

FIRST AMENDMENT TO
AGREEMENT REGARDING
MAINTENANCE OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
BRIGHTON SOUTH OUTFALL FROM 2ND AVENUE TO FULTON AVENUE
CITY OF BRIGHTON

Agreement No. 19-05.22A
Project No. 107679

THIS FIRSTAMENDMENT TO AGREEMENT (hereinafter called " FIRST AMENDMENT"), by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT (hereinafter called "DISTRICT") and CITY OF BRIGHTON (hereinafter called "CITY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Maintenance of Drainage and Flood Control Improvements for Brighton South Outfall From 2nd Avenue to Fulton Avenue " (Agreement No. 19-05.22) dated August 2019, (hereinafter called "AGREEMENT") and

WHEREAS, PARTIES now desire to proceed with the maintenance of drainage and flood control improvements for Brighton South Outfall from Brighton Road to Southern Street (hereinafter called "PROJECT"); and

WHEREAS, PARTIES desire to increase the level of funding by \$300,000; and

WHEREAS, DISTRICT's Board of Directors reviewed and authorized expenditures for the 2022 Work Program (Resolution No. 78, Series of 2021); and

WHEREAS, the City Council of CITY and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

A. It is understood that PROJECT costs as defined above are not to exceed \$560,000 without amendment to this AGREEMENT

B. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	1.79%	\$10,000	\$0	\$10,000
CITY	98.21%	\$250,000	\$300,000	\$550,000
TOTAL	100.00%	\$260,000	\$300,000	\$560,000

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior DISTRICT approval.

Payment of each PARTY's full share (CITY - \$550,000; DISTRICT - \$10,000) shall be made to DISTRICT subsequent to execution of this AGREEMENT and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to CITY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares; or at CITY request, CITY share of remaining monies shall be transferred to another special fund held by DISTRICT.

3. All other terms and conditions of this AGREEMENT shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this FIRST AMENDMENT to be executed by properly authorized signatories as of the date and year written below.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT D/B/A
MILE HIGH FLOOD DISTRICT

Checked By

By_____

Name Laura A. Kroeger

Title Executive Director

Date_____

CITY

By_____

Name Michael Martinez

Title City Manager

Date_____

ATTEST:

NATALIE HOEL, City Clerk

APPROVED AS TO FORM:

YASMINA SHAUSH, Assistant City Attorney

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Exhibit A

