

**NOTICE OF CHANGE OF AGENCY ACTION  
AND  
SETTLEMENT AND COORDINATION AGREEMENT BETWEEN  
POLK REGIONAL WATER COOPERATIVE, TAMPA BAY WATER, &  
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT**

This Notice of Change of Agency Action and Settlement and Coordination Agreement Between Polk Regional Water Cooperative, Tampa Bay Water, & Southwest Florida Water Management District (“Agreement”) is entered into by and among the Polk Regional Water Cooperative, an interlocal entity organized under sections 163.01 and 373.713, Florida Statutes, (“PRWC”), Tampa Bay Water, a Regional Water Supply Authority, an interlocal entity organized under sections 163.01 and 373.715, Florida Statutes, (“TBW”), and the Southwest Florida Water Management District, an independent special district of the State of Florida (“District”). PRWC, TBW, and the District are each a Party and collectively the Parties.

**WHEREAS**, portions of the Alafia River begin in Polk County flow west into and through Hillsborough County and eventually discharge into Hillsborough Bay; and

**WHEREAS**, the District has established minimum flows in the Alafia River pursuant to Sections 373.042 and 373.0421, Florida Statutes, and Rule 40D-8.041(11) and (12), Florida Administrative Code; and

**WHEREAS**, the minimum flow established by the District for the Lower Alafia River in Rule 40D-8.041(12)(c), Florida Administrative Code, limits consumptive use of the river to no more than 19% of the daily flow to the Lower Alafia River System that is above 120 cubic feet per second (“cfs”); and

**WHEREAS**, Water Use Permit No. 20011794.002 (the “Existing Permit”), which was issued by the District to TBW on November 27, 2012, authorizes TBW to withdraw no more than 10% of the available flow above the Minimum Flow threshold up to a maximum daily diversion of 60 million gallons per day (“mgd”); and

**WHEREAS**, on May 22, 2025, TBW applied to the District for Water Use Permit No. 200111794.003 (the “Proposed Permit”), which requested modification of its Existing Permit to increase the withdrawal from 10% to 19% of the available flow above the Minimum Flow threshold up to a maximum daily diversion of 75 mgd; and

**WHEREAS**, on June 17, 2025, the PRWC submitted Water Use Permit Application No. 20021263.000, requesting to withdraw an annual average of 15 to 16 mgd of surface water from the North and South Prongs of the Alafia River for public supply use (“PRWC Permit Application”); and

**WHEREAS**, on July 22, 2025, the District issued a Notice of Final Agency Action approving the Proposed Permit at the flow rates requested by TBW; and

**WHEREAS**, on September 29, 2025, the PRWC petitioned for a formal administrative hearing challenging that action, which proceeding is pending before the Florida Division of Administrative Hearings as Case No. 25-5480 (“DOAH Proceeding”); and

**WHEREAS**, on February 12, 2026, mediation between the Parties’ representatives began and initially resulted in a general basis for amicable settlement on points of agreement which has resulted in an abeyance of the DOAH Proceeding until April 22, 2026, to allow time for the Parties to reach a written settlement agreement; and

**WHEREAS**, the Parties desire to resolve the DOAH Proceeding and avoid additional litigation concerning TBW’s Alafia River withdrawals, to modify and extend the duration of TBW’s Alafia River Water Use Permit, to withdraw PRWCS’s Permit Application, as well as to establish a structured, collaborative planning and technical coordination process that respects each Party’s statutory authority and fiscal constraints; and

**WHEREAS**, the District’s staff has reviewed Tampa Bay Water’s application for the Proposed Permit and the Notice of Final Agency Action issued on July 22,

2025, together with the applicable minimum flows and levels and the District's water use permitting standards and Basis of Review; and

**WHEREAS**, based on that review, the District has determined that certain revisions to the Proposed Permit are consistent with the applicable criteria for issuance of a water use permit, including extending the permit expiration date to 2040 and amending Special Condition 9 to clarify the calculation of Baseline Flow, the flow-based diversion schedule, and a coordinated allocation provision that operates in conjunction with any qualifying PRWC water use permit application submitted in 2032 or later consistent with this Agreement, together with conforming clarifications; and

**WHEREAS**, the Parties desire to provide notice of the revisions to the Proposed Permit contemplated by this Agreement and completely settle, release, and discharge all claims among themselves regarding the DOAH Proceeding, including the PRWC Permit Application; and

**NOW THEREFORE**, in consideration of the mutual covenants in this Agreement and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree, as follows:

**I. EFFECTIVE DATE.** This Agreement shall become effective on the date it is duly executed by all of the Parties. The last date of execution by all the Parties shall be known as the "Effective Date" of this Agreement.

**II. CONTINGENT.** This Agreement is contingent upon the District's Final Order granting TBW a Final Permit that is in substantially the same form as that contained in the attached Exhibit A, Draft Final Permit, including the changes to the "Total Quantities Authorized Under This Permit" section, Special Condition 9.d., and an expiration date to extend fourteen (14) years after the date of issuance.

**III. DURATION.** This Agreement shall remain in effect for thirty-five (35) years from the date of the issuance of the Final Permit.

**IV. RELINQUISHING JURISDICTION, DISMISSAL, AND WITHDRAWAL OF PRWC PERMIT APPLICATION.** Within five (5) days of the Agreement's Effective Date, the Parties shall file a joint motion in the DOAH Proceeding requesting the Administrative Law Judge accept the Agreement and relinquish jurisdiction to the District for the Parties to act in compliance with this Agreement. This process will allow the District to enter a Final Order dismissing the Petition with prejudice, issuing the Final Permit, and closing the case at its next monthly Governing Board business meeting. Furthermore, the PRWC will withdraw its pending PRWC Permit Application within five (5) days from the date of the District's Final Order issuing the Final Permit.

**V. PRWC COVENANT NOT TO CHALLENGE TBW.** If TBW seeks to modify or renew Water Use Permit 20011794 et seq. with the District on or before 2040, the PRWC agrees that it shall not contest any agency action that results from TBW's water use permit modification or renewal application. This includes not opposing a permit application when it is being processed at the District and not filing, pursuing or participating as an intervenor in an administrative challenge pursuant to Chapter 120, Florida Statutes, or any successor statute, or initiating or participating in any other judicial action seeking to challenge any agency action that results from TBW's renewal. Additionally, the PRWC will not support or finance any third party bringing either an administrative or judicial challenge to any agency action on Water Use Permit 2001194 et seq.

**VI. TBW COVENANT NOT TO CHALLENGE PRWC.** If the PRWC proceeds with submitting a water use permit application to the District after December 31, 2032, but before December 31, 2040, to withdraw surface water from the North or South Prongs of the Alafia River consistent with the terms of this Agreement, TBW agrees that it will not contest any agency action that results from the PRWC's application submittal. This includes not opposing this permit application when it is being processed at the District and not filing, pursuing or participating as an intervenor in an administrative challenge pursuant to Chapter 120, Florida Statutes, or any successor statute, or initiating or participating in any other judicial action seeking to challenge any agency action that results from the PRWC's application for withdrawals from the North or South prongs of the Alafia River . Additionally, TBW will not support or finance any third party bringing either an

administrative or judicial challenge to any agency action against the PRWC water use permit for withdrawals from the North or South Prongs of the Alafia River.

**VII. TBW PERMIT.**

- a. Modification of the Proposed Permit. The Parties agree to the modifications of the Proposed Permit, as attached hereto and incorporated herein as Exhibit A. Special Condition 9 shall only be modified before 2040 if the PRWC accepts an Alternative Project as set forth in the Settlement Agreement.
  
- b. TBW's Obligation to Modify Final Permit

After December 31, 2032, PRWC shall give TBW written notice at least ninety (90) days prior to commencement of the actual withdrawal of water for potable water use by the PRWC from the North or South Prongs of the Alafia River, at which time within thirty (30) days, TBW shall submit a letter to the District to limit its permitted withdrawal from the Lower Alafia River based on the below modified diversion schedule to be effective upon the first day of actual withdrawal water for potable supply by the PRWC.

1. No diversion from the Alafia River may occur when the calculated Baseline Flow for the previous day is 128 cfs (82.7 mgd) or less.
  
2. For a calculated Baseline Flow between 128 cfs (82.7 mgd) and 149 cfs (96.3 mgd) for the previous day, the daily diversion is limited to the difference between the Baseline Flow and 128 cfs (82.7 mgd).
  
3. For a calculated Baseline Flow of 149 cfs (96.3 mgd) or greater for the previous day, the daily diversion is limited to 14% of the Baseline Flow.
  
4. The maximum diversion on any single day shall not exceed 75 mgd (116.1 cfs).

If the PRWC does not submit a written request for TBW to limit its permitted withdrawal from the Alafia River prior to the expiration date of the Final Permit in

2040, then TBW shall no longer be required to reduce its withdrawal from the Alafia River.

**VIII. WATER SUPPLY PLANNING COMMITTEE.** Within thirty (30) days of the Effective Date, the Parties will designate a representative to be the single point of contact for meeting scheduling. Within three (3) months of the Effective Date, representatives of TBW, PRWC, and the District shall schedule and attend quarterly meetings for the Water Supply Planning Committee to participate in structured planning and regulatory coordination to improve collaboration and align regional planning assumptions. Such coordination shall at a minimum include: (a) Identification of potential water supply projects, and TBW and District cooperation with feasibility studies if so undertaken by the PRWC, to provide an annual average of 12 mgd to meet the PRWC's water demands from sources other than the Alafia River; (b) Joint participation in the District's 2030 Regional Water Supply Planning process; (c) Identification of regional water resources and water supply development options; and, (d) Use of existing planning forums or technical workgroups to facilitate a dialogue on regional water supply planning activities.

**IX. PRWC WATER SUPPLY PROJECT.** The PRWC has until December 31, 2032, to identify alternative water supply project(s) as described below, or elect to pursue a project on the Alafia River, otherwise the PRWC waives any claim to withdraw water from the Alafia River pursuant to this Agreement. If the Parties identify water supply project(s) with an annual average capacity 12 mgd or greater before December 31, 2032, the PRWC will decide if the project(s) is/are feasible to replace the Alafia River as a potential water supply. The PRWC's decision shall be approved by the PRWC's Board of Directors on or before December 31, 2032. If the PRWC selects the identified alternative water supply projects(s), it waives any claim to withdraw water from the Alafia River pursuant to this Agreement. If no water supply project(s) with an annual average capacity of 12 mgd or greater is/are identified, or if the PRWC determines in its sole discretion the identified project(s) is/are not feasible, the PRWC may pursue a withdrawal from the Alafia River in accordance with this Agreement if such project has been determined feasible by the PRWC no later than December 31, 2032, otherwise TBW is released from its obligation to potentially reduce its allocation from 19% to 14%.

X. **TERMINATION.** This Agreement may only be terminated by written consent of all the Parties.

XI. **MISCELLANEOUS PROVISIONS.**

- a. Notice. Notices under this Agreement must be in writing and delivered by hand, nationally recognized overnight courier, or email with confirmation of receipt, to the following representatives (or successors designated by notice):

As to the TBW: Tampa Bay Water  
2575 Enterprise Road  
Clearwater, Florida 33763  
Attn: Chuck Carden  
General Manager  
Phone: (727) 796-2355  
Fax: (727) 791-2388

With a copy to: Persson, Cohen, Mooney, Fernandez &  
Jackson, P.A.  
(Which Shall Not 236 Pedro Street  
Constitute Notice) Venice, Florida 34285-2322  
Attn: Kelly Fernandez, Esq.  
Phone: (941) 306-4730  
Fax: (941) 306-4832

As to the PRWC Polk Regional Water Cooperative  
330 W. Church Street  
Bartow, FL 33831-9005  
Attn: Eric DeHaven  
Executive Director  
Phone: (863) 534-6475  
Fax: (863) 534-7069

With a copy to: de la Parte, Gilbert, McNamara &  
Caldevilla, P.A.  
(Which Shall Not 101 E. Kennedy Boulevard  
Constitute Notice) Suite 3100  
Tampa, FL 33602  
Attn: Edward P. de la Parte, Jr., Esq.  
Phone: (813) 229-2775  
Fax: (813) 229-2712

As to the District: Southwest Florida Water Management  
District  
7601 U.S. Highway 301 North  
Tampa, FL 33637  
Attn: Brian Armstrong  
Executive Director  
Phone: (352) 505-1298  
Fax: (352)754-3493

With a copy to: Office of the General Counsel, Southwest  
Florida Water Management District  
(Which Shall Not 7601 U.S. Highway 301 North  
Constitute Notice) Tampa, FL 33637  
Attn: Chris Tumminia  
General Counsel  
Phone: (813) 985-7481  
Fax: (813) 367-9776

- b. Authority to Enter Agreement. The Parties each have the power, authority, and legal right to enter into and perform the obligations set forth in this Agreement, and the execution and delivery and performance hereof by the Parties has been duly authorized by the governing authority of each of the Parties.
- c. Entire Agreement. This Agreement represents the entire understanding and agreement between the Parties with respect to the subject matter and supersedes or replaces all prior representations, statements, and

understandings between the Parties with respect to the matters and things addressed herein, either written or oral.

- d. Binding Effect. All of the terms and provisions of this Agreement, whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective legal representatives, successors and permitted assigns.
  
- e. Default and Remedy.
  - i. Default. Failure on the part of any Party to observe, comply with, perform or maintain in any material way any term, covenant, condition, duty, obligation, representation or express warranty contained in this Agreement shall constitute a Default under this Agreement.
  
  - ii. Notice of Default and Opportunity to Cure. Upon occurrence of an alleged Default by any Party, the other Party shall deliver written notice to the Party allegedly in Default that identifies the specific nature of the alleged Default. The Party receiving such notice shall have thirty (30) days within which to cure the alleged Default. Provided that, if the alleged Default is of such nature that it cannot be reasonably cured within thirty (30) days, the Party allegedly in Default shall have such additional time as may be reasonably necessary to cure the alleged Default, so long as within said period, the alleged defaulting Party commences the cure and diligently prosecutes such cure until completion.
  
  - iii. Remedy for Default. For any alleged Default not cured as provided in Article XI.e.ii of this Agreement, the non-Defaulting Party may seek any remedy it may have available in law or in equity against the alleged Defaulting Party once completing the Dispute Resolution and Mediation provisions within Article XI.e.iv.

- iv. Dispute Resolution and Mediation. Prior to seeking any legal remedy for Default, the Parties shall be required to engage in dispute resolution and mediate the dispute with all the Parties. A Party shall submit a dispute to be resolved by delivering to the other Parties a written notice requesting resolution of the dispute. Within ten (10) business days after receipt of the written notice, the Parties will first confer in good faith at the executive level in attempt to resolve the dispute.

If that first meeting is unsuccessful, the Party submitting a dispute to be resolved shall deliver to the other Parties a written notice requesting mediation and include a list of three (3) potential mediators for consideration. Within ten (10) business days of the receipt of written notice, the Parties will select one of the proposed mediators or mutually agree to a mediator. To the extent practicable, all mediators shall have special competence and experience with respect to the subject matter under consideration. Within thirty (30) days following the selection, mediation will be scheduled. This mediation shall occur in-person and be held at location mutually selected by the Parties, or at a location of the mediator's choosing if the Parties cannot agree. The Parties shall share equally in the fees and expenses of the mediator. Each Party shall pay their respective attorney's fees, expert fees and other expenses related to the mediation. Any settlement achieved through mediation shall be made in writing and approved by the Parties.

If a settlement is not reached within one hundred and eighty (180) days after the initiation of mediation or, if the mediator declares an impasse, then a Party may seek any and all legal or equitable remedies for the alleged Default. The mediation process set forth herein is intended to be a waiver of or a substitute or replacement for the conflict resolution process set forth in Chapter 164, Florida Statutes, which is acknowledged by all Parties.

- f. Time Extensions. The Parties by joint written consent may extend or change any of the deadlines specified in this Agreement.
- g. Amendment or Modification. This Agreement may not be amended or modified without prior written consent of all of the Parties to this Agreement. Any amendments or modifications, in whole or in part, will be documented through a written instrument that sets forth such changes and which is signed by all of the Parties.
- h. Waiver. Any failure by a Party to exercise any right, power or privilege under this Agreement shall not constitute a waiver of that right, power, or privilege under this Agreement.
- i. Assignability. This Agreement may not be assigned without the prior written consent of all of the Parties to this Agreement.
- j. Third Parties. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement, on any person other than the Parties, their legal representatives, successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligation of any third person to any Party, nor shall any provision of this Agreement be interpreted to give any third person any right of subrogation or action over or against the Parties.
- k. Recording. The Parties intend this Agreement to be an interlocal agreement pursuant to section 163.01, Florida Statutes, and it shall be recorded by the PRWC with the Clerk of the Circuit Court in and for Polk, Hillsborough, Pasco, and Pinellas Counties, Florida.
- l. Severability. If any part of this Agreement is contrary to, prohibited by or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder shall not be invalidated and shall be given full force and effect so far as possible.

- m. Governing Law and Venue. This Agreement and all transactions contemplated by this Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Florida without regard to any contrary conflicts of law principle. Venue of all proceedings in connection with this Agreement shall be exclusively in Sarasota County, Florida and each Party waives whatever their respective rights may have been in the selection of venue.
- n. Headings. The headings contained in this Agreement are for convenience of reference only, and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.
- o. Attorney's Fees. The Parties agree that each Party shall bear its own attorney's fees and costs incurred in connection with this Agreement.
- p. Waiver of Jury Trial. The Parties expressly and specifically waive the right to a jury trial as to any issue in any way connected to this Agreement.
- q. Counterparts and Electronic Signature. This Agreement may be executed in counterparts, each of which is an original, and by electronic signature or scanned copies, each of which is deemed an original.
- r. No Construction Against Drafting Party. The Parties to this Agreement expressly recognize that this Agreement results from a negotiation process in which each Party was given the opportunity to consult with counsel and contribute to the drafting of this Agreement. Given this fact, no legal or other presumptions against the Party drafting any portion of this Agreement concerning its construction, interpretation, or otherwise shall accrue to the benefit of any Party to this Agreement and each Party expressly waives the right to assert such presumption in any proceeding or disputes connected with, arising out of, or involving this Agreement.

- s. Public Records and Sunshine Compliance. Each Party shall comply with applicable public records and open meetings laws. The Parties acknowledge that documents created or received under this Agreement may be public records subject to disclosure.
  
- t. Preservation of Authority. Each Party expressly preserves its statutory authority and discretion, including but not limited to, the District's authority to regulate consumptive uses of water, evaluate and act on applications, and ensure adequate water supply; TBW's authority under its interlocal agreement and governing statutes; and PRWC's authority under its interlocal agreement and governing statutes.
  
- u. Miscellaneous Provisions.
  - i. No Party shall be deemed to be an agent of any other Party nor shall represent that it has the authority to bind any other Party.
  
  - ii. In computing any time period under this Agreement, any reference to days shall mean calendar days, unless business days are specifically referenced. In computing any period of time under this Agreement, exclude the day of the event that triggers the computation of the period of time. If the last day of a period of time is a Saturday, Sunday or legal holiday, the period of time shall run until the end of the next calendar day which is not a Saturday, Sunday or legal holiday.
  
  - iii. Nothing in this Agreement shall be deemed a waiver of any Party's police powers.

*[Signatures begin on the following pages]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of the Effective Date.

POLK REGIONAL WATER COOPERATIVE

By: Nathaniel Birdsong

Name: Nathaniel Birdsong

Title: Chair

Date: March 18, 2026

Approved as to Form and Correctness:

Edward P. de la Parte, Jr.

Edward P. de la Parte, Jr.

Legal Counsel

TAMPA BAY WATER, A REGIONAL WATER SUPPLY AUTHORITY

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

Name: Lisset Hanewicz

Title: Chairman, Commissioner Hillsborough County

Date: \_\_\_\_\_

Approved as to Form and Correctness:

\_\_\_\_\_  
Kelly Fernandez, Esq.

Legal Counsel

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

By: \_\_\_\_\_  
John Mitten, Chair

Approved as to Legal Form and Content
Chris Tumminia, Esq. General Counsel

Attest: \_\_\_\_\_

Name: \_\_\_\_\_

Filed this \_\_\_ day of March 2026.

\_\_\_\_\_  
Deputy Agency Clerk