

**MEMORANDUM OF UNDERSTANDING  
BETWEEN LEE COUNTY AND  
LEHIGH ACRES MUNICIPAL SERVICES IMPROVEMENT DISTRICT  
FOR MAINTENANCE OF NOMINATION 257-2 (a/k/a GS-10)**

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This **Memorandum of Understanding between Lee County and the Lehigh Acres Municipal Services Improvement District for Maintenance of Nomination 257-2 (a/k/a GS-10) ("Agreement")** is made and entered in this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the **LEHIGH ACRES MUNICIPAL SERVICES IMPROVEMENT DISTRICT**, an independent special district and successor to East County Water Control District pursuant to Chapters 2015-202 and 2017-216, Laws of Florida, and general law (hereafter "*District*") and **LEE COUNTY**, a political subdivision and charter county of the State of Florida, acting by and through its Board of County Commissioners, the governing body thereof (hereafter "*County*"). (Collectively, the foregoing may be referred to as the "*Parties*" herein.)

**WITNESSETH:**

**WHEREAS**, the Board of Commissioners is the governing body in and for the District, and the Board of County Commissioners ("*BOCC*") is the governing body in and for County; and

**WHEREAS**, the County has established a Conservation 20/20 Program, the purpose of which is "*[t]o acquire properties of environmental significance, restore those lands to their natural state and condition, manage them in an environmentally acceptable manner and provide public recreational opportunities that are compatible with protecting the natural resources*"; with the main objectives being "*to protect and preserve natural wildlife habitat; protect and preserve water quality and supply; protect developed lands from flooding; and provide resource based recreation*"; and

**WHEREAS**, the County has also established a Conservation Lands Acquisition and Stewardship Advisory Committee ("*CLASAC*"), which meets monthly to review offers of property from willing sellers to ensure that the property meets the established criteria, to make recommendations to the BOCC regarding the purchase of property, and to oversee stewardship of the properties once acquired; and

**WHEREAS**, CLASAC at its meeting on November 8, 2018, recommended acquisition by the County through the Conservation 20/20 Program of a certain, ±624 acre parcel of real property identified as "Conservation 20/20 Nomination Parcel 257-2" or the "GS-10", located along Joel Boulevard and more particularly described in the attached **Exhibit "A"**, and illustrated on the attached **Exhibit "B"**, both made a part hereof (the "*Property*"); and

**WHEREAS**, the District operates and maintains surface water management systems, facilities and lands within its jurisdictional area pursuant to general and special law; and

**WHEREAS**, notwithstanding the District's agreement and execution of this Agreement, the District will continue to operate all other existing water management facilities and infrastructure within the District in accordance with the applicable regulatory permit(s) governing the water management system ; and

**WHEREAS**, the District will continue to plan, permit, construct and operate surface water management facilities and infrastructure to increase, improve and supplement the capacity of existing facilities as to both quantity and quality, as well as for the development of new surface water management facilities and infrastructure within the District; and

**WHEREAS**, the District's powers also include certain environmental powers including the restoration and perpetual maintenance of conservation, mitigation and wildlife habitats; and

**WHEREAS**, the Property is located adjacent to and may be easily connected hydrologically to certain surface water management facilities and environmentally sensitive lands currently owned, operated and maintained by the District; and

**WHEREAS**, the County and the District agree that it is in their mutual interest and convenience to cooperate in the restoration, appropriate development and enhancement of the Property's public recreational, environmental, and surface water management functions and to provide for the ongoing maintenance thereof; and

**WHEREAS**, the County and the District have the mutual obligation to reduce nutrient loading to the Caloosahatchee River in fulfillment of the Florida Department of Environmental Protection ("*FDEP*") mandated Total Maximum Daily Loads ("*TMDL*") and have the ability to partner in meeting these requirements through joint projects; and

**WHEREAS**, the construction of certain facilities and improvements on the Property will significantly improve the treatment and storage of water within the region, and further reduce the TMDLs; and

**WHEREAS**, County and District anticipate that a collaborative approach to incorporating this Property into the area's regional surface water treatment prior to discharge to the Caloosahatchee River will improve overall water quality and flood protection for the region for the public's benefit and use; and

**WHEREAS**, this Agreement is intended to define the respective duties and responsibilities of the Parties hereto to provide facilities and services upon the Property and the maintenance responsibilities therefore.

**NOW, THEREFORE**, in consideration of the foregoing, and of the mutual covenants and conditions hereinafter set forth, the sufficiency and adequacy of which is acknowledged by the Parties herein, both intending to be legally bound, hereby agree as follows:

**Section One:**        **Recitals.**

The above-referenced recitals are true and correct and are incorporated into this Agreement and made a part hereof.

**Section Two:**        **Purpose.**

2.1 The purpose and intent of this Agreement is to define the terms and conditions under which the District and the County will share responsibility for the appropriate development, management, operation and perpetual maintenance of the resulting Project on the Property.

2.2 The Parties agree that this Agreement may be supplemented by written amendments or addendums to further implement its purposes.

**Section Three:**        **Authority.**

3.1 The District represents to the County that the execution and delivery of this Agreement has been duly authorized by all appropriate actions of the governing body of the District, has been executed and delivered by the authorized officers of the District, and constitutes a legal, valid and binding obligation of the District.

3.2 The County represents to the District that the execution and delivery of this Agreement has been duly authorized by all appropriate actions of the governing body of the County, has been executed and delivered by an authorized officer of the County, and constitutes a legal, valid and binding obligation of the County.

**Section Four:**        **Definitions.**

For the purpose of this Agreement, the following terms will have the meaning ascribed thereto:

“**BOCC**” means the Lee County Board of County Commissioners.

“**CLASAC**” means the Conservation Lands Acquisition and Stewardship Committee of Lee County, Florida.

“**Conservation 20/20 Ordinance**” means the “Lee County Conservation Lands Implementation Ordinance”, Ordinance 05-17 of Lee County, Florida, as amended.

“**Corps**” means United States Army Corps of Engineers.

“**FDEP**” means Florida Department of Environmental Protection.

“**FWC**” means Florida Fish and Wildlife Conservation Commission.

**“Land Management Plan”** (“*LMP*”), means a written report governing the conservation, protection and stewardship of lands acquired pursuant to Lee County's Conservation 20/20 Program in accordance with the County's Land Stewardship Operations Manual. The LMP provides an overview of the environment and ecosystems on each preserve and outlines the actions necessary to restore, conserve and protect the land. The LMP is reviewed by the public, the Management Subcommittee of [CLASAC](#), CLASAC and approved by the Lee County Board of County Commissioners.

**“MSC”** means Management Subcommittee of CLASAC

**“Project”** means the Water Quality and Storage Project to be designed, permitted, constructed, operated and maintained on the Property to treat area surface waters prior to discharge to the Caloosahatchee River and provide flood protection.

**“Property”** means the ±624 acre parcel of real property identified as “Conservation 20/20 Nomination Parcel 257-2” or the “GS-10”, located along Joel Boulevard and more particularly described in attached **Exhibit “A”**, and illustrated on attached **Exhibit “B”**.

**“SFWMD”** means South Florida Water Management District.

**“TMDL”** means Total Maximum Daily Load.

**“USFWS”** means United States Fish and Wildlife Service.

**“Water Control Plan”** means the comprehensive operational document that describes the activities and improvements to be conducted by the District, as provided in Chapter 298, Florida Statutes.

### **Section Five: District Responsibilities.**

5.1 The District's responsibilities will take effect as follows:

A. With respect to the planning, design and permitting of improvements and facilities upon the Property for which it is responsible, upon the execution of this Agreement; and

B. With respect to the installation and construction of improvements and facilities upon the Property for which it is responsible and the provision of continuing maintenance thereof, upon final approval of an amendment to the District's Water Control Plan for Unit of Development No. 5, as amended; and

C. Effective upon the execution of this Agreement, the District will otherwise waive assessments on the Property as described in **Exhibit “A”** and illustrated on the attached **Exhibit “B”**, for the life of the Agreement, or so long as the Project is operated with water quality and water storage infrastructure. It is mutually agreed this provision will survive any termination of this Agreement.

## 5.2 The District's responsibilities will include:

A. Funding, planning, design, permitting, site restoration, construction, inspections, monitoring and maintenance for all improvements and subsequent modifications made to and facilities installed upon the Property, more particularly described in **Exhibit "A"** and illustrated on the attached **Exhibit "B"**, and consistent with the District's adopted Water Control Plan, except as otherwise identified herein; and

B. Coordination in the review and approval of all matters relating to the Property with the Lee County Land Management Staff, Lee County Natural Resources Staff for the Project, their designees or successors in interest; and

C. Preparation and proper notice of a public meeting for the proposed Land Management Plan for the Property, in accordance with the criteria, terms and conditions therefore and be in accordance with the terms of the County's Conservation 20/20 Ordinance. The Land Management Plan will be developed in consultation with County's Land Management Staff and in accordance with the County's Land Stewardship Operations Manual. The District will be responsible for all District costs incurred in preparing and adopting the Land Management Plan; and

D. Submittal of the proposed Land Management Plan to MSC, CLASAC and BOCC for approval within two (2) years of the County's acquisition and prior to any permitting or earthwork; the diligent processing thereof until conclusion, in the manner provided in the Conservation 20/20 Ordinance; and re-submittal of the Land Management Plan to MSC, CLASAC and BOCC every ten (10) years thereafter for review, update, revision and approval; and

E. Unless otherwise provided herein, general management over and perpetual maintenance of all improvements (except as otherwise provided herein) and natural areas (both native and created or recreated communities) upon the Property identified in **Exhibit "D"** (and the restoration thereof following disturbance by natural disasters), according to the terms and conditions of the Property's approved Land Management Plan to insure Project performance as designed; and

F. Removal and continuing maintenance of all those plants identified as Categories I and II Invasive Pests by the Florida Exotic Pest Plant Council (<http://www.fleppc.org>) or identified in the Property's Land Management Plan. Providing an annual accounting of herbicide use to the County (directed to the Lee County Department of Parks and Recreation) by January 31<sup>st</sup> of each year; and

G. Use of native plants appropriate for each hydrological regime in all created areas; and

H. The prior approval and permitting from the County of any improvement or facility for public access to or use of the Property for recreational, educational or other public access purpose; and

I. Maintenance, repair and replacement of the surface water and flood protection facilities and improvements, excluding those facilities used for or related to public access to and public recreation upon the Property; and

J. Providing to the County and CLASAC, upon request, periodic status reports regarding the permitting, design, construction and performance of facilities and improvements; and

K. Responsibility for any environmental hazards and any mitigation thereof within or upon the Property existing on the date the District commences construction; and

L. Responsibility to pay all fines and/or penalties levied under the authority of permitting agencies associated with the District's construction of improvements on the Property; and

M. Responsibility to pay all permitting requirements and fees for the Project from applicable regulatory agencies that are not a party to this Agreement (USACE, SFWMD, FDEP, USFWS, FWC) and Lee County Development Order requirements and fees; and

N. Responsibility to submit 60% of Project design plans within three (3) years of the date of this Agreement to the County for review and approval prior to any submittal to the permitting agencies; and

O. Responsibility to submit 100% of Project design plans, along with County approved revisions, within five (5) years of the date of this Agreement to the appropriate permitting agencies; and

P. Responsibility to commence construction of the Project within seven (7) years of the date of this Agreement; and

Q. Responsibility to complete construction of the Project within twelve (12) years from the date of this Agreement; and

R. Responsibility to provide as-built plans to the County within 60 days of construction completion and acceptance by permitting agencies; and

S. The County has the right to complete any portion of design, permitting, and construction of the Project and obtain proportionate share of TMDL credits as cited in Section 7.4 should the District fail to meet the deadlines prescribed above; and

T. Responsibility to monitor and maintain water quality performance of the Project; and

U. In all events, the District agrees to continue to negotiate in good faith with the County to provide connectivity to other canals or waterways for the Project or any subsequent County-initiated water quality and/or drainage project. It is mutually agreed by the Parties this provision will survive any subsequent termination of the Agreement. Notwithstanding the foregoing, any subsequent water quality and/or drainage projects negotiated between the Parties will be the subject of a separate, negotiated agreement that outlines the Parties respective obligations for said project.

V. Subject to the prior review and approval by the County during initial plan of development of the Project, including, but not limited to, such aspects as location, placement and stabilization of construction soil, the District will subsequently be responsible for the management, operation and maintenance of the portion of the Property used as the construction soil area, more particularly identified in attached **Exhibit "C,"** during the construction of the Project. Upon completion of the Project construction, the County will be responsible to manage, operate and maintain said area.

W. The District will continue their operation of existing surface water management facilities and infrastructure within the District, but located outside of the Property. This requirement does not prohibit or preclude the District from continuing to plan, permit, construct and operate existing, expanded or new surface water management facilities and infrastructure resulting in a modification of the flow of surface water into the Property from such existing or expanded surface water management facilities and infrastructure, provided the District obtains the prior written approval of the County, which approval will not be unreasonably withheld.

X. In all events, the District will not modify the volume/quantity nor degrade the quality of water flowing into the Property from any existing, expanded or new District owned, or managed, surface water management facility or infrastructure located outside of the Property without the prior written approval of the County, which approval will not be unreasonably withheld. Additionally, the District will not reduce, restrict, prevent or otherwise modify the outflow from the Property without the prior written approval of the County, which approval will not be unreasonably withheld.

Y. Nothing within this Agreement will prevent or preclude the District's ability to manage and maintain its facilities pursuant to current operational requirements of applicable regulatory and permitting agencies.

#### **Section Six: County Responsibilities.**

6.1 The County's responsibilities will take effect when title to the Property vests in the County.

6.2 The County's responsibilities will include:

A. Marking and posting boundary signs and installing fencing around the perimeter of the Property; and

B. Incorporation of the Property in the County's regular, tri-annual site inspection schedule. The County may recommend to the District reasonable techniques for maintaining successful natural community restoration, provided such recommendations do not conflict with the Property's approved Land Management Plan; and

C. Managing all interactions with neighboring property owners; and

D. The enforcement of County ordinances upon the Property;

E. The planning, design, permitting, construction and perpetual maintenance of any recreational amenities or other improvements, at County expense, relating to use of the Property by the public for recreational, educational or any other purpose, including, but not limited to, signage, interpretative or maintenance structures and buildings, shelters, parking, fencing, privies, trails and boardwalks; and

F. Providing appropriate vessels, containers and services for trash and solid waste collection and disposal attributable to public access to the Property; and

G. Maintenance, repair and replacement of facilities and improvements used by the public or incidental to public access or public recreation and education (excluding berms). However, nothing herein shall prevent the County from electing to perform higher levels of maintenance service at the County's expense beyond the District's general maintenance standards on berms if desired by the County; and

H. Provide consultation and timely review of the Project designs and submittals from the District; and

I. Complete Project elements as allowed under Section 5.2(R), District Responsibilities; and

J. Manage, operate and maintain the portion of the Property used as the construction soil area, as identified in **Exhibit "C"**, following the District's completion of the Project construction. The County may utilize this area for hurricane debris staging in the event of a declared state of emergency and will be responsible for associated liability resulting from the placement, presence and subsequent disposal of the debris.

K. Concurrent monitoring during construction of the Project, including the construction of the soil area identified in attached Exhibit "C".

L. Provide the District with any environmental assessment obtained by the County on the Property within 60 days of the Effective date of this Agreement.

M. Additionally, the County agrees to not unreasonably withhold District requested Project permitting and construction extensions, provided reasonable progress with the Project's completion or operation is otherwise being advanced.



## **Section Seven. Common Responsibilities**

7.1 All entrance signs and printed materials distributed to the public describing the Property or any recreational, educational or other facilities or services available thereon must identify the District, the County and the Conservation 20/20 Program as contributing partners in acquisition, restoration and maintenance of the Property.

7.2 The Parties will, upon reasonable request, cooperate with each other, their agents and assigns by providing necessary authorizations and consents and the execution of documents necessary to obtain all required permits and approvals from applicable regulatory agencies to improve and maintain the Property and construct facilities according to the County's Land Stewardship Plan.

7.3 Notwithstanding the design requirement to seek to match or balance "cuts and fills" for the Project, all uncontaminated excavated soil or other fill material, not required for construction on-site of the District facilities identified in the Land Management Plan or SFWMD permits, will be considered "Excess Soil". Excess Soil will be an asset and property of the County. The District will place and retain all Excess Soil on-site on the area identified on attached **Exhibit "C"**, or other County-approved areas, unless off-site removal is first approved in writing by County.

7.4 The District will be responsible to obtain all required permits if off-site removal of Excess Soil is approved for District use. Any contaminated soil, or other material excavated in the process of constructing District facilities, must be disposed of by the District in the manner required by State or Federal law.

7.5 The costs associated with the treatment and removal of any contaminated soil may be shared jointly by the Parties, unless such contamination has been caused by the District, or any contractor or other third-party engaged by, or on behalf of, the District. Under such circumstances the District will be fully responsible for such costs.

7.6 With respect to FDEP TMDL Credits:

A. All FDEP TMDL credits earned, either by the entire Project completion, or as Project phasing is completed, will be apportioned between the Parties based on proportionate share towards the summation of the Property acquisition, planning, design, construction, permitting, construction services costs related to the Project.

B. In all events, while this Agreement is in force and effect, the County will receive a minimum of thirty percent (30%) of any TMDL credits issued, with no maximum limit and without regard to any final cost-share split. Notwithstanding the foregoing, if either Party does not need its full allocation of TMDL credits for the Project (i.e., where either the District or the County is in full compliance), any excess credits will be allocated to the other Party, regardless of cost or share.

C. Any mitigation or remediation costs for environmental hazards not caused by either Party will count towards TMDL credit cost sharing by the Parties.

7.7 The District may utilize upland portions of the Property along Joel Boulevard, as shown in attached Exhibit "C," for staging purposes as part of the LMP for the Project only. Use of these areas must be approved by the County prior to being utilized. The County may, if necessary, also use these same areas for hurricane debris staging, if necessary.

7.8 So long as this Agreement is in effect, the Parties agree all resulting improvements and facilities, developed or constructed by the District on the Property will be deemed to be the property of the District. Notwithstanding the foregoing, and in all events, if this Agreement is terminated, said improvements and facilities will become and remain the property of the County. The County will not be obligated or required to compensate or reimburse the District for any remaining value of or in the improvements and or facilities constructed by the District.

7.9 Insofar as the Project is located within the District and is being planned, permitted, constructed and operated for the mutual benefit of the improvement of both water quality and surface water management, the Parties also agree, in the event of termination of this Agreement, they will subsequently seek to develop a new or replacement agreement for the continued maintenance and operation of the Project. Such an agreement will include, as may be reasonably achievable, joint participation by the Parties.

#### **Section Eight:**      **Indemnification**

8.1 The Parties agree that by execution of this Agreement, neither Party will be deemed to have waived its statutory defense of sovereign immunity or increased its limits of liability, as provided in §768.28, Florida Statutes.

8.2 The Parties agree to use only licensed and insured contractors for any work on the Project. Any contractor so engaged by the Parties during the term of this Agreement must provide the other Party with a Certificate of Insurance naming that Party as a third-party loss payee, on an insurance policy meeting the County's minimum insurance requirements, a copy of which is attached hereto as Exhibit "E", as those requirements may be revised.

#### **Section Nine:**      **Term**

This Agreement will remain in full force and effect from its Effective Date for an initial term of fifty (50) years. On or before year forty-five (45) of this Agreement, representatives of the parties shall meet to discuss the continued duration of this Agreement. Thereafter, unless otherwise modified in writing or terminated in the manner provided in Section Ten, below, this Agreement will be automatically renewed for an additional term of fifty (50) years.

**Section Ten:**        **Termination.**

10.1 This Agreement will terminate and be of no further force or effect if the Property is not acquired by the County.

10.2 The Parties to this Agreement recognize that the Project contemplated by this Agreement requires a substantial financial commitment from both the County and the District to improve water quality, improve water storage, and prevent flooding for the public benefit on the Property. Accordingly, the Parties agree that this Agreement may only be terminated as follows:

A. By either party providing written notice of termination to the other no earlier than one (1) year prior to the expiration of the term set forth in Section Nine; or

B. By the County upon District's failure to perform the responsibilities identified in Section Five. Prior to termination, County will serve written notice upon District identifying specifically the allegation(s) of failure to perform or acts of default. The District will then have ninety (90) calendar days from the date of receipt of County's notice within which to submit an action plan to timely remedy the alleged failure(s). The District will be responsible for paying all costs of such corrective or remedial actions to address the District's default. If the District is unable to cure the default, and the default is not subject to Force Majeure as provided in Section Fourteen of this Agreement, then the County may terminate this Agreement with the District and complete and operate the Project on its own. It is mutually agreed by the Parties this provision will survive any subsequent termination of this Agreement.

10.3 Notwithstanding any termination of this Agreement, the Parties agree all surface water inflows and outflows, presently existing or as developed as part of this Project will remain available for use and benefit of the Project in perpetuity.

10.4 Notwithstanding any other provision contained herein, this Agreement is contingent upon funding and budget approval by both Parties. The failure of either Party to obtain sufficient funding to cover its respective obligations pursuant to the terms of this Agreement will be a cause for either to terminate this Agreement for convenience. In such event, both Parties will, except as otherwise provided herein, be relieved of any and all future obligations under this Agreement as of the effective date of termination. Under such circumstances termination of the Agreement is the sole and exclusive remedy unless the Parties mutually agree otherwise.

**Section Eleven:**    **Assignment**

No assignment, delegation, transfer, or novation to this Agreement may be made unless in writing and approved by both the District and the County.

**Section Twelve: Notices**

Any notices or other documents permitted or required to be delivered pursuant to this Agreement, will be delivered to the following addresses:

To District: Lehigh Acres Municipal Services  
Improvement District  
601 East County Lane  
Lehigh Acres, FL 33936  
Attn: District Manager

To County: Lee County  
Parks and Recreation  
3410 Palm Beach Blvd.  
Fort Myers, FL 33916  
Attn: Parks and Recreation Director

With copies to: Lee County  
Attn: County Attorney  
P.O. Box 398  
Fort Myers, FL 33902-0398

Lee County  
Parks and Recreation  
P.O. Box 398  
Fort Myers, FL 33902  
Attn: Conservation 2020 Manager

Lee County  
Division of Natural Resources  
P.O. Box 398  
Fort Myers, FL 33902-0398  
Attn: Natural Resources Director

**Section Thirteen: Amendment**

This Agreement may only be amended in writing duly executed by the District and the County.

#### **Section Fourteen: Force Majeure**

If either the County or District is unable to perform, or is delayed in its performance of any of its obligations under this Agreement by reason of any event of Force Majeure, such inability or delay shall be excused at any time during which compliance therewith is prevented by such event and during such period thereafter as may be reasonably necessary for the County or District to correct the adverse effect of such event of Force Majeure.

An event of "Force Majeure" will mean the following events or circumstances to the extent that they delay the County or District from performing any of its obligations under this Agreement:

1. Strikes and work stoppages unless caused by a negligent act or omission of either party;
2. Acts of God, tornadoes, hurricanes, floods, sinkholes, fires, explosions, landslides, earthquakes, epidemics, quarantine, pestilence, and extremely abnormal and excessively inclement weather;
3. Acts of public enemy, acts of war, terrorism, effects of nuclear radiation, blockages, insurrection, riots, civil disturbances, or national or international calamities;
4. Suspension, termination or interruption of utilities necessary to the performance of the obligation; and
5. Delay caused by state and federal regulatory agencies that are outside of the control of the Parties.

In order to be entitled to the benefit of this section, a party claiming an event of Force Majeure will be required to give prompt written notice to the other Party specifying in detail the event of Force Majeure and will further be required to diligently proceed to correct the adverse effect of any Force Majeure. The terms of this Section will survive the termination of this Agreement.

#### **Section Fifteen: Severability.**

The invalidity of any provision of this Agreement will in no way affect the validity of any other provision.

#### **Section Sixteen: Entire Agreement.**

It is understood and agreed that this Agreement incorporates and includes all prior negotiations, agreements or understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed by the Parties that no deviation from the terms hereof will be predicated upon any prior representations or agreements, whether oral or written.

**Section Seventeen: Waiver.**

The waiver by any party to this Agreement of any failure on the part of another party to perform in accordance with any of the terms or conditions of this Agreement may not be construed as a waiver of any future or continuing similar or dissimilar failure.

**Section Eighteen: Third-Party Beneficiaries.**

Neither the County nor the District intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties agree that there are no third-party beneficiaries to this Agreement and that no third party will be entitled to assert a claim against either of them based on this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

**Section Nineteen: Joint Preparation.**

The Parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been a joint effort. The language agreed to expresses mutual intent and the resulting documents for the Project, may not, solely, as a matter of judicial construction, be construed more severally against one of the Parties than the other.

**Section Twenty: Applicable Law and Venue.**

This Agreement will be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder will be submitted to the jurisdiction of the State Court of the 20<sup>th</sup> Judicial Circuit of Lee County, Florida, the venue site and will be governed by the Laws of the State of Florida.

**Section Twenty-One: Dispute Resolution.**

In the event of a dispute between the District and County occurs regarding the Project, improvements or delivery of services under this Agreement, the Parties agree that their designated representatives shall review such dispute and options for resolution. Any dispute not resolved by the representatives shall be referred to the District Manager and the County Administrator. In the event the District Manager and County Administrator are unable to agree, the matter will be referred to the dispute resolution process set forth in Chapter 164 of the Florida Statutes.

**Section Twenty-Two: Effective Date.**

This Agreement will be deemed effective when signed by both Parties (*“Effective Date”*).

**END OF PROVISIONS – SIGNATURE PAGES FOLLOW**

**IN WITNESS OF THE ABOVE**, the District and the County have executed this Agreement on the day in the month indicated below.

**EXECUTED BY THE DISTRICT THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.**

**ATTEST:**

**LEHIGH ACRES MUNICIPAL SERVICES  
IMPROVEMENT DISTRICT**

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
District Board of Commission Chair

(District Seal)

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Office of the District Attorney

EXECUTED BY THE COUNTY THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

ATTEST:

LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS, OF  
LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chair

(County Seal)

APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY:

By: \_\_\_\_\_  
Office of the County Attorney

Attachments: Exhibit "A" – Legal Description of the Property  
Exhibit "B" – Sketch Illustrating Location of the Property  
Exhibit "C" – Excess Soil Storage Area  
Exhibit "D" – District Improvement Area  
Exhibit "E" – County Insurance Requirements

(022619/1035)