

**THIS DOCUMENT PREPARED
BY AND RETURN TO:**

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**JOINT PARTICIPATION AGREEMENT
for
SINK HOLE GROUTING PROJECT**

THIS JOINT PARTICIPATION AGREEMENT FOR SINK HOLE GROUTING PROJECT ("Agreement") is entered into by and between **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida (the "COUNTY"), and the **CITY OF ORLANDO, FLORIDA**, a municipal corporation of the State of Florida (the "CITY"). The COUNTY and the CITY may also be referred to in this agreement individually as a "Party" or collectively as the "Parties."

WITNESSETH

WHEREAS, the COUNTY has authority pursuant to §125.01(1)(p), Florida Statutes, and the CITY has authority pursuant to §166.021, Florida Statutes, to enter into agreements with another governmental entity or agency for joint performance, or performance by one unit on behalf of the other, of any of either entity's or agency's authorized functions; and

WHEREAS, the Parties jointly own and operate CONSERV II, a water reclamation facility primarily located in Lake County; and

WHEREAS, the Florida Turnpike Enterprise, a part of the State of Florida Department of Transportation (the "DEPARTMENT") owns and operates State Road 91, a multi-lane limited access toll road facility ("Turnpike"); and

WHEREAS, a fifty-four inch (54") reclaimed water pipe ("RWP") that serves CONSERV II was impacted by the development of a sinkhole ("Sinkhole") in unincorporated Orange County, near mile marker 263 of the Turnpike; and

WHEREAS, due to the proximity of the Sinkhole to the Turnpike and the RWP, and the potential that the Sinkhole may expand further, the DEPARTMENT and the Parties have agreed that the grouting project ("Grouting Project") as described in this Agreement, is necessary and for a public purpose; and

WHEREAS, the Grouting Project generally consists of the repair and restoration of an approximately one (1) acre area of property located both within, and outside of, the Turnpike near

mile marker 263 adjacent to the Southbound travel lanes, including private property located at 3806 Winderlakes Drive (“Winderlakes Drive Property”) and CITY/COUNTY property located at 3814 Winderlakes Drive (“CITY/COUNTY Property”), as shown in **Exhibit “A”** attached hereto and incorporated herein by reference; and

WHEREAS, the Grouting Project will include installation of a series of grout pins formed by injection of pressurized grout into the ground, the removal and replacement of Turnpike noise wall components, the removal and replacement of landscape, and the restoration of shoulders, swales, pavement, or any other items that may be impacted by the Grouting Project; and

WHEREAS, the CITY and the DEPARTMENT have entered into a Project Funding Agreement (“FDOT Agreement”) whereby the DEPARTMENT will contribute monthly reimbursement payments to the CITY during construction, up to \$522,283.38 (“DEPARTMENT Contribution”) toward construction of the Grouting Project; and

WHEREAS, the Parties have agreed that the CITY will design, permit and construct the Grouting Project, but that the Parties will equally share the design, permitting, and construction costs of the Grouting Project in excess of the DEPARTMENT Contribution; and

WHEREAS, in addition, the Parties agree to equally share any and all costs associated with the design and construction of the Grouting Project; and

WHEREAS, the total amount by which the design, permitting, and construction costs exceed the DEPARTMENT Contribution is hereinafter referred to as the “CITY/COUNTY Share”; and

WHEREAS, the CITY Share and the COUNTY Share are hereby defined as fifty percent (50%) each, of the CITY/COUNTY Share; and

WHEREAS, the Parties desire to cooperate in designing, permitting, and constructing the Grouting Project for the mutual benefit of the citizens and property owners of both the CITY and the COUNTY, according to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the Parties hereto, the Parties agree as follows:

1. Recitals. The above recitals are true and correct and incorporated herein as fully as if set forth hereafter.
2. Grouting Project. The Grouting Project is more particularly depicted in **Exhibit “A”**.
3. Grouting Project Completion; Estimated Costs; Parties’ Shares.
 - (a) Grouting Project. The Parties agree to complete the Grouting Project as described in this Agreement.

- (b) Estimated Grouting Project Costs. Grouting Project construction costs are estimated to be \$3,802,922.50, and include permitting and construction costs, but do not include the cost of design or any claims, liability, or damages arising from the Grouting Project.
- (c) Parties' Share of Costs. The COUNTY and the CITY shall each be responsible for fifty percent (50%) of the CITY/COUNTY Share.

4. Design; Design Price; Design Contingency; Post Design and Construction Services.

- (a) The CITY has caused design plans to be prepared for the Grouting Project, ("Final Plans"), which are incorporated by reference into this Agreement. The COUNTY has reviewed and approved the Final Plans. In addition, the Parties have agreed that the costs incurred by the CITY to prepare the Final Plans will be shared equally. The total cost to the CITY and the COUNTY to prepare the Final Plans for the Grouting Project is \$151,492.60 ("Design Price"). Within forty-five (45) days after execution of this Agreement, the COUNTY will pay to the CITY fifty percent (50%) of this cost, or \$75,746.30, in satisfaction of the COUNTY's share of said design costs. The CITY shall continue to utilize professional engineering firms, ("Design Consultants") for any additional design work, including construction, engineering, and inspection services, and transmission main inspection and monitoring services, necessary for construction of the Grouting Project ("Additional Work").
- (b) The estimated cost to the CITY and the COUNTY for the Additional Work for the Grouting Project, is \$171,986.50, which includes a ten percent (10%) contingency ("Additional Work Price"). The COUNTY will pay to the CITY fifty percent (50%) of this estimated cost, or \$85,993.25, within forty-five (45) of receipt of an invoice with the finalized Additional Work Price from the CITY.
- (c) The COUNTY shall pay to the CITY, by check, electronic fund transfer ("EFT"), or wire transfer, fifty percent (50%) of the amount of the Additional Work Price ("COUNTY Additional Work Funds"). The CITY will not award the Additional Work to the Design Consultant until the COUNTY Additional Work Funds have been paid in full. The CITY will hold the COUNTY Additional Work Funds in a separate account to be utilized exclusively to pay costs for the Additional Work.

5. Additional Work. Upon completion of the Grouting Project, or termination of this Agreement, the CITY shall provide to the COUNTY a statement setting forth the actual costs ("Design Costs") for the Additional Work. If fifty percent (50%) of the Design Costs exceed the COUNTY Additional Work Funds amount, then the CITY will invoice the COUNTY for the amount of the excess, which the COUNTY will pay to the CITY within forty-five (45) days. In the event fifty percent (50%) of the Design Costs is less than the COUNTY Additional Work Funds, then the CITY shall refund the excess COUNTY Additional Work Funds to the COUNTY within thirty (30) days. This provision will survive termination of this Agreement.

6. Bid Documents, Insurance, Performance & Payment Bonds. The CITY shall incorporate its standard insurance and performance/payment bond requirements, as well as all other customary

and standard provisions, in the construction contract bid documents for the Grouting Project (“Bid Documents”). The Bid Documents will not contain language whereby the CITY or the COUNTY assume any liability arising from the contractor’s actions under the contract for construction of the Grouting Project, or agree to (directly or indirectly) indemnify the contractor for liability arising from the contractor’s or a subcontractor’s actions. The general liability insurance policy(ies) provided by the contractor will be in the standard and customary form and will name the COUNTY and DEPARTMENT as additional insureds. In addition, the Bid Documents will be compliant with the requirements of the FDOT Agreement, particularly the terms of any general liability policy(ies), and the indemnification clause referenced below. The performance and payment bonds shall remain in full force and effect until one (1) year after substantial completion of the Grouting Project, as determined by the CITY and agreed to by the COUNTY, under the terms of the contract for construction of the Grouting Project. The Bid Documents will contain a notice that the following indemnification clause must be included in the contract between the CITY and the prospective bidder: “The contractor shall indemnify and hold harmless the City, Orange County and the State of Florida, Department of Transportation, including the City’s, Orange County’s and the Department’s officers and employees, elected and appointed officials, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney’s fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the contractor and persons employed or utilized by the contractor in the performance of the Joint Participation Agreement for Sink Hole Grouting Project between the CITY and the COUNTY effective on January 13, 2026. This indemnification shall survive the termination of this Agreement.”

7. Construction.

- (a) The Parties agree that the CITY will procure the construction contractor (“Contractor”), in accordance with the CITY’s procurement process for construction. Upon receipt of prices, the CITY shall provide the COUNTY with written notice of the lowest, qualifying Grouting Project construction price (“Construction Price”).
- (b) The Parties shall coordinate their review of the Construction Price (which may include discussions relating to a reduction in scope) and either jointly accept or reject the Construction Price within thirty (30) days. If either Party rejects the Construction Price, then this Agreement may be terminated by either Party upon written notice to the other Party.
- (c) In the event the Parties accept the Construction Price, then the COUNTY shall pay to the CITY, by check, EFT, or wire transfer, fifty percent (50%) of the amount of the Construction Price, less fifty percent (50%) of the DEPARTMENT Contribution or any other actual amount contributed to the Grouting Project by the DEPARTMENT should the DEPARTMENT Contribution not be reappropriated in part or in full, plus fifty percent (50%) of a ten percent (10%) contingency (“Construction Contingency”), collectively referred to as “COUNTY Construction Funds.” For the purpose of calculating payment obligations under Section 8, below, fifty percent (50%) of the amount of the Construction Price plus fifty percent (50%) of a ten percent (10%) contingency shall be defined as the “CITY Construction Funds.” The CITY will not award the Grouting Project construction contract

("Contract"), until the COUNTY Construction Funds are paid in full. Upon award of the Contract, the CITY will provide written notice to the COUNTY which notice will include a fully executed copy of the Contract. The CITY will hold the COUNTY Construction Funds in a separate account to be utilized exclusively to pay costs for construction of the Grouting Project. The Parties acknowledge that because the FDOT Agreement provides reimbursement for funds expended, the COUNTY Construction Funds and the CITY Construction Funds do not account for the DEPARTMENT Contribution.

- (d) The Construction Contingency of the COUNTY Construction Funds may only be used for increases in the Construction Price. Prior to expending any of the Construction Contingency of the COUNTY Construction Funds, the CITY will notify the COUNTY of the proposed expenditure for its review and comment.

8. Project Completion and Payment. After completion of the Grouting Project, the CITY shall provide to the COUNTY a statement setting forth the CITY's actual permitting and construction costs ("Total Grouting Project Construction Costs"), including all change orders and contract adjustments, such as delay claims and liquidated damages claims, if any, as part of the CITY closing out the Contract. With respect to Contract adjustments, such as delay claims and liquidated damages, the CITY will provide the COUNTY an opportunity to review and comment, prior to closing out the Contract. If the Total Grouting Project Construction Costs exceed the DEPARTMENT Contribution plus the COUNTY Construction Funds plus the CITY Construction Funds, then the CITY will invoice the COUNTY for fifty percent (50%) of said excess. The COUNTY shall pay such amount to the CITY within forty-five (45) days after the receipt of the invoice(s). In the event the Total Grouting Project Construction Costs are less than the DEPARTMENT Contribution plus the COUNTY Construction Funds plus the CITY Construction Funds, then the CITY shall refund the COUNTY fifty percent (50%) of such amount within thirty (30) days. The CITY shall provide the COUNTY with the final Grouting Project record documents.

9. Defects and Changes. During the course of the Grouting Project work, if either Party observes, or otherwise become aware of, any defects, conflicts, or necessary changes to the Grouting Project, that Party shall immediately notify the other Party of such defects, conflicts, or necessary changes. The Parties agree that time is of the essence in making any decisions, interpretations, and/or changes with respect to design, materials, and other matters pertinent to the work covered by the Contract so as to not materially delay the work of the Contractor. If, after consultation with the COUNTY, the CITY determines that a change is necessary to the Contract in order to complete the Grouting Project, then the CITY shall begin processing a change order with the Contractor and inform the COUNTY of the cost for the change order, which becomes part of the costs of the Grouting Project under this Agreement, and will be deducted from the Construction Contingency.

10. County Inspection. During construction, COUNTY personnel may inspect the Grouting Project at any time. The Parties anticipate that construction of the Grouting Project can be performed completely within existing Turnpike right-of-way, CITY/COUNTY Property, and the Winderlakes Drive Property. The COUNTY is responsible for: (i) acquiring a temporary construction easement or other sufficient interest in the Winderlakes Drive Property to allow and

authorize the CITY to complete the Grouting Project as described in this Agreement, and (ii) providing public notice of construction activity. The CITY will not award the Contract for the Grouting Project until the COUNTY notifies the CITY that it has obtained a sufficient property interest. In the event the COUNTY does not obtain a sufficient property interest within one hundred eighty (180) days after the CITY's receipt of bid prices, either Party may terminate this Agreement and the CITY will return any COUNTY Construction Funds that have been paid.

11. Indemnification. Each Party agrees to defend, indemnify, and hold harmless the other Party, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorneys' fees) arising from the indemnifying Party's own negligent acts or omissions, or those negligent acts or omissions of the indemnifying Party's officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying Party's negligent performance under this Agreement. Each Party's indemnification is expressly limited to the amounts set forth in Section 768.28(5), Florida Statutes, as amended by the Florida State Legislature. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either Party to assume any liability of any kind for the acts, omissions, and/or negligence of the other Party, its officers, officials, employees, agents, or contractors.

12. Liability Outside of Indemnification. Any settlements or awards that fall outside of Section 11, including claims made by the DEPARTMENT, and any liability associated with ground subsidence and any liability not indemnified by the consultants or contractors hired by the City, will be shared equally between the City and the County. Each Party will be responsible for its fees and expenses of attorneys and paraprofessionals in connection with such suit, action or proceeding, whether such costs, fees and expenses are taxable to the other Party as such by any law through any and all final appeals arising out of such suit, action or proceeding.

This provision will survive termination of this Agreement. Notwithstanding the above terms, it is the Parties' intent that the liability policy(ies) maintained by the Contractor, or any subcontractors, for the Grouting Project will be the first and primary recourse for payment of any claims or damages arising under this Agreement.

13. Final Inspection. Upon completion of the Grouting Project, the Parties shall conduct a final inspection. Deficiencies in the Grouting Project shall be set forth on a punch list. Upon satisfactory completion or correction of outstanding issues listed on the punch list, as determined by the Parties, the Parties shall accept the Grouting Project. No final payment shall be made by the CITY to the Contractor until such acceptance.

14. No Third-Party Benefit. This Agreement is solely for the benefit of the Parties herein, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party that is not a party hereto.

15. Term. The term of this Agreement shall be for the period necessary to complete the Grouting Project.

16. Notice. Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered (a) when hand delivered to the official hereinafter designated, or (b)

upon receipt of such notice when deposited in the United States mail, postage prepaid, certified mail return receipt requested, addressed to a Party at the address set forth opposite the Party's name below, or at such other address as the Party shall have specified in written notice to the other Party in accordance herewith.

COUNTY: Orange County Utilities
Attention: Director
9150 Curry Ford Road
Orlando, Florida 32825-7600

With copy to: County Administrator
201 South Rosalind Avenue, 5th Floor
Orlando, Florida 32801-1393

CITY: City of Orlando
Attention: Water Reclamation Division Manager
400 South Orange Avenue
Orlando, Florida 32801-3360

Each of the Parties hereto shall give the other Party written notice of any alleged defaults hereunder and shall allow the defaulting Party thirty (30) days from the date of receipt to cure such defaults. If any court finds part of this Agreement invalid or unenforceable, such invalidity or unenforceability shall not affect the other parts of the Agreement (i) if the rights and obligations of the Parties contained therein are not materially prejudiced and, (ii) if the intentions of the Parties can continue to be effected. To that end, this Agreement is declared severable.

17. Remedies. No right or remedy herein conferred upon or reserved to either Party hereto is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of a default hereunder. The failure of any Party hereto to insist, at any time, upon the strict observance or performance of any of the provisions of this Agreement, or to exercise any right or remedy as provided in this Agreement, shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof with respect to subsequent defaults. Every right and remedy given by this Agreement to the Parties hereof may be exercised from time to time and as often as may be deemed expedient by the Parties hereto, as the case may be.

18. Time is of the Essence. Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Agreement.

19. Laws of Florida. This Agreement and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida.

20. Entire Agreement. This instrument constitutes the entire agreement between the Parties and supersedes all previous discussions, understandings, and agreements between the Parties relating to the subject matter of this Agreement. Amendments to the provisions herein, shall be made by the Parties in writing by formal amendment.

21. **Effective Date.** The effective date of this Agreement shall be date last properly executed, as evidenced by dates under signatures.

IN WITNESS WHEREOF, the Parties have caused this Joint Participation Agreement to be executed as of the dates indicated below.

ORANGE COUNTY FLORIDA,
By: Board of County Commissioners

By: _____
Jerry L. Demings
Orange County Mayor

Date: _____

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk

CITY OF ORLANDO, FLORIDA

By: *Randy Johnson*

Mayor / Mayor Pro Tem

Date: 12/8/25

ATTEST: (SEAL)

SMH

Stephanie Herdocia
City Clerk

APPROVED AS TO FORM AND LEGALITY
for the use and reliance of the
City of Orlando, Florida only.

December 8, 2025
Alison C. Brackins

Alison C. Brackins
Assistant City Attorney
Orlando, Florida

City Council Meeting: 12-8-2025
Item: 3.i.2 Documentary: 2512083i2

Exhibit A

Grout Pin Location Plan

0 5 10 20 30
Feet
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