, or the inclusion of any applicable rider to worker's compensation insurance, and any necessary watercraft insurance, with limits not less than \$300,000 each. District receipt of insurance certificates providing less than the required coverage does not waive these insurance requirements.

- (a) **Workers' Compensation Insurance.** Workers' compensation and employer's liability coverage, including maritime workers compensation, if applicable, in not less than the minimum limits required by Florida law. If Recipient claims an exemption from workers' compensation coverage, Recipient must provide a copy of the Certificate of Exemption from the Florida Division of Workers' Compensation for all officers or members of an LLC claiming exemption who will be participating in the Work. In addition, Recipient must provide a completed District "Affidavit (Non-Construction)" for non-construction contracts. Recipient is solely responsible for compliance with any Federal workers' compensation laws such as Jones Act and USL&H Act, including any benefits available to any workers performing work on this project. In case any class of employees engaged in hazardous work under this Agreement is not protected under Worker's Compensation statutes, the Recipient shall provide, and cause each sub-recipient, contractor, or subcontractor, to provide, adequate insurance satisfactory to the District and the Florida Department of Environmental Protection, for the protection of its employees not otherwise protected.
- (b) **General Liability.** Commercial General Liability Insurance on an "Occurrence Basis," with limits of liability not less than \$1,000,000/\$2,000,000, for personal injury, bodily injury, and property damage. Coverage shall include: (1) contractual liability, (2) products and completed operations, (3) independent contractors, and (4) property in the care, control, or custody of the Recipient. Extensions shall be added or exclusions deleted to provide the necessary coverage.

(c) **Automobile Liability.** Minimum limits of liability shall be as follows:

\$300,000 Automobile Liability Combined Single Limit for Company-Owned Vehicles, if applicable

\$300,000 Hired and Non-owned Automobile Liability Coverage