

AMENDMENT NO. 1
TO
PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
FOR CONSTRUCTING AND OPERATING, MAINTAINING, REPAIRING, REPLACING
AND REHABILITATING
THE
PICAYUNE STRAND RESTORATION PROJECT

THIS AMENDMENT NO. 1 is entered into this 21 day of June, 2019, by and between the DEPARTMENT OF THE ARMY (hereinafter the "Government"), represented by the District Commander for the Jacksonville District (hereinafter the "District Commander"), and the SOUTH FLORIDA WATER MANAGEMENT DISTRICT (hereinafter the "Non-Federal Sponsor"), represented by the Chairman of its Governing Board.

WITNESSETH, THAT:

WHEREAS, on August 13, 2009, the Government and the Non-Federal Sponsor (hereinafter the "Parties") entered into an agreement (hereinafter the "Master Agreement") that sets forth the terms of participation for the construction, operation, maintenance, repair, replacement and rehabilitation of projects implemented under the Comprehensive Everglades Restoration Plan (hereinafter "CERP");

WHEREAS, construction of the Picayune Strand Restoration Project at Collier County, Florida was authorized by Section 1001(15) of the Water Resources Development Act of 2007, Public Law 110-114, as modified, to add the manatee mitigation feature (also referred to as the manatee refugium feature) and was authorized to have a new project cost by Section 1401(9)5 of the Water Resources Development Act of 2016, Public Law 114-322;

WHEREAS, Section 601(e)(5) of WRDA 2000, Public Law 106-541, as amended by Section 6004 of WRDA 2007, Public Law 110-114, authorizes the Secretary to provide credit toward the non-Federal share for the reasonable cost of work performed by the Non-Federal Sponsor that is necessary for the implementation of CERP;

WHEREAS, on August 13, 2009, the Parties entered into a Pre-Partnership Credit Agreement to identify certain work that the Non-Federal Sponsor completed prior to the

execution of a Project Partnership Agreement (hereinafter the “*PPA*” as defined in Article I.C. of the Master Agreement) for the construction of the Picayune Strand Restoration Project (hereinafter the “*authorized CERP Project*,” as defined in Article 2.1 of the *PPA*), that the Assistant Secretary of the Army for Civil Works determined to be integral to the *authorized CERP Project* on August 10, 2009 (hereinafter the “*In-kind Work*” as defined in Article 2.2. of the *PPA*);

WHEREAS, on August 13, 2009, the Parties entered into a *PPA* for construction, operation, maintenance, repair, replacement, and rehabilitation of the *authorized CERP Project*;

WHEREAS, on March 23, 2015, the Parties entered into Pre-Partnership Credit Agreement No. 2 to preserve the Non-Federal Sponsor’s eligibility for credit for *In-kind Work* undertaken prior to the effective date of this Amendment No. 1 to the *PPA*;

WHEREAS, on September 20, 2016, the South Atlantic Division Commander determined the additional *In-kind Work* as identified in Pre-Partnership Credit Agreement No. 2 is integral to the *authorized CERP Project*;

WHEREAS, the Non-Federal Sponsor desires to receive credit for the *In-kind Work* as described in the Pre-Partnership Credit Agreement No. 2; and

WHEREAS, the Parties desire to amend the *PPA* to add the manatee mitigation feature, reflect authorization of a new project cost, and include additional *In-kind Work*.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree to amend the *PPA* as follows:

1. The second WHEREAS clause is amended by striking the current clause and replacing it with the following:

“WHEREAS, construction of the Picayune Strand Restoration Project at Collier County, Florida was authorized by Section 1001(15) of the Water Resources Development Act of 2007, Public Law 110-114, as modified to add the manatee mitigation feature (also referred to as the manatee refugium feature) and was authorized to have a new project cost by Section 1401(9)5 of the Water Resources Development Act of 2016, Public Law 114-322;”

2. The fifth WHEREAS clause is amended by striking the current clause and replacing it with the following:

“WHEREAS, Section 601(e)(5) of WRDA 2000, Public Law 106-541, as amended by Section 6004 of WRDA 2007, Public Law 110-114, authorizes the Secretary to provide credit toward the non-Federal share of the cost of the *authorized CERP Project* for the value of work performed by the Non-Federal Sponsor in accordance with the provisions of this PPA for certain work (hereinafter the “*In-kind Work*” as defined in Article 2.2 of this PPA) that on August 10, 2009 and September 20, 2016 was determined to be integral to the *authorized CERP Project*;”

3. Article 2.1. is amended by striking the current paragraph and replacing it with the following:

“2.1. The term “*authorized CERP Project*” shall have the meaning as defined in Article I.B. of the Master Agreement and, for the purpose of this *PPA*, specifically shall mean the construction of spreader channels and 3 pump stations at Miller Canal, Faka Union Canal, and Merritt Canal; the degrading of roads and the filling of ditches in Picayune Strand; the plugging of the Miller, Faka Union, Merritt, and Prairie Canals; the construction of flood protection levees for the Port of Islands development; flood protection features to protect southern and northwestern Belle Meade by the improvement of the existing levee (6L) around southern Belle Meade and the construction of a ring levee in northwestern Belle Meade with a small pump station; and the installation of U.S. Highway 41 culverts as generally described in the Comprehensive Everglades Restoration Plan Picayune Strand Restoration Final Integrated Project Implementation Report and Environmental Impact Statement, dated September 2004 and approved by the Chief of Engineers on September 15, 2005; and the construction of the manatee mitigation feature as generally described in the Limited Reevaluation Report, Picayune Strand Restoration Project and Environmental Assessment, dated July 2016 and approved by the Director of Civil Works on April 6, 2016, as communicated in identical letters to the Speaker of the United States House of Representatives and the President of the United States Senate, dated July 15, 2016.”

4. Article 2.2. is amended as follows:

- (a) At the end of Article 2.2.1., strike “and”.
- (b) At the end of Article 2.2.2., strike the period and replace it with “; and”
- (c) Add the following as new Article 2.2.3.:

“2.2.3. The work carried out pursuant to the Pre-Partnership Credit Agreement No. 2 between the Government and the Non-Federal Sponsor, dated March 23, 2015, consisting of construction of the manatee mitigation feature.”

5. Article 2.7. is amended by striking the current paragraph and replacing it with the following:

“2.7. On the effective date of Amendment No. 1 to this *PPA*, *project construction costs* for the *authorized CERP Project* are estimated to be \$551,255,000; the Non-Federal Sponsor's share of *project construction costs* required by Article II.G. of the Master Agreement is estimated to be \$275,627,500; the value of lands, easements, rights-of-way, and *relocations*, including incidental costs for which the Government shall afford credit in accordance with Article IV of the Master Agreement is estimated to be \$177,496,000; the amount of credit for *In-kind Work* to be afforded toward the Non-Federal Sponsor's share of the *project construction costs* is estimated to be \$60,724,000; and the annual *project OMRR&R costs* are estimated to be \$5,953,000. The Parties acknowledge that such amounts are estimates subject to adjustment by the Government, in full cooperation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and Non-Federal Sponsor.”

6. Article 3 is amended by striking the current paragraph and replacing it with the following:

“The Non-Federal Sponsor has reviewed the provisions set forth in Section 902 of Public Law 99-662, as amended, and understands that Section 902 establishes the maximum amount of *project construction costs* plus *total design costs* for the *authorized CERP Project*. Notwithstanding any other provision of this *PPA*, as amended, the Government shall not make a new financial obligation or expenditure for the *authorized CERP Project*, or afford credit toward *project construction costs* for the value of any contribution provided by the Non-Federal Sponsor, if such obligation, expenditure, or credit would result in *project construction costs* plus the *total design costs* incurred for design of the *authorized CERP Project* in accordance with the provisions of the Design Agreement exceeding this maximum amount, unless otherwise authorized by law. On the effective date of Amendment No. 1 to this *PPA*, this maximum amount is estimated to be \$765,422,000, as calculated in accordance with ER 1105-2-100 using October 1, 2018 (FY19) price levels and allowances for projected future inflation. The Government shall adjust this maximum amount in accordance with Section 902 of WRDA 1986, Public Law 99-662, as amended.”

7. All other provisions of the *PPA* remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the *PPA*, which shall become effective upon the date it is signed by the District Commander.

DEPARTMENT OF THE ARMY

BY: 

Andrew D. Kelly
Colonel, U.S. Army



SOUTH FLORIDA WATER
MANAGEMENT DISTRICT, BY
ITS GOVERNING BOARD



Chauncey P. Goss, II
Chairman

DATE: 21 June 2019

DATE: June 13, 2019

CERTIFICATE OF AUTHORITY

I, Paula L. Cobb, do hereby certify that I am the principal legal officer of the South Florida Water Management District, that the South Florida Water Management District is a legally constituted public body with full authority and legal capability to perform the terms of Amendment No. 1 to the Project Partnership Agreement between the Department of the Army and South Florida Water Management District in connection with Constructing and Operating, Maintaining, Repairing, Replacing and Rehabilitating the Picayune Strand Restoration Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Amendment No. 1, as required by Section 221 of the Flood Control Act of 1970, as amended (42 U.S.C. Section 1962d-5b), and that the person who executed this Amendment No. 1 on behalf of the South Florida Water Management District acted within his statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this
13th day of June, 2019.

A handwritten signature in blue ink that reads "Paula L. Cobb". The signature is written in a cursive style and is positioned above a horizontal line.

Paula L. Cobb
General Counsel
South Florida Water
Management District

CERTIFICATION REGARDING LOBBYING

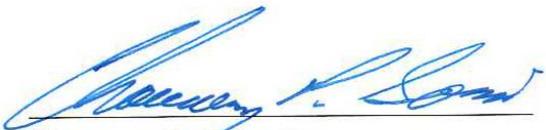
The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



Chauncey P. Goss, II
Chairman, Governing Board
South Florida Water Management District

DATE: June 13, 2019