

**AMENDMENT NUMBER TWO  
TO THE  
DESIGN AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
FOR THE DESIGN OF ELEMENTS OF THE  
COMPREHENSIVE PLAN FOR THE EVERGLADES AND SOUTH FLORIDA  
ECOSYSTEM RESTORATION PROJECT**

THIS AMENDMENT Number Two is entered into this 13~~th~~ day of August, 2009, by and between the Department of the Army (hereinafter the "Government"), represented by the Principal Deputy Assistant Secretary of the Army (Civil Works), and South Florida Water Management District (hereinafter the "Non-Federal Sponsor"), represented by the Chair of its Governing Board.

WITNESSETH, THAT:

WHEREAS, the Government and the Non-Federal Sponsor entered into an agreement on May 12, 2000, and Amendment No. 1 to such agreement on July 29, 2004, (hereinafter collectively referred to as "Design Agreement") for design of elements of the Comprehensive Everglades Restoration Plan (hereinafter "CERP");

WHEREAS, following execution of the Design Agreement, Congress enacted Section 601 of the Water Resources Development Act of 2000 which in Section 601(e)(5) provided for affording of credit toward the non-Federal share for the reasonable cost of any work performed in connection with a study, preconstruction engineering and design, or construction, if such work completed during the period of design is described in a design agreement, and that any credit provided pursuant to Section 601(e)(5)(C) may be carried over between authorized CERP projects;

WHEREAS, the Government and the Non-Federal Sponsor entered into an agreement on August 13, 2009 (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 Plan so as to promote uniformity of terms, ease of administration, and efficiency in execution of such projects; and

WHEREAS, the Government and the Non-Federal Sponsor desire to further amend the Design Agreement to reflect this change in law and to effectuate the efficient management of project credits and cost sharing requirements.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree to further amend the Design Agreement as follows:

1. The third sentence of Article II.B.2. of the Design Agreement is amended by inserting "and Section 601(e) of the Water Resources Development Act of 2000, Public Law 106-541" after "Public Law 106-53".

2. The first sentence of Article II.C.1. of the Design Agreement is amended by replacing "Public Law 106-53," with "Public Law 106-53 and Section 601(e) of Public Law 106-541,".

3. The first sentence of Article IV.B.2. of the Design Agreement is amended by replacing "If necessary, for the third (fiscal year 2001) and subsequent years of design," with "If necessary, for the third (fiscal year 2001) through the tenth (fiscal year 2008) fiscal years of design,".

4. The third sentence of Article IV.B.3. of the Design Agreement is amended by replacing "The Government shall monitor" with "For the first ten fiscal years of design (fiscal years 1999 – 2008), the Government shall monitor".

5. Article IV.B. of the Design Agreement is further amended by adding the following paragraph at the end thereof:

"6. For the eleventh (fiscal year 2009) and subsequent years of design, the procedures in Article II.G. of the Master Agreement shall be used to monitor each party's contributions for total design costs and to ensure that the combined contributions of the Non-Federal Sponsor for design and construction equal its 50 percent proportionate share for design and construction of projects implemented under the Comprehensive Plan. Any contribution of funds required by Article II.G.8. of the Master Agreement shall be provided in accordance with Article VII.C. of the Master Agreement."

6. Article IV.D. of the Design Agreement is amended as follows:

a. Delete the second sentence in its entirety.

b. Delete "also" from the third sentence.

7. Article IV.D.1. of the Design Agreement is amended as follows:

a. The first sentence is amended by replacing "Article II.C. of this Agreement is less than its required 50 percent share of total design costs plus costs due to additional" with "Articles II.F. and XIV. of this Agreement is less than its 100 percent share of costs due to additional".

b. The third sentence is amended by replacing "Non-Federal Sponsor's required 50 percent share of total design costs plus costs due to additional" with "Non-Federal Sponsor's required 100 percent share of costs due to additional".

c. The last sentence is amended by replacing "anticipated" with "additional".

8. Article IV.D.2 of the Design Agreement is amended as follows:

a. The first sentence is amended by replacing "its required 50 percent share of total design costs plus costs due to additional" with "its required 100 percent share of costs due to additional".

b. The second sentence is amended by deleting all text beginning with "or the Non-Federal may" to the end of the sentence.

9. Article IV of the Design Agreement is further amended by adding the following paragraph at the end thereof:


"E. The procedures in Article VII.H. of the Master Agreement shall be used to perform any interim or final accounting of the Non-Federal Sponsor's contributions for total design costs."

10. All other terms and conditions of the Design Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment Number Two, which shall become effective upon the date it is signed by the Principal Deputy Assistant Secretary of the Army (Civil Works).

DEPARTMENT OF THE ARMY

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

BY:   
Terrence C. Salt  
Principal Deputy  
Assistant Secretary of the Army  
(Civil Works)

BY:   
Eric Baermann  
Chair

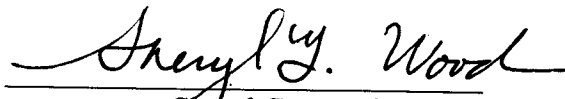
Date: 8/13/09

Date: 8/13/09

CERTIFICATE OF AUTHORITY

I, Sheryl G. Wood, 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 the Amendment Number Two to the Design Agreement between the Department of the Army and the South Florida Water Management District in connection with design of projects under the Comprehensive Everglades Restoration Plan, and that the persons who have executed this Amendment Number Two to the Design Agreement on behalf of the South Florida Water Management District have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this  
13th day of August 2009.

  
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Sheryl G. Wood *ATC*  
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 Section 1352, Title 31, U.S. Code. 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.



Eric Huermann  
Chair  
South Florida Water Management District

DATE: \_\_\_\_\_

8/13/09