

AMENDMENT TO
AGREEMENT REGARDING
DESIGN AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
THE NORTH OUTFALL, CITY OF BRIGHTON

Agreement No. 06-01.25I
Project No. 100272

THIS AGREEMENT, 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 Design and Construction of Drainage and Flood Control Improvements for the North Outfall, City of Brighton" (Agreement No. 06-01.25) dated April 14, 2006, as amended; and

WHEREAS, PARTIES now desire to construct the improvements along the North Outfall at Midland Street; and

WHEREAS, PARTIES desire to increase the level of funding by \$6,596,378; and

WHEREAS, DISTRICT's Board of Directors has authorized additional DISTRICT financial participation for PROJECT (Resolution No. 11, Series of 2020); 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 2.A. SCOPE OF PROJECT is deleted and replaced as follows:
 2. SCOPE OF PROECT
 - A. Final Design. PROJECT shall include the final design and construction of improvements in accordance with the recommendations defined in PLAN. Specifically, the final design of facilities as shown in Exhibit A.
2. Paragraph 2.C. Replacement of Waterline. is added as follows:
 2. SCOPE OF PROJECT
 - C. Replacement of Waterline. The potable waterline will be replaced as a part of this project, the installation of the storm pipe will mandate the replacement of the waterline to maintain proper separation between these two and other utilities. The total cost for the replacement of the Water line and the ancillary costs (as recommended by design engineer) will be borne by the Water Enterprise Fund of the City as operated through the City.
3. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:
 4. PROJECT COSTS AND ALLOCATION OF COSTS

- A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:
1. Final design services;
 2. Construction of improvements;
 3. Contingencies mutually agreeable to PARTIES.
- B. It is understood that PROJECT costs as defined above are not to exceed \$12,827,378 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

		PREVIOUSLY
<u>ITEM</u>	<u>AS AMENDED</u>	<u>AMENDED</u>
1. Final Design	\$ 1,000,000	\$1,000,000
2. Construction	11,627,378	5,031,000
3. Contingency	200,000	200,000
Grand Total	\$12,827,378	\$6,231,000

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

- C. 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	19.10%	\$1,750,000	\$700,000	\$2,450,000
CITY TOTAL	80.90%	\$4,481,000		\$10,377,378
CITY Stormwater Enterprise			\$4,500,000	
CITY Water Enterprise			\$1,396,378	
TOTAL	100.00%	\$6,231,000	\$6,596,378	\$12,827,378

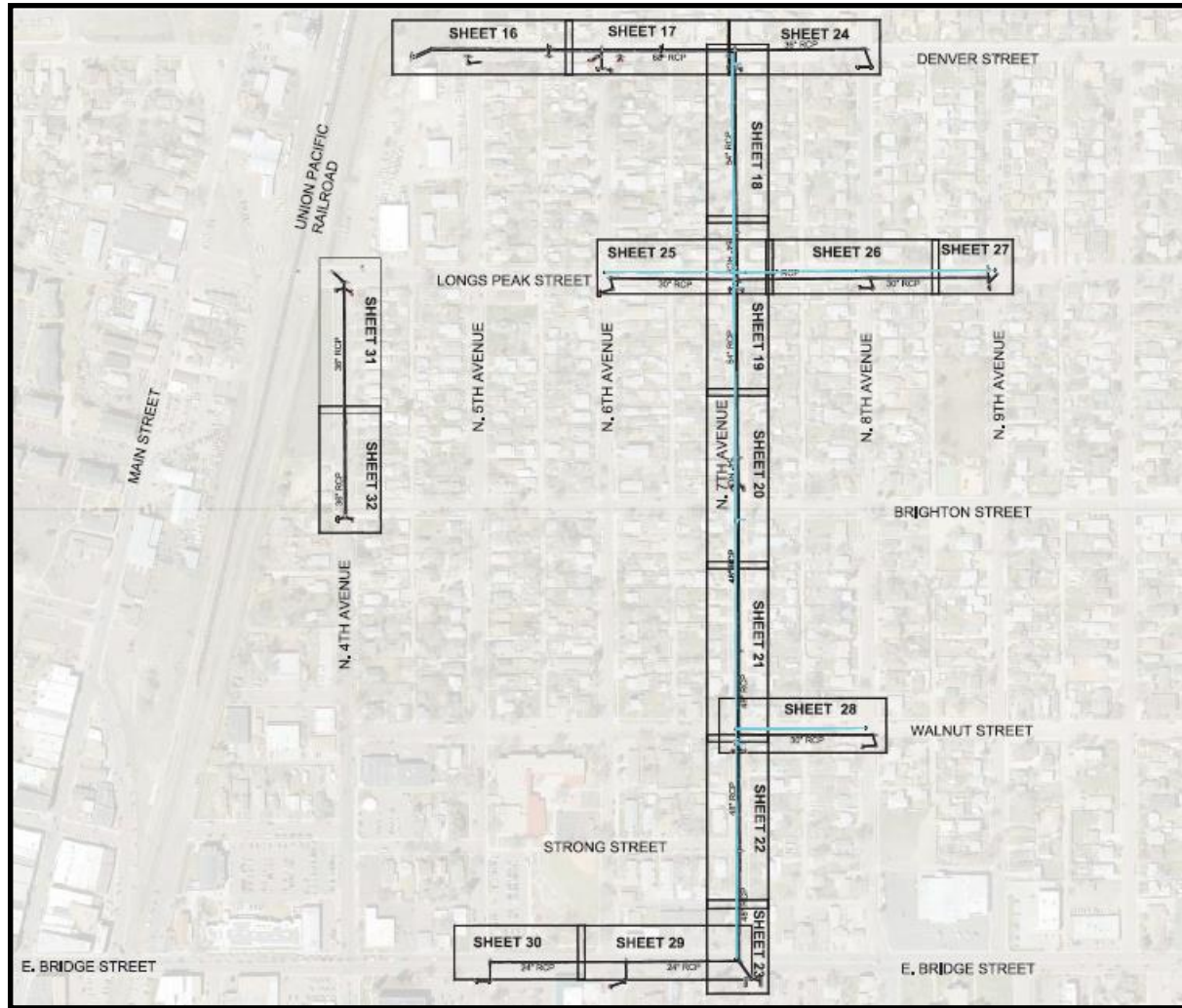
5. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

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 Board approval. Full payment of the DISTRICT's additional contribution (\$700,000), full payment of the CITY's Water Enterprise additional contribution (\$1,396,378) and partial payment of the CITY's Stormwater Enterprise additional contribution (\$2,000,000) shall be made to DISTRICT

subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. Additional partial payments from CITY's Stormwater Enterprise shall be made in the amounts of \$2,000,000 and \$500,000, respectively, and shall be made to DISTRICT within 30 days of request for payment by DISTRICT. DISTRICT shall coordinate the timing of requests for additional partial payments with CITY's representative. 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 any CITY Water Enterprise monies remaining which are not committed, obligated, or disbursed, CITY shall receive 100% of such monies. If there are any other remaining monies including interest earned 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. This computation shall exclude the City Water Enterprise monies.

6. Exhibit A. Exhibit A is deleted and replaced as follows:



7. All other terms and conditions of Agreement No. 06-01.25 shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

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

By_____

Name Ken A. MacKenzie

Title Executive Director

Date_____

Checked By

CITY OF BRIGHTON

By_____

Marv Falconburg, Acting City Manager

Date_____

(SEAL)

ATTEST:

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Jack D. Bajorek, City Attorney