

RESOLUTION B-18-060
AMENDING THE ANNUAL BUDGET
FOR MANATEE COUNTY, FLORIDA
FOR FISCAL YEAR 2017-2018

WHEREAS, Florida Statutes 129.06, authorizes the Board of County Commissioners to amend its budget for the current fiscal year as follows:

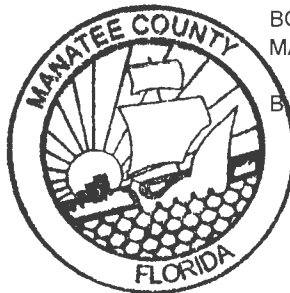
- a) Appropriations for expenditures in any fund may be decreased and other appropriations in the same fund correspondingly increased, provided the total appropriations of the fund are not changed.
- b) Appropriations from reserves may be made to increase the appropriation for any particular expense in the same fund, or to create an appropriation in the fund for any lawful purpose.
- c) Unanticipated revenues, including increased receipts for enterprise or proprietary funds, may be appropriated for their intended purpose, and may be transferred between funds to properly account for the unanticipated revenue.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida that the 2017-2018 budget is hereby amended in accordance with FS 129.06 as described on the attached summary and specified in the budget adjustment batch files which are listed below:

Department: PARKS & NATURAL RESOURCES DEPARTMENT
Fund: STORM WATER MANAGEMENT
Description: Appropriates \$31,500 revenue from the Southwest Florida Water Management District (SWFWMD) for a feasibility study for the Mill Creek Water Quality Plan. Also, transfers \$31,500 required matching funds from reserves in the Storm Water Management fund. The SWFWMD agreement 18CF0001028 (N889) is being presented to the Board along with this budget amendment.

Batch ID: JR40618A/B Reference: BU18000232

ADOPTED IN OPEN SESSION WITH A QUORUM PRESENT AND VOTING THIS 24th DAY OF April, 2018.



BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

By: Priscilla J. Lee
Chairman

ATTEST: Angelina Colonnese,
Clerk of the Circuit Court

By: Wiebi Essner
Deputy Clerk

COOPERATIVE FUNDING AGREEMENT (TYPE 3)
BETWEEN THE
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT
AND
MANATEE COUNTY
FOR
MILL CREEK WATER QUALITY PLAN (N889)

This COOPERATIVE FUNDING AGREEMENT (Agreement) is made and entered into by and between the SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT, a public corporation of the State of Florida, whose address is 2379 Broad Street, Brooksville, Florida 34604-6899, hereinafter referred to as the "DISTRICT," and MANATEE COUNTY, a political subdivision of the State of Florida, whose address is 1112 Manatee Avenue West, Bradenton, Florida 34205, hereinafter referred to as the "COOPERATOR."

WITNESSETH:

WHEREAS, the COOPERATOR proposed a project to the DISTRICT for funding consideration under the DISTRICT'S cooperative funding program; and

WHEREAS, the project consists of a study to evaluate water quality impacts, stormwater improvement Best Management Practices (BMPs) and natural system restoration projects in the Mill Creek watershed, hereinafter referred to as the "PROJECT"; and

WHEREAS, the DISTRICT considers the resource benefits to be achieved by the PROJECT worthwhile and desires to assist the COOPERATOR in funding the PROJECT.

NOW THEREFORE, the DISTRICT and the COOPERATOR, in consideration of the mutual terms, covenants and conditions set forth herein, agree as follows:

1. PROJECT CONTACTS AND NOTICES.

Each party hereby designates the individual set forth below as its prime contact for matters relating to this Agreement. Notices and reports shall be sent to the attention of each party's prime contact as set forth herein by U.S. mail, postage paid, by nationally recognized overnight courier, or personally to the parties' addresses as set forth below. Notice is effective upon receipt.

Contract Manager for the DISTRICT:
Nicole Mytyk
Southwest Florida Water Management District
7601 Highway 301 North
Tampa, Florida 33637

Project Manager for the COOPERATOR:
Greg Blanchard
Manatee County
1112 Manatee Avenue West, 2nd Floor
Bradenton, Florida 34205

Any changes to the above representatives or addresses must be provided to the other party in writing.

- 1.1 The DISTRICT'S Contract Manager is authorized to approve requests to extend a PROJECT task deadline set forth in this Agreement. Such approval must be in writing, explain the reason for the extension and be signed by the Contract Manager and his or her Bureau Chief, or Director if the Bureau Chief is the Contract Manager, unless the DISTRICT'S Signature Authority provides otherwise. The DISTRICT'S Signature Authority supersedes the approval requirements provided in this provision. The DISTRICT'S Contract Manager is not authorized to approve any time extension which will result in an increased cost to the DISTRICT or which will exceed the expiration date set forth in this Agreement.
- 1.2 The DISTRICT'S Contract Manager is authorized to adjust a line item amount of the PROJECT budget contained in the Project Plan, or, if applicable, the refined budget as set forth in Subparagraph 4 of the Funding Paragraph. The authorization must be in writing, explain the reason for the adjustment, and be signed by all appropriate DISTRICT staff in accordance with the DISTRICT'S Signature Authority. The DISTRICT'S Contract Manager is not authorized to make changes to the Scope of Work and is not authorized to approve any increase in the amounts set forth in the funding section of this Agreement.

2. SCOPE OF WORK.

Upon receipt of written notice to proceed from the DISTRICT, the COOPERATOR shall perform the services necessary to complete the PROJECT in accordance with the COOPERATOR'S Project Plan. Any changes to this Agreement, except as provided herein, must be mutually agreed to in a formal written amendment approved by the DISTRICT and the COOPERATOR prior to being performed by the COOPERATOR. The COOPERATOR shall be solely responsible for managing and controlling the PROJECT, including the hiring and supervising of any consultants or contractors it engages.

- 2.1 The parties agree that time is of the essence in the performance of each obligation under this Agreement.
- 2.2 The parties acknowledge that the PROJECT is a feasibility study. The parties recognize that during the course of study, alternatives may be determined to not be feasible due to cost, water quality, permitability, supply availability, or other pertinent considerations. The COOPERATOR shall cease work on alternatives determined to not be feasible. The COOPERATOR may request reallocating funds to another alternative in accordance with Subparagraph 2 of the Project Contacts and Notices Paragraph of this Agreement. The approval of such request for reallocation of funds shall be in the DISTRICT'S sole discretion.

3. FUNDING.

The parties anticipate that the total cost of the PROJECT will be Sixty Three Thousand Dollars (\$63,000). The DISTRICT agrees to fund PROJECT costs up to Thirty One Thousand Five Hundred Dollars (\$31,500), and shall have no obligation to pay any costs beyond this maximum amount. The COOPERATOR agrees to provide all remaining funds necessary for the satisfactory completion of the PROJECT.

- 3.1 The DISTRICT'S performance and payment pursuant to this Agreement are contingent upon the DISTRICT'S Governing Board appropriating funds in its approved budget for the PROJECT in each fiscal year of this Agreement. The COOPERATOR'S payment of any financial obligation under this Agreement is subject to appropriation by the COOPERATOR'S Board of legally available funds.
- 3.2 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 contained in the Project Plan. Reimbursement for expenditures of contingency funds is contingent upon approval by the DISTRICT. If a reimbursement request includes the expenditure of contingency funds, the COOPERATOR shall provide sufficient documentation to the DISTRICT to explain the basis of the expense. The DISTRICT shall not reimburse the COOPERATOR for any contingency funds that the DISTRICT determines, in its sole discretion, to be in excess of what was reasonably necessary to complete the PROJECT. The DISTRICT shall reimburse the COOPERATOR for fifty percent (50%) of all allowable costs in each DISTRICT approved invoice received from the COOPERATOR, but at no point in time shall the DISTRICT'S expenditure amounts under this Agreement exceed expenditures made by the COOPERATOR.
- 3.3 Unless otherwise stated in this Agreement, any federal, state, local or grant monies received by the COOPERATOR for this PROJECT shall be applied to equally reduce each party's share of PROJECT costs. The COOPERATOR shall provide the DISTRICT with written documentation detailing its allocation of any such funds appropriated for this PROJECT. This Subparagraph shall survive the expiration or termination of this Agreement.
- 3.4 The COOPERATOR may contract with consultant(s), contractor(s) or both to accomplish the PROJECT. The COOPERATOR must obtain the DISTRICT'S written approval prior to posting solicitations for consultants or contractors and prior to entering into agreements with consultants or contractors to ensure that costs to be reimbursed by the DISTRICT under those agreements are reasonable and allowable under this Agreement. The DISTRICT shall provide a written response to the COOPERATOR within fifteen (15) business days of receipt of the solicitation or agreement. Upon written DISTRICT approval, the budget amounts for the work set forth in such contract(s) shall refine the amounts set forth in the Project Budget and be incorporated herein by reference. The DISTRICT shall not reimburse the COOPERATOR for costs incurred under consultant and contractor agreements until the DISTRICT approvals required under this provision have been obtained.

- 3.5 Payment shall be made to the COOPERATOR within forty-five (45) days of receipt of an invoice with adequate supporting documentation to satisfy auditing purposes. Invoices shall be submitted to the DISTRICT every two (2) months electronically at invoices@WaterMatters.org, or at the following address:

Accounts Payable Section
Southwest Florida Water Management District
Post Office Box 15436
Brooksville, Florida 34604-5436

The above-referenced payment due date shall not apply to that portion of an invoice that includes contingency expenses. The DISTRICT agrees to reimburse the COOPERATOR for contingency expenses within a reasonable time to accommodate the process provided for in Subparagraph 2 of this Funding Paragraph.

In addition to sending an original invoice to the DISTRICT'S Accounts Payable Section as required above, copies of invoices may also be submitted to the DISTRICT'S Contract Manager in order to expedite the review process. Failure of the COOPERATOR to submit invoices to the DISTRICT in the manner provided herein shall relieve the DISTRICT of its obligation to pay within the aforementioned timeframe.

The DISTRICT makes payments electronically through the Automated Clearing House (ACH) process. The COOPERATOR agrees to complete the DISTRICT'S *Vendor Registration Form and Vendor Electronic Payment Authorization Form* to enable payments to be sent to COOPERATOR electronically. The forms may be downloaded from the DISTRICT'S website at www.watermatters.org under Business & Finance – Contracts and Procurement. Any questions regarding electronic payments may be directed to the DISTRICT'S Accounts Payable Lead at 352-796-7211, extension 4108.

- 3.6 The parties acknowledge that the PROJECT was approved for funding by the DISTRICT based upon the resource benefits expected to be achieved by the PROJECT (the "Measurable Benefit"). The parties also acknowledge that the COOPERATOR is solely responsible for implementing the PROJECT in such a manner that the expected resource benefits are achieved. If at any point during the progression of the PROJECT the DISTRICT determines that it is likely that the Measurable Benefit as set forth in the Project Plan will not be achieved, the DISTRICT shall provide the COOPERATOR with fifteen (15) days advance written notice that the DISTRICT shall withhold payments to the COOPERATOR until such time as the COOPERATOR demonstrates that the PROJECT shall achieve the required resource benefits, to provide the COOPERATOR with an opportunity to cure the deficiencies.
- 3.7 Any travel expenses which may be authorized under this Agreement shall be paid in accordance with Section 112.061, Florida Statutes (F.S.), as may be amended from time to time. The DISTRICT shall not reimburse the COOPERATOR for any

purpose not specifically identified in the Scope of Work Paragraph. Surcharges added to third party invoices are not considered an allowable cost under this Agreement. Costs associated with in-kind services provided by the COOPERATOR are not reimbursable by the DISTRICT and may not be included in the COOPERATOR'S share of funding contributions under this Agreement.

- 3.8 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 hereby certify that the costs requested for reimbursement and the COOPERATOR'S matching funds, as represented in this invoice, are directly related to the performance under the Mill Creek Water Quality Plan (N889) agreement between the Southwest Florida Water Management District and Manatee County (Agreement No. 18CF0001028), are allowable, allocable, properly documented, and are in accordance with the approved Project Budget. This invoice includes \$__ of contingency expenses. The COOPERATOR has been allocated a total of \$__ in federal, state, local or grant monies for this PROJECT (not including DISTRICT funds) and \$__ has been allocated to this invoice, reducing the DISTRICT'S and COOPERATOR'S share to \$__ / \$__ respectively."

- 3.9 In the event any dispute or disagreement arises during the course of the PROJECT, including whether expenses are reimbursable under this Agreement, the COOPERATOR will continue to perform the PROJECT work in accordance with the Project Plan. The COOPERATOR is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute by providing the details and basis of the dispute to the DISTRICT'S Contract Manager no later than ten (10) days after the precipitating event. If not resolved by the Contract Manager, in consultation with his or her Bureau Chief, within ten (10) days of receipt of notice, the dispute will be forwarded to the DISTRICT'S Assistant Executive Director. The DISTRICT'S Assistant Executive Director in consultation with the DISTRICT'S Office of General Counsel will issue the DISTRICT'S final determination. The COOPERATOR'S continuation of the PROJECT work as required under this provision shall not constitute a waiver of any legal remedy available to the COOPERATOR concerning the dispute.

4. COMPLETION DATES.

The COOPERATOR shall commence and complete the PROJECT and meet the task deadlines in accordance with the Project Schedule set forth in the Project Plan, including any extensions of time provided by the DISTRICT in accordance with Subparagraph 1 of the Project Contacts and Notices Paragraph. In the event of hurricanes, tornados, floods, acts of God, acts of war, or other such catastrophes, or other man-made emergencies such as labor strikes or riots, which are beyond the control of the COOPERATOR, the COOPERATOR'S obligations to meet the time frames provided in this Agreement shall be suspended for the period of time the condition continues to exist. During such suspension, this Agreement shall remain in effect. When the COOPERATOR is able to resume performance of its obligations under this Agreement, in whole or in part, it shall

immediately give the DISTRICT written notice to that effect and shall resume performance no later than two (2) working days after the notice is delivered. The suspension of the COOPERATOR'S obligations provided for in this provision shall be the COOPERATOR'S sole remedy for the delays set forth herein.

5. REPAYMENT.

5.1 The COOPERATOR shall repay the DISTRICT all funds the DISTRICT paid to the COOPERATOR under this Agreement, if: a) the COOPERATOR fails to complete the PROJECT in accordance with the terms and conditions of this Agreement, including failing to meet the Measurable Benefit, as it may be modified in accordance with Subparagraph 2 of the Scope of Work Paragraph; b) the DISTRICT determines, in its sole discretion and judgment, that the COOPERATOR has failed to maintain scheduled progress of the PROJECT thereby endangering the timely performance of this Agreement; c) the COOPERATOR fails to appropriate sufficient funds to meet the task deadlines, unless extended in accordance with Subparagraph 1 of the Project Contacts and Notices Paragraph; or d) a provision or provisions of this Agreement setting forth the requirements or expectations of a Measurable Benefit resulting from the PROJECT is held to be invalid, illegal or unenforceable during the term of this Agreement. Should any of the above conditions exist that require the COOPERATOR to repay the DISTRICT, this Agreement shall terminate in accordance with the procedure set forth in the Default Paragraph.

5.2 Notwithstanding the above, the parties acknowledge that if the PROJECT fails to meet the Measurable Benefit specified in this Agreement, the COOPERATOR may request the DISTRICT Governing Board to waive the repayment obligation, in whole or in part.

5.3 In the event the COOPERATOR is obligated to repay the DISTRICT under any provision of this Agreement, the COOPERATOR shall repay the DISTRICT within a reasonable time, as determined by the DISTRICT in its sole discretion.

5.4 The COOPERATOR shall pay attorneys' fees and costs incurred by the DISTRICT, including appeals, as a result of the COOPERATOR'S failure to repay the DISTRICT as required by this Agreement.

5.5 This Repayment Paragraph, including all subparagraphs, shall survive the expiration or termination of this Agreement.

6. CONTRACT PERIOD.

This Agreement shall be effective October 1, 2017 and shall remain in effect through December 31, 2020, or upon satisfactory completion of the PROJECT and subsequent reimbursement to the COOPERATOR, whichever occurs first, unless amended in writing by the parties. The COOPERATOR shall not be eligible for reimbursement for any work that is commenced, or costs that are incurred, prior to the effective date of this Agreement.

7. PROJECT RECORDS AND DOCUMENTS.

Upon request by the DISTRICT, the COOPERATOR shall permit the DISTRICT to examine or audit all PROJECT related records and documents during or following completion of the PROJECT at no cost to the DISTRICT. Payments made to the COOPERATOR under this Agreement shall be reduced for amounts found to be not allowable under this Agreement by an audit. If an audit is undertaken by either party, all required records shall be maintained until the audit has been completed and all questions arising from it are resolved. Each party shall maintain all such records and documents for at least three (3) years following completion of the PROJECT. Each party shall allow public access to PROJECT documents and materials made or received by either party in accordance with the Public Records Act, Chapter 119, F.S. Should either party assert any exemption to the requirements of Chapter 119, F.S., the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the asserting party. This Paragraph shall survive the expiration or termination of this Agreement.

8. OWNERSHIP OF DOCUMENTS AND OTHER MATERIALS.

All documents, including reports, drawings, estimates, programs, manuals, specifications, and all goods or products, including intellectual property and rights thereto, purchased under this Agreement with DISTRICT funds or developed in connection with this Agreement shall be and shall remain the property of the DISTRICT and the COOPERATOR, jointly. Notwithstanding the above, all reclaimed water infrastructure shall be and shall remain the sole property of the COOPERATOR. This Paragraph shall survive the expiration or termination of this Agreement.

9. REPORTS.

9.1 The COOPERATOR shall provide the DISTRICT with a quarterly report describing the progress of the PROJECT tasks, adherence to the performance schedule and any developments affecting the PROJECT. The COOPERATOR shall promptly advise the DISTRICT of issues that arise that may impact the successful and timely completion of the PROJECT. Quarterly reports shall be submitted to the DISTRICT'S Contract Manager no later than forty-five (45) days following the completion of the quarterly reporting period. It is hereby understood and agreed by the parties that the term "quarterly" shall reflect the calendar quarters ending March 31, June 30, September 30 and December 31.

9.2 Upon request by the DISTRICT, the COOPERATOR shall provide the DISTRICT with copies of all data, reports, models, studies, maps or other documents resulting from the PROJECT. Additionally, one (1) set, electronic and hardcopy, of any final reports must be submitted to the DISTRICT as Record and Library copies. This Subparagraph shall survive the expiration or termination of this Agreement.

9.3 The COOPERATOR shall provide the DISTRICT with each deliverable set forth in the Project Plan for review by the DISTRICT, including any supporting documentation. The DISTRICT shall provide a written response to the

COOPERATOR and the COOPERATOR shall respond to the DISTRICT'S questions and concerns within the timeframes set forth in the Project Plan.

9.4 The COOPERATOR shall provide the data, reports and documents referenced in this provision at no cost to the DISTRICT.

10. RISK, LIABILITY, AND INDEMNITY.

10.1 To the extent permitted by Florida law, the COOPERATOR assumes all risks relating to the PROJECT and agrees to be solely liable for, and to indemnify and hold the DISTRICT harmless from all claims, loss, damage and other expenses, including attorneys' fees and costs and attorneys' fees and costs on appeal, arising from the design, construction, operation, maintenance or implementation of the PROJECT; provided, however, that the COOPERATOR shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the DISTRICT'S officers, employees, contractors and agents. The acceptance of the DISTRICT'S funding by the COOPERATOR does not in any way constitute an agency relationship between the DISTRICT and the COOPERATOR.

10.2 The COOPERATOR agrees to indemnify and hold the DISTRICT harmless, to the extent allowed under Section 768.28, F.S., from all claims, loss, damage and other expenses, including attorneys' fees and costs and attorneys' fees and costs on appeal, arising from the negligent acts or omissions of the COOPERATOR'S officers, employees, contractors and agents related to its performance under this Agreement.

10.3 This Risk, Liability, and Indemnity Paragraph, including all subparagraphs, shall not be construed as a waiver of the COOPERATOR'S sovereign immunity or an extension of COOPERATOR'S liability beyond the limits established in Section 768.28, F.S. Additionally, this Risk, Liability, and Indemnity Paragraph, including all subparagraphs, will not be construed to impose contractual liability on the COOPERATOR for underlying tort claims as described above beyond the limits specified in Section 768.28, F.S., nor be construed as consent by the COOPERATOR to be sued by third parties in any manner arising out of this Agreement.

10.4 Nothing in this Agreement shall be interpreted as a waiver of the DISTRICT'S sovereign immunity or an extension of its liability beyond the limits established in Section 768.28, F.S., nor be construed as consent by the DISTRICT to be sued by third parties in any manner arising out of this Agreement.

10.5 This Risk, Liability, and Indemnity Paragraph, including all subparagraphs, shall survive the expiration or termination of this Agreement.

11. DEFAULT.

Either party may terminate this Agreement upon the other party's failure to comply with any term or condition of this Agreement, including the failure to meet task deadlines established in this Agreement, as long as the terminating party is not in default of any term

or condition of this Agreement at the time of termination. To effect termination, the terminating party shall provide the defaulting party with a written "Notice of Termination" stating its intent to terminate and describing all terms and conditions with which the defaulting party has failed to comply. If the defaulting party has not remedied its default within thirty (30) days after receiving the Notice of Termination, this Agreement shall automatically terminate. If a default cannot reasonably be cured in thirty (30) days, then the thirty (30) days may be extended at the non-defaulting party's discretion, if the defaulting party is pursuing a cure of the default with reasonable diligence. The rights and remedies in this Paragraph are in addition to any other rights and remedies provided by law or this Agreement.

12. RELEASE OF INFORMATION.

The parties agree not to initiate any oral or written media interviews or issue press releases on or about the PROJECT without providing notices or copies to the other party no later than three (3) business days prior to the interview or press release. This Paragraph shall not be construed as preventing the parties from complying with the public records disclosure laws set forth in Chapter 119, F.S.

13. DISTRICT RECOGNITION.

The COOPERATOR shall recognize DISTRICT funding in any reports, models, studies, maps or other documents resulting from this Agreement, and the form of said recognition shall be subject to DISTRICT approval. If construction is involved, the COOPERATOR shall provide signage at the PROJECT site that recognizes funding for this PROJECT provided by the DISTRICT. All signage must meet with DISTRICT written approval as to form, content and location, and must be in accordance with local sign ordinances.

14. LAW COMPLIANCE.

The COOPERATOR shall comply with all applicable federal, state and local laws, rules, regulations and guidelines, including those of the DISTRICT, related to performance under this Agreement. If the PROJECT involves design services, the COOPERATOR'S professional designers and the DISTRICT'S regulation and projects staff shall meet regularly during the PROJECT design to discuss ways of ensuring that the final design for the proposed PROJECT technically complies with all applicable DISTRICT rules and regulations. However, the DISTRICT undertakes no duty to ensure compliance with such rules and regulations.

15. DIVERSITY IN CONTRACTING AND SUBCONTRACTING.

The DISTRICT is committed to supplier diversity in the performance of all contracts associated with DISTRICT cooperative funding projects. The DISTRICT requires the COOPERATOR to make good faith efforts to encourage the participation of minority owned and woman owned and small business enterprises, both as prime contractors and subcontractors, in the performance of this Agreement, in accordance with applicable laws.

15.1 If requested, the DISTRICT shall assist the COOPERATOR by sharing information to help the COOPERATOR in ensuring that minority owned and woman owned and

small businesses are afforded an opportunity to participate in the performance of this Agreement.

16. ASSIGNMENT.

Except as otherwise provided in this Agreement, no party may assign any of its rights or delegate any of its obligations under this Agreement, including any operation or maintenance duties related to the PROJECT, without the prior written consent of the other party. Any attempted assignment in violation of this provision is void. This Paragraph shall survive the expiration or termination of this Agreement.

17. CONTRACTORS.

Nothing in this Agreement shall be construed to create, or be implied to create, any relationship between the DISTRICT and any consultant or contractor of the COOPERATOR.

18. THIRD PARTY BENEFICIARIES.

Nothing in this Agreement shall be construed to benefit any person or entity not a party to this Agreement.

19. LOBBYING PROHIBITION.

Pursuant to Section 216.347, F.S., the COOPERATOR is prohibited from using funds provided by this Agreement for the purpose of lobbying the Legislature, the judicial branch or a state agency.

20. PUBLIC ENTITY CRIMES.

Pursuant to Subsections 287.133(2) and (3), F.S., a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for Category Two, for a period of 36 months following the date of being placed on the convicted vendor list. The COOPERATOR agrees to include this provision in all contracts issued as a result of this Agreement.

21. GOVERNING LAW.

This Agreement is governed by Florida law and venue for resolving disputes under this Agreement shall be exclusively in Hernando County, Florida. This Paragraph shall survive the expiration or termination of this Agreement.

22. SEVERABILITY.

If any provision or provisions of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. Notwithstanding the above, if a provision or provisions of this Agreement setting forth the requirements or expectations of a Measurable Benefit resulting from the PROJECT is held to be invalid, illegal or unenforceable during the term of this Agreement, this Agreement shall terminate in accordance with Subparagraph 1 of the Repayment Paragraph. This Paragraph shall survive the expiration or termination of this Agreement.

23. ENTIRE AGREEMENT.

This Agreement and the attached exhibit listed below constitute the entire agreement between the parties and, unless otherwise provided herein, may be amended only in writing, signed by all parties to this Agreement.

24. DOCUMENTS.

The following document is 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."

Exhibit "A" Project Plan

The remainder of this page intentionally left blank.

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

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

By: Jennette Seachrist 5-2-18
Jennette M. Seachrist, P.E. Date
Director, Resource Management Division

MANATEE COUNTY, a political subdivision of the State of Florida
By: its Board of County Commissioners

By: Priscilla Tran 4/24/18
Chairperson Date



ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: Uebbi Lesmer
Deputy Clerk

COOPERATIVE FUNDING AGREEMENT (TYPE 3)
BETWEEN THE
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT
AND
MANATEE COUNTY
FOR
MILL CREEK WATER QUALITY PLAN (N889)

**EXHIBIT "A"
PROJECT PLAN**

PROJECT DESCRIPTION

The PROJECT is a cooperative funding project located within the Mill Creek watershed (Watershed) in Manatee County. Mill Creek drains to the Manatee River and ultimately to Tampa Bay. The PROJECT is consistent with the Surface Water Improvement and Management (SWIM) Plan for Tampa Bay, a SWIM priority water body, which outlines goals to restore habitat and reduce pollutant loads entering Tampa Bay.

The PROJECT includes a study to evaluate water quality impacts, stormwater improvement Best Management Practices (BMPs) and natural system restoration projects in the Mill Creek Watershed, which drains approximately 14 square miles. The Surface Water Resource Assessment (SWRA) is to provide an assessment for nutrients and to propose conceptual BMPs including stormwater improvement with an emphasis on Low Impact Development (LID) and/or natural systems restoration projects in support of reducing nutrient loads in the watershed.

MEASURABLE BENEFIT

The completion of the study.

PROJECT TASKS

Key tasks to be performed by the COOPERATOR

1. **WATERSHED AND WATER QUALITY ASSESSMENT** – Data collection shall be completed to determine the nutrient loading and identify a priority list of BMPs. This may include, but is not limited to, the following evaluation of prior studies, available water quality monitoring data, survey, and nutrient source sampling. This Task includes a Watershed and Water Quality Assessment to estimate pollutant loads and/or determine the pollutant load source.
2. **BMP ALTERNATIVES ANALYSIS** – This Task includes identifying BMPs to address water quality concerns of the Watershed through alternatives analysis and prioritization.
3. **DRAFT AND FINAL REPORT** – The COOPERATOR shall prepare a draft report that presents the data results and analysis, and provides a determination of water quality impacts, stormwater improvement BMPs and natural system restoration projects. The report shall identify, evaluate, and recommend management options/alternatives that will accomplish the Measurable Benefit of the PROJECT and shall include resource benefits and cost estimates for each option. The final report shall also include the Watershed and Water Quality Assessment and the BMP Alternatives Analysis. This shall be accomplished through review and analysis of any existing water quality, biological, or watershed related data in conjunction with data collected specifically for the PROJECT. Upon review and approval of the draft report, the COOPERATOR shall prepare and submit a final report.

DELIVERABLES

1. Monthly status reports
2. Minutes of kick-off meeting
3. Draft and Final Report including all supporting calculations/model/data files

DELIVERABLE REVIEW TIMES

The DISTRICT shall provide a written response to the COOPERATOR within twenty (20) business days of receipt of each deliverable specified below including supporting documentation. The COOPERATOR shall respond to the DISTRICT'S questions and concerns within twenty (20) business days of receipt by the COOPERATOR.

- Draft and Final Report including all supporting calculations/model/data files

PROJECT SCHEDULE

DESCRIPTION	COMMENCE	COMPLETE
Watershed and Water Quality Assessment	10/1/2017	4/30/2018
BMP Alternatives Analysis	4/30/2018	6/30/2018
Draft and Final Report	4/30/2018	9/30/2018

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

PROJECT BUDGET

DESCRIPTION	DISTRICT	COOPERATOR	TOTAL
Watershed and Water Quality Assessment	\$16,681	\$16,681	\$33,362
BMP Alternatives Analysis	\$6,547	\$6,547	\$13,094
Draft and Final Report	\$8,272	\$8,272	\$16,544
TOTAL	\$31,500	\$31,500	\$63,000

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

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EXHIBIT "A"
PROJECT PLAN

PROJECT DESCRIPTION

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MEASURABLE BENEFIT

The completion of the study.

PROJECT TASKS

Key tasks to be performed by the COOPERATOR

1. **WATERSHED AND WATER QUALITY ASSESSMENT** – Data collection shall be completed to determine the nutrient loading and identify a priority list of BMPs. This may include, but is not limited to, the following evaluation of prior studies, available water quality monitoring data, survey, and nutrient source sampling. This Task includes a Watershed and Water Quality Assessment to estimate pollutant loads and/or determine the pollutant load source.
2. **BMP ALTERNATIVES ANALYSIS** – This Task includes identifying BMPs to address water quality concerns of the Watershed through alternatives analysis and prioritization.
3. **DRAFT AND FINAL REPORT** – The COOPERATOR shall prepare a draft report that presents the data results and analysis, and provides a determination of water quality impacts, stormwater improvement BMPs and natural system restoration projects. The report shall identify, evaluate, and recommend management options/alternatives that will accomplish the Measurable Benefit of the PROJECT and shall include resource benefits and cost estimates for each option. The final report shall also include the Watershed and Water Quality Assessment and the BMP Alternatives Analysis. This shall be accomplished through review and analysis of any existing water quality, biological, or watershed related data in conjunction with data collected specifically for the PROJECT. Upon review and approval of the draft report, the COOPERATOR shall prepare and submit a final report.

DELIVERABLES

- 1. Monthly status reports
- 2. Minutes of kick-off meeting
- 3. Draft and Final Report including all supporting calculations/model/data files

DELIVERABLE REVIEW TIMES

The DISTRICT shall provide a written response to the COOPERATOR within twenty (20) business days of receipt of each deliverable specified below including supporting documentation. The COOPERATOR shall respond to the DISTRICT'S questions and concerns within twenty (20) business days of receipt by the COOPERATOR.

- Draft and Final Report including all supporting calculations/model/data files

PROJECT SCHEDULE

DESCRIPTION	COMMENCE	COMPLETE
Watershed and Water Quality Assessment	10/1/2017	4/30/2018
BMP Alternatives Analysis	4/30/2018	6/30/2018
Draft and Final Report	4/30/2018	9/30/2018

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

PROJECT BUDGET

DESCRIPTION	DISTRICT	COOPERATOR	TOTAL
Watershed and Water Quality Assessment	\$16,681	\$16,681	\$33,362
BMP Alternatives Analysis	\$6,547	\$6,547	\$13,094
Draft and Final Report	\$8,272	\$8,272	\$16,544
TOTAL	\$31,500	\$31,500	\$63,000

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

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An Equal Opportunity Employer

Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899

(352) 796-7211 or 1-800-423-1476 (FL only)

WaterMatters.org

Bartow Office

170 Century Boulevard
Bartow, Florida 33830-7700
(863) 534-1448 or
1-800-492-7862 (FL only)

Sarasota Office

6750 Fruitville Road
Sarasota, Florida 34240-9711
(941) 377-3722 or
1-800-320-3503 (FL only)

Tampa Office

7601 U.S. 301 North (Fort King Highway)
Tampa, Florida 33637-6759
(813) 985-7481 or
1-800-836-0797 (FL only)

Randall S. Maggard

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Hernando, Marion

Michelle Williamson

Hillsborough

Brian J. Armstrong, P.G.

Executive Director

May 4, 2018

Greg Blanchard
Manatee County
1112 Manatee Avenue West, 2nd Floor
Bradenton, Florida 34205

Subject: Mill Creek Water Quality Plan
Project No. (N889)
Agreement No. 18CF0001028

Dear Greg Blanchard:

Enclosed is one fully executed originals of the agreement between the Southwest Florida Water Management District (District) and Manatee County, for the subject project.

Please accept this letter as your written Notice to Proceed.

If you have any questions, please contact me at the Brooksville office, extension 4106 or the Contract Manager, Nicole Mytyk at the Tampa office, extension 6591.

Sincerely,

Rachelle Jones
Senior Procurement Specialist
Procurement
Finance Bureau

Enclosures (1)

cc: Nicole Mytyk
S. Tarokh, PAB
Records (Contract File)

4/24/18

April 24, 2018 - Regular Meeting
Agenda Item #25

Subject

Mill Creek - Southwest Florida Water Management District (SWFWMD) Grant

Briefings

None

Contact and/or Presenter Information

Rob Brown, Division Manager, Parks and Natural Resources Department, ext. 1870
rob.brown@mymanatee.org

Action Requested

Authorization for the Chairman of the Board of County Commissioners to sign Southwest Florida Water Management District Agreement No. 18CF0001028 in the amount of \$31,500 for the Mill Creek Water Quality Plan (N889), and adoption of Budget Resolution B-18-060 amending the Annual Budget for Manatee County, FL, for FY 2018.

Enabling/Regulating Authority

F.S. 125

Background Discussion

Manatee County applied to the Southwest Florida Water Management District (SWFWMD) for a FY 2018 Cooperative Funding Initiative (CFI) cooperative funding agreement in the amount of \$31,500 for a study to evaluate water quality impacts, stormwater improvement Best Management Practices and natural system restoration projects in the Mill Creek Watershed. This study will leverage findings of an ongoing stormwater management project by the Public Works Department in the same watershed. Manatee County's required match of \$31,500 is funded through the Utilities Stormwater Fund. The total project is \$63,000.

Adoption of Budget Resolution B-18-060 is requested.

County Attorney Review

Formal Written Review (Opinion memo must be attached)

Explanation of Other

Reviewing Attorney

Zamboni

Instructions to Board Records

Interoffice and email 4/25/18

Return 2 signed copies of the agreement to Rob Brown, Parks & Natural Resources Department, for transmittal to SWFWMD for their signature. Return approved agenda and budget resolution to Rob.brown@mymanatee.org, Luz.mcquiston@mymanatee.org, budget@mymanatee.org, judy.moree@manateeclerk.com, and Lori.stephens@manateeclerk.com.

Cost and Funds Source Account Number and Name

\$31,500 SWFWMD Agreement, \$31,500 – Stormwater Fund 460.0009501

Amount and Frequency of Recurring Costs

One-time

Attachment: [SWFWMD- Agreement No. 18CF0001028.pdf](#)

Attachment: [Response Memo to CAO Matter No. 2018-0111 dtd 3.1.18.pdf](#)

Attachment: [B-18-060 SWFWMD - Mill Creek.pdf](#)



OFFICE OF THE COUNTY ATTORNEY

MITCHELL O. PALMER, COUNTY ATTORNEY*
William E. Clague, Assistant County Attorney
Sarah A. Schenk, Assistant County Attorney**
Christopher M. De Carlo, Assistant County Attorney
Geoffrey K. Nichols, Assistant County Attorney
Pamela J. D'Agostino, Assistant County Attorney
Anne M. Morris, Assistant County Attorney
Katharine M. Zamboni, Assistant County Attorney
Alexandria C. Nicodemi, Assistant County Attorney

MEMORANDUM

DATE: March 1, 2018
TO: Robert Brown, Manager, Environmental Protection Division, Parks and Natural Resources Department
THROUGH: Mitchell O. Palmer, County Attorney *MOP 3-2-18*
FROM: Katharine M. Zamboni, Assistant County Attorney *KMZ*
RE: **Cooperative Funding Agreement for Mill Creek Water Quality Plan (N889) Request for Legal Services (RLS); CAO Matter No. 2018-0111**

You requested legal review of a Cooperative Funding Agreement between Manatee County and the Southwest Florida Water Management District (SWFWMD). I have reviewed the proposed Cooperative Funding Agreement and find it to be legally sufficient and consistent with the County's Comprehensive Plan objectives to improve coastal water quality and stormwater management. I have minor comments, as described below.

The Manatee County Attorney's Office has adopted a standard layout for the Commission Chairperson's signature block. That standard signature block is as follows:

MANATEE COUNTY, a political subdivision of the State of Florida

By: its Board of County Commissioners

By: _____
Chairperson

Date: _____

* Board Certified in Construction Law

** Board Certified in City, County, & Local Government Law

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: _____
Deputy Clerk

At minimum, the County's signature block needs to be updated to reflect the current chair of the Board of County Commissioners.

In addition, on page two of Exhibit "A" (Project Plan), under the heading "Deliverable Review Times," the phrase "with twenty (20) business days" should be revised to read "within twenty (20) business days."

Finally, I note paragraph 21 of the Cooperative Funding Agreement states that the venue for resolving any disputes under the agreement will be exclusively in Hernando County. While this Office generally counsels against agreeing to venue outside of the County, based on past experiences with other SWFWMD Cooperative Funding Agreements, SWFWMD will not agree to change the venue.

I trust this response adequately addresses your request. Should you have any further questions, please do not hesitate to contact this Office.

KMZ

Copies to: Ed Hunzeker, County Administrator
Dan Schlandt, Deputy County Administrator
Cheri Coryea, Deputy County Administrator
Charlie Hunsicker, Director, Parks and Natural Resources Department