

RESOLUTION NO. 2022-14

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF
TIMBER CREEK SOUTHWEST COMMUNITY
DEVELOPMENT DISTRICT ACCEPTING THE
CERTIFICATION OF THE DISTRICT ENGINEER THAT
THE 2020 PROJECT IS COMPLETE; DECLARING THE
2020 PROJECT COMPLETE; FINALIZING THE SPECIAL
ASSESSMENTS SECURING THE DISTRICT'S SERIES 2020
SPECIAL ASSESSMENT BONDS; PROVIDING FOR THE
UPDATE OF THE DISTRICT'S ASSESSMENT RECORDS;
PROVIDING FOR SEVERABILITY, CONFLICTS AND AN
EFFECTIVE DATE.**

WHEREAS, Timber Creek Southwest Community Development District (the “**District**”) was established by Ordinance No. 19-20 enacted by the Board of County Commissioners of Lee County, Florida, effective on October 3, 2019, for the purpose of providing infrastructure improvements, facilities and services to the lands within the District as provided in Chapter 190, Florida Statutes; and

WHEREAS, on May 15, 2020, the Board of Supervisors (the “**Board**”) of the District adopted Resolution No. 2020-24 authorizing, among other things, the issuance of not to exceed \$55,000,000 aggregate principal amount of its special assessment bonds in order to finance the costs of the construction, installation, and acquisition of public infrastructure, improvements, and services benefiting lands within the District; and

WHEREAS, previously, on June 19, 2020, in accordance with Chapters 170, 190 and 197, Florida Statutes, the Board had adopted Resolution No. 2020-26 (the “**Final Assessment Resolution**”) for purposes which included AUTHORIZING A CAPITAL IMPROVEMENT PLAN; ADOPTING AN ENGINEER’S REPORT; PROVIDING AN ESTIMATED COST OF IMPROVEMENTS; ADOPTING AN ASSESSMENT REPORT; EQUALIZING, APPROVING, CONFIRMING AND LEVYING SPECIAL ASSESSMENTS; ADDRESSING THE FINALIZATION OF SPECIAL ASSESSMENTS; ADDRESSING THE PAYMENT OF SPECIAL ASSESSMENTS AND THE METHOD OF COLLECTION; PROVIDING FOR THE ALLOCATION OF SPECIAL ASSESSMENTS AND TRUE-UP PAYMENTS; ADDRESSING GOVERNMENT PROPERTY, AND MAKING PROVISIONS RELATING TO THE TRANSFER OF REAL PROPERTY TO UNITS OF LOCAL, STATE AND FEDERAL GOVERNMENT; AUTHORIZING THE RECORDING OF AN ASSESSMENT NOTICE; AND PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE; and

WHEREAS, pursuant to the Final Assessment Resolution, the District:

(1) Approved and adopted that certain Master Engineer’s Report for the Timber Creek Southwest Community Development District prepared by Morris-DePew Associates, Inc. and dated April 2020 (the “**Master Engineer’s Report**”), which Master Engineer’s Report describes the components of the District’s overall capital improvement program that were financed with the Series 2020 Bonds (as hereinafter defined) and a portion of which comprise the “**2020 Project**”; and

(2) Adopted that certain Timber Creek Southwest Community Development District Master Special Assessment Methodology Report prepared by JPWard & Associates, LLC dated April 9, 2020 (the “**Master Assessment Methodology Report**”), which sets forth the methodology for allocating

assessments for the costs of capital improvement project, including the 2020 Project, as described in the Master Engineer's Report against the properties specially benefitted thereby; and

(3) Authorized the capital improvement projects described in the Master Engineer's Report, including the 2020 Project, and further equalized, approved, confirmed, and levied special assessments to defray the costs thereof, and provided that the levied special assessments shall be a lien on the property so assessed co-equal with the lien of all state, county, district, municipal or other governmental taxes, all in accordance with Section 170.08, Florida Statutes; and

WHEREAS, subsequently, the District duly authorized and issued its \$7,275,000 Timber Creek Southwest Community Development District Special Assessment Bonds, Series 2020 (2020 Project) (the "**Series 2020 Bonds**") under and pursuant to the Master Trust Indenture dated as of August 1, 2020 (the "**Master Indenture**"), as supplemented by a First Supplemental Trust Indenture dated as of August 1, 2020 (the "**First Supplemental Indenture**") (the Master Trust Indenture together with the First Supplemental Indenture are sometimes referred to herein as the "**Trust Indenture**"), each by and between the District and U.S. Bank National Association, as trustee, to pay a portion of the costs of the construction, installation, and acquisition of the 2020 Project; and

WHEREAS, in connection with the issuance of the Series 2020 Bonds, the Board adopted that certain Timber Creek Southwest Community Development District Final Supplemental Special Assessment Methodology Report prepared by JPWard & Associates, LLC dated August 28, 2020 (the "**First Supplemental Assessment Methodology**"), which provided a means to allocate a portion of the costs of the 2020 Project pursuant to the actual terms of the Series 2020 Bonds against the properties specially benefitted thereby in accordance with the adopted Master Assessment Methodology Report. (The Master Assessment Methodology Report together with the First Supplemental Assessment Methodology are sometimes collectively referred to herein as the "**Assessment Methodology**".) A copy of the documents comprising the Assessment Methodology are on file with the District Manager and were included in the Limited Offering Memorandum issued in connection with the Series 2020 Bonds; and

WHEREAS, the Master Engineer's Report, as updated and supplemented by that certain First Supplement Engineer's Report for Phase #1 prepared by Morris-DePew Associates, Inc. and dated August 2020 (the "**Supplemental Engineer's Report**") (the Master Engineer's Report together with the Supplemental Engineer's Report is sometimes referred to herein as the "**Engineer's Report**"), estimated capital costs for improvements eligible for the 2020 Project totaling \$12,466,749.35 including professional services and contingencies. A copy of the Engineer's Report is on file with the District Manager and was included in the Limited Offering Memorandum issued in connection with the Series 2020 Bonds; and

WHEREAS, the First Supplemental Assessment Methodology projected the estimated total costs of the portion of the 2020 Project to be funded by the sale of the Series 2020 Bonds and secured by assessments as set forth in the Engineer's Report inclusive of such items as capital costs, financing costs, capitalized interest, reserve funds and underwriter's discount; and

WHEREAS, pursuant to Chapter 170, Florida Statutes, and the Trust Indenture, the District Engineer has executed and delivered that certain Timber Creek Southwest Community Development District Engineer's Certificate dated August 12, 2022 (the "**Engineer's Certification**"), attached hereto and made a part hereof as **Exhibit "A"**, wherein the District Engineer has confirmed and verified the 2020 Project is complete; and

WHEREAS, upon receipt of and in reliance upon the Engineer's Certification evidencing the completion date of the 2020 Project as described above, the Board desires to certify the 2020 Project complete in accordance with the Trust Indenture and Chapter 170, Florida Statutes; and

WHEREAS, the actual costs incurred by the District to complete the 2020 Project resulted in a zero balance in the Series 2020 Acquisition and Construction Account; and

WHEREAS, Chapter 170, Florida Statutes requires that upon completion of the 2020 Project, the District is to credit each of the assessments the difference, if any, between the amount assessed and the actual cost of the improvements.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF TIMBER CREEK SOUTHWEST COMMUNITY DEVELOPMENT DISTRICT AS FOLLOWS:

SECTION 1. RECITALS. The foregoing recitals are true and correct and, by this reference, are incorporated into and form a material part of this Resolution.

SECTION 2. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to the provisions of Florida law, including Chapters 170, 190 and 197, Florida Statutes, and in accordance with the provisions of the Final Assessment Resolution.

SECTION 3. ACCEPTANCE AND CERTIFICATION OF COMPLETION OF THE 2020 PROJECT. The Board hereby accepts the Engineer's Certification, attached hereto as Exhibit "A", certifying the 2020 Project complete and upon reliance thereon, certifies the 2020 Project complete in accordance with the Final Assessment Resolution and supplemental assessment resolutions, the Trust Indenture, and Chapter 170, Florida Statutes.

SECTION 4. FINALIZATION OF SPECIAL ASSESSMENTS SECURING SERIES 2020 BONDS. Pursuant to Section 170.08, Florida Statutes and the Assessment Resolutions, special assessments securing the 2020 Bonds on benefitted land within the District are to be credited the difference in the assessment as originally made, approved, and confirmed and a proportionate part of the actual cost of the 2020 Project. Any remaining balance of the Series 2020 Acquisition and Construction Account within the Acquisition and Construction Fund not reserved for the completion of the balance of the 2020 Project shall be transferred to the Series 2020 General Redemption Subaccount in the Series 2020 Bond Redemption Account and applied to the extraordinary mandatory redemption of the Series 2020 Bonds as provided in the Trust Indenture. Pursuant to Section 170.08, Florida Statutes and the Assessment Resolutions, the special assessments on parcels specially benefitted by the 2020 Project are hereby finalized as originally established and as contemplated in the Assessment Methodology, subject to modification for the application of any amounts in the Series 2020 Acquisition and Construction Account as specified by in the Engineer's Certification, if applicable.

SECTION 5. ASSESSMENT RECORDS. Immediately following the adoption of this Resolution these special assessments as reflected herein shall be updated/reocrded by the Secretary of the Board of the District in the applicable official record(s) of the District for maintaining such assessment data. The special assessment or assessments against each respective parcel shall be and shall remain a legal, valid and binding first lien on such parcel until paid and such lien shall be coequal with the lien of all state, county, school district, municipal or other governmental taxes and superior ill dignity to all other liens, titles, and claims.

SECTION 6. CONFLICTS. This Resolution is intended to supplement the Final Assessment Resolution and any other supplemental assessment resolutions, which resolutions remain in full force and effect (except as previously modified or amended) and except to the extent modified herein. This Resolution and the such assessment resolutions shall be construed to the maximum extent possible to give

full force and effect to the provisions of each resolution. All District resolutions or parts thereof in actual conflict with this Resolution are, to the extent of such conflict, superseded and repealed.

SECTION 7. SEVERABILITY. If any section or part of a section of this Resolution be declared invalid or unconstitutional, the validity, force and effect of any other section or part of a section of this Resolution shall not thereby be affected or impaired unless it clearly appears that such other section or part of a section of this Resolution is wholly or necessarily dependent upon the section or part of a section so held to be invalid or unconstitutional, it being expressly found and declared that the remainder of this Resolution would have been adopted despite the invalidity of such section or part of such section.

SECTION 8. EFFECTIVE DATE. This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED this 19th day of August, 2022.

**TIMBER CREEK SOUTHWEST
COMMUNITY DEVELOPMENT
DISTRICT**

Attest:

James P. Ward, Secretary

Barry Ernst, Chairman

Exhibit "A": Timber Creek Southwest Community Development District Engineer's Certificate dated August 12, 2022

**TIMBER CREEK SOUTHWEST
COMMUNITY DEVELOPMENT DISTRICT
ENGINEER'S CERTIFICATE
2020 PROJECT**

August 12, 2022

Board of Supervisors
Timber Creek Southwest
Community Development District
Lee County, Florida

Re: 2020 Project

Ladies and Gentlemen:

Morris-DePew Associates, Inc. serves as District Engineer (the "**District Engineer**") to Timber Creek Southwest Community Development District (the "**District**"). Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Master Trust Indenture dated as of August 1, 2020 (the "**Master Indenture**"), as supplemented by a First Supplemental Trust Indenture dated as of August 1, 2020 (the "**First Supplemental Indenture**") (the Master Trust Indenture together with the First Supplemental Indenture are sometimes referred to herein as the "**Indenture**"), each by and between the District and U.S. Bank National Association, as trustee (the "**Trustee**"). The District and the Trustee may rely on this certificate.

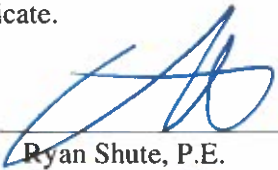
The District has previously issued its \$7,275,000 Timber Creek Southwest Community Development District Special Assessment Bonds, Series 2020 (2020 Project) (the "**2020 Bonds**") pursuant to the Indenture. The District previously adopted and approved a program of public infrastructure improvements, which included the acquisition of certain infrastructure improvements and related interests in land ("**Capital Improvement Program**") as described in that certain Master Engineer's Report for the Timber Creek Southwest Community Development District prepared by Morris-DePew Associates, Inc. and dated April 2020 (the "**Master Engineer's Report**"), as supplemented by the certain First Supplement Engineer's Report for Phase #1 prepared by Morris-Depew Associates, Inc. and dated August 2020 (the "**First Supplement**") (the Master Report together with the First Supplement are referred to collectively herein as the "**Engineer's Report**"). The portion of the Capital Improvement Program financed with proceeds of the 2020 Bonds is more fully described in the schedule prepared by the District Engineer and attached hereto **Exhibit "A"** (the "**2020 Project**") and is the 2020 Project for purposes of the Indenture.

The undersigned hereby certifies as follows in accordance with the Indenture:

1. The total cost of the 2020 Project was \$6,760,453.66.
2. The 2020 Project, which was acquired from the proceeds of the 2020 Bonds, has been completed in accordance with the plans and specifications therefor.
3. The plans and specifications for the 2020 Project have been approved by all regulatory bodies required to approve them or such approval can reasonably be expected to be obtained in the ordinary course.

4. The components of the 2020 Project are owned and operated by the District or Lee County.
5. The components of the 2020 Project were constructed in a sound, workmanlike manner and in accordance with industry standards.
6. The amount paid by the District for the improvements included in the 2020 Project did not exceed the lesser of: (i) the fair market value of such improvements and (ii) the actual cost of construction of such improvements.
7. The 2020 Project is located within the District on public property or easements granted or dedicated to the District or otherwise located within public rights of way or public easements. Any curbs and other stormwater management improvements included within the 2020 Project are an integral part of the stormwater management system needed for the District and are located on public land or within public easements. No earthwork, grading or other improvements included in the 2020 Project was constructed or performed on private lots or private property. All lakes or ponds included in the 2020 Project were constructed in accordance with applicable requirements of governmental authorities with jurisdiction over the lands in the District and not for the purpose of creating fill for private property.
8. The 2020 Project and all components have been constructed or acquired by the District. The 2020 Project is deemed complete as of the date of this Certificate.

Dated: 8/12/2022

By: 
Ryan Shute, P.E.
Morris Dapew Associates, Inc.

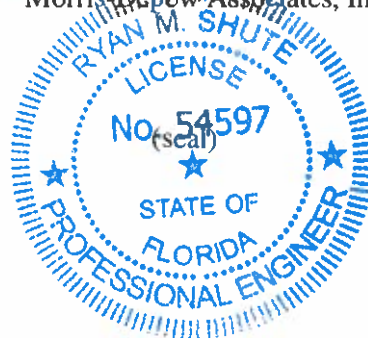


Exhibit A
Requisition Number: 1 (Phase 1)

No.	Facility	Districts Capital Improvement Plan		Total All Requisitions
		Total Estimated Cost	Requisition #1 Improvement Costs	
1	Exterior Landscaping & Hardscape	\$ 5,215,000.00	\$ 204,107.00	\$ 204,107.00
2	Subdivision Potable Water System	\$ 2,925,185.48	\$ 659,206.11	\$ 659,206.11
3	Subdivision Waste Water System	\$ 8,861,295.38	\$ 2,789,102.49	\$ 2,789,102.49
4	Irrigation Facilities	\$ 3,263,236.00	\$ 479,563.88	\$ 479,563.88
5	Storm Water Facilities	\$ 2,679,979.98	\$ 503,211.30	\$ 503,211.30
6	Excavation	\$ 2,879,699.12	\$ 1,221,214.55	\$ 1,221,214.55
7	Environmental Preservation & Mitigation	\$ 500,000.00	\$ 488,003.35	\$ 488,003.35
8	Off-Site Improvements	\$ 2,099,488.12	\$ 2,099,448.12	\$ 2,099,448.12
11	Electrical	\$ 900,000.00	\$ 32,864.00	\$ 32,864.00
12	Miscellaneous Structures	\$ 280,000.00	\$ -	\$ -
13	Municipal Fees & Permits	\$ 6,706,500.00	\$ 2,042,822.54	\$ 2,042,822.54
Subtotal (Improvements)		\$ 36,310,384.08	\$ 10,519,543.34	\$ 10,519,543.34
Contingency		\$ 5,446,557.61	\$ -	\$ -
Professional Fees		\$ 2,000,000.00	\$ -	\$ -
Total Improvements		\$ 43,756,941.69	\$ 10,519,543.34	\$ 10,519,543.34

Note: For the Series 2020 Bonds only \$6,760,453.66 was funded