

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	_____	4,197,132	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	<3,041,844>	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	<200,000>	_____	_____	_____
NET FISCAL IMPACT	_____	955,288	_____	_____	_____
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes ___ No X
 Budget Account No.:

Fund _____ Agency _____ Org. _____ Object _____
 Fund _____ Agency _____ Org. _____ RSRC _____

Reporting Category

B. Recommended Sources of Funds/Summary of Fiscal Impact

\$3,041,844 United States of America Natural Resources Conservation Service
 \$ 955,288 Natural Areas Fund (match)
 \$ 200,000 (in-kind match)

C. Department Fiscal Review: *JP*

III. REVIEW COMMENTS

A. OFMB Fiscal and /or Contract Administrator Comments:

Elizabeth Blasen *John S. Jaat*
 7/19/07 OFMB 7/19/07 Contract Administrator 7/19/07

B. Legal Sufficiency:
[Signature] 7/19/07
 Assistant County Attorney

This item complies with current County policies.

C. Other Department Review:

Department Director

Summary (continued): The proposed restoration activities for the SCER Project include: 1) mechanical removal of exotic vegetation, primarily Australian pine, from the spoil piles that were excavated along two parallel ditches (2.7 miles in length) and along perimeter ditches (8.5 miles), 2) removal of spoil piles (berms) to fill major ditches (2.7 miles), perimeter ditches (8.5 miles), and internal ditches (5.5 miles), and ground control treatment of exotic vegetation (primarily Brazilian pepper, climbing fern, and Australian pine) for the entire project area (1699 acres). For the WWNAR Project, the hydrological restoration includes enhancing hydrology on site by constructing a water control structure along the east side of the property that will raise the water control elevation from 9 feet to 13 feet NGVD. A hydrological barrier will be installed along the southern boundary of the property to minimize seepage loss to the Northern Palm Beach County Improvement District EPB-10 canal and City of Riviera Beach wellfield. Additionally, 2 acres of existing ditches will be enhanced by backfilling with appropriate material to a natural wetland grade and exotic vegetation removal will be conducted. Districts 1 and 2 (SF)

Background and Policy Issues: The 11,012-acre Loxahatchee Slough Natural Area forms a significant portion of the headwaters and flood plain of the Loxahatchee River. The 1699-acre SCER Project area is primarily composed of wetland herbaceous and cypress sloughs, hydric pine flatwoods, and oak hammock vegetation communities that occur along the western edge of the central Loxahatchee Slough. The SCER Project area was ditched and drained, primarily in the 1940's and 50's, for agriculture purposes. The long linear canals were added after the farm areas were abandoned and correspond with the creation of the C-18 Canal in the late 1950's. The intent of the SCER Project is to restore the wetlands by removing exotic and nuisance vegetation and filling or plugging the large drainage ditches running through the property.

Invasive, exotic vegetation infestations have reduced the ability of the wetlands to filter and store water, and have reduced their habitat value for wildlife, including several listed species known to occur in the area. Removing exotic vegetation will improve the functionality of the wetlands and allow them to store more water and prepare the site for filling the ditches. Filling and plugging ditches will help attenuate storm water surges to the Loxahatchee River while also improving the quality of the surface water reaching the river. It will also help extend base flows to the river and help re-establish suitable habitat for listed species.

The SCER Project is part of a watershed-based effort to protect the Loxahatchee River. The purpose of this project is to address the problems associated with hydrological changes in the Loxahatchee Slough basin caused by the detrimental effects of historic drainage ditches in the area. Removal of invasive exotic vegetation will help insure the long-term survival of the diverse habitats and natural communities, along with at least 36 listed plant and animal species. This project will provide enhancement of water resources benefiting the Loxahatchee River including natural water quality improvement, stormwater attenuation and base-flow maintenance.

The approximately 550-acre WWNAR Project area is located in north-central Palm Beach County immediately south of Dyer Park on Haverhill Road. The Winding Waters Natural Area is an upland/wetland mosaic comprised of pine flatwoods, wet prairie, cypress forest, and prairie hammock that has been highly impacted by agriculture. The proposed restoration project includes construction of a 171-acre wetland system consisting of shallow water marsh (67 acres), deep water marsh (73 acres), 7 existing islands of native vegetation (15 acres), shallow pond (10 acres), wading bird foraging flats and moats (6 acres), and 2.8 miles of navigable canoe trail. After completion of the wetland creation/restoration, and when capital improvement funds are available, public-use facilities will be constructed to allow for visitor use, including an Americans with Disabilities Act accessible nature trail, unimproved hiking trail, elevated boardwalk, and canoe trail for wildlife observation and other passive recreational uses. Access to these facilities is proposed to be through Dyer Park.

**RESTORATION COST-SHARE
PROJECT AGREEMENT**
Between the
UNITED STATES OF AMERICA
NATURAL RESOURCES CONSERVATION SERVICE
And the
PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

This Cooperative Agreement (Agreement) is entered into as of this _____ day of _____, 2007 between the United States Department of Agriculture – Natural Resources Conservation Service (hereinafter “NRCS”), and the Palm Beach County Board of County Commissioners (hereinafter “County”). For purposes of this Agreement, the NRCS and the County are referred to collectively as “the parties.”

AUTHORITY

- A. For the NRCS: The NRCS enters into this Agreement under the authorities of the Commodity Credit Charter Act, (15 U.S.C. 714 et seq.); the Food Security Act of 1985, as amended (16 U.S.C. 3837 et seq.); 7 CFR Part 1467; and Public Law 105-277, Section 717; Public Law 106-387, Section 714.
- B. For the County: The County enters into this Agreement under the authority of Section 373.083, Florida Statutes, which authorizes the County’s Governing Board to enter into agreements with other public agencies to accomplish the directives and goals of Chapter 373, Florida Statutes; and Section 125.01, Florida Statutes, which authorizes that County to enter into agreements with other governmental entities for joint performance, or performance of one unit on behalf of the other and authorizes the County to perform all acts in the common interest not inconsistent with the law.

BACKGROUND AND PURPOSE

WHEREAS, the parties have a mutual interest in restoring and protecting wetlands and associated uplands within the County;

WHEREAS, under the provisions of the Wetlands Reserve Program (WRP) the County and the NRCS have agreed to provide for the restoration of properties to be described as the Loxahatchee Slough – Sandhill Crane East (hereinafter “Property”) to be detailed in a site-specific Restoration Plan to be developed under this Agreement. See Attachment E – Maps.

NOW THEREFORE, the NRCS and the County deem it mutually advantageous to cooperate in this undertaking and hereby agree as follows.

ATT. # 1

A. The County Agrees to:

1. Provide matching funds or in-kind services in the amount of 25% of the overall restoration cost estimated to be **\$2,055,792**. The amount to be expended by the County under this Agreement shall not exceed **\$513,948**. The parties may agree to spend in excess of the estimated amount by written amendment to this Agreement. All County funding obligations under this Agreement are subject to the availability of future appropriations and budgetary approval by the County Governing Board. If the actual cost for implementing the approved Final Restoration Plan exceeds the estimated \$2,055,792 total cost, then the County agrees to seek Governing Board approval of additional funding in future fiscal years as necessary to provide 25% of the total restoration cost.
2. Develop a Restoration Plan for the Property with input from an interagency team including but not limited to the following government agencies: U.S. Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission. The plan shall be completed within three months of the execution of this Agreement. The plan will include a description of restoration activities to be employed, including, but not limited to the following: a) backfilling and/or plugging of ditches and canals to restore a more natural hydrologic regime; b) installation of new water control structures, modifications to existing water control structures, and/or installation of perimeter berms and canals, as needed, to restore wetlands on the easement properties without adversely impacting water levels on adjacent landowner properties; c) physical removal and treatment of invasive exotic and native nuisance vegetation; d) roller chopping; e) prescribed burning; and f) vegetation planting as necessary, to maintain high quality wildlife habitat in the wetlands and associated uplands. Once developed, the Restoration Plan will be submitted to NRCS for approval. After the plan is approved an approval letter will be forwarded to the County. It will serve as the guiding document for restoring the property unless changed by a duly executed amendment to this Agreement by both parties.
3. Develop final engineering plans and specifications in conformance with NRCS standards. The draft engineering plans and specifications will be submitted to NRCS (60% completion level at a minimum) for concurrence as such are prepared by the County or received by the County from its consultants. The final design shall be submitted to NRCS for approval before construction is initiated.
4. Prior to commencing restoration activities, submit detailed work plans, schedule, budget and cost-share breakdown for review and approval by NRCS. The schedule, budget and cost-share breakdown will be based on the approved Restoration Plan. The cost-share breakdown will identify those costs to be credited toward the County's 25% cost-share and those activities and costs for which the County will request reimbursement payment from NRCS pursuant to paragraph C.2.

5. Obtain all necessary local, state, and federal permits prior to commencing restoration activities.
6. Perform restoration activities in accordance with the approved Final Restoration Plan with cost-share provided by the NRCS on a reimbursement basis. Restoration shall be initiated within one year of the execution of this Agreement.
7. Maintain all restoration improvements for a **minimum of 10 years** beyond the date that all restoration practices have been effectively implemented.
8. Designate a project manager and contact person for this project.
9. Request reimbursement quarterly by submitting a completed form AD-1161, Request for Advance or Reimbursement, with supporting documentation to NRCS. The documentation shall include (but not limited to) GIS shape files of completed practices, maps, pictures, and a narrative relative the completed practices. Include a Vendor Identification Number (VIN) on the second line of the remittance address on all AD-1161 forms submitted for payment in order for NRCS to make payment by electronic funds transfer.

Submit form AD-1161 and supporting documents to:

Title:	Wetlands Reserve Program Coordinator
Name:	Ronald Howard
Address:	USDA-NRCS P.O. Box 141510 Gainesville, Florida 32614-1510
Telephone No.	(352) 338-9508
Facsimile No.	(352) 338-9578
Email Address:	ron.howard@fl.usda.gov

10. Obtain a Vendor Identification Number (VIN) if the County does not currently have one. VIN can be obtained as follows:

Contact the Miscellaneous Payment Section of the National Finance Center (NFC) to request an Enrollment Package. The telephone number is 800-421-0323. The package will include a nine-digit Vendor Identification Number (VIN). Complete the enrollment package, which includes a section for the financial institution to complete, and return the package to the NFC. Follow up with the NFC to ensure that VIN is coded as "Active" prior to submitting first payment request.

11. Comply with Attachment A – Scope of Work, Attachment B – Special Provisions, Attachment C – Special Provisions for Construction, and Attachment D – WRP Restoration Cost-Share Agreement Violations.

B. The NRCS agrees to:

1. Provide cost-share funding, on a reimbursement basis, in the amount of 75% of the overall restoration cost estimated to be **\$2,055,792**. The amount to be expended by NRCS under this Agreement shall not exceed **\$1,541,844**. The parties may agree to spend in excess of the estimated amount by written amendment to this Agreement. If the actual costs for implementing the approved Restoration Plan exceeds the estimated \$2,055,792 total cost, then the NRCS agrees to request additional WRP fund allocation(s) in future fiscal years as necessary to provide 75% of the total restoration cost.
2. Provide technical staff to support the interagency team for development, review, and concurrence with the Restoration Plan.
3. Provide technical staff to support the interagency team for development, review, and concurrence with the restoration design.
4. Provide technical support, as needed, during the restoration construction period.
5. Designate a project manager and contact person for this project.
6. Request additional WRP funds in future fiscal years, as necessary, for repairs and enhancements to preserve and protect the wetland and upland functions of the lands covered by this Agreement.
7. Reimburse upon receipt and approval of form AD-1161. Items of work approved for reimbursement are shown in Attachment A.

C. It is mutually understood and agreed:

1. TERM. This agreement shall commence upon the last date of execution by the NRCS and the County and shall continue until **September 30, 2010**, provided that such continuation does not extend the agreement beyond the fiscal year in which the work is completed.
2. METHOD OF PAYMENT. After approval of a Restoration Plan by NRCS in accordance with paragraphs A.2 and A.3, the County will conduct restoration activities in accordance with the approved plan. After completion of restoration activities outlined in the Restoration Plan, the County will supply NRCS with invoices for all work completed. The invoice shall differentiate between which costs are to be credited and which are to be reimbursed. The County will be paid by NRCS cost reimbursement basis or receive written notification of credit within a 30-day period following receipt of the invoices. Attachment A, Scope of Work, attached hereto and made an integral part of this Agreement, provides a description of the anticipated major project activities to be completed.

3. **INTENT TO COOPERATE.** It is the intent of the NRCS and the County to fulfill their obligations under this agreement. However, commitments cannot be made beyond the period for which funds have been appropriated. In the event funds from which the NRCS or the County may fulfill their obligations are not appropriated, the parties agree to notify each other in writing and this Agreement is subject to termination in accordance with paragraph C.4 below. Reimbursement will then be for work completed that is otherwise eligible for reimbursement prior to the effective date of termination.
4. **TERMINATION.** This agreement may be terminated by either party giving a thirty (30) day advance written notice to the other party. Either party may unilaterally cancel this agreement for refusal by the other party to allow public access to documents or other materials related to this agreement for compliance with the provisions of the Freedom of Information Act or Chapter 119 of the Florida Statutes, as amended. Each party shall comply with their own statutes. Termination of this Agreement by either party as provided herein shall be effective on the date specified in the termination notice.
5. **MODIFICATION.** This agreement may be modified by amendment duly executed by authorized officials of the County and the NRCS, provided such modification does not extend this agreement beyond the close of the fiscal year in which the work is completed.
6. **TERMINATION FOR CAUSE.** Either the County or NRCS may terminate this Agreement in whole or in part if the terminating party determines the other party has violated the terms of this Agreement. Violations to this Agreement shall be handled in accordance with Attachment D. The terminating party shall promptly notify the other party in writing of the determination and reasons for the termination, together with the effective date; provided however, the terminating party shall provide the other party with a minimum of sixty (60) days in which to cure or remedy any such violation prior to the effective termination date. Payments made by or recoveries by NRCS under this termination shall be in accord with the legal rights and liabilities of NRCS and the County. If the County terminates this Agreement for Cause, NRCS shall reimburse the County for restoration activities that otherwise qualify for reimbursement hereunder and that the County has completed or is contractually obligated to complete.
7. **SUSPENSION FOR CAUSE.** This Agreement may be temporarily suspended by NRCS or the County if either party determines that corrective action is needed to meet the provisions of this Agreement. Further, either NRCS or the County may suspend this Agreement when it is evident that a termination is pending. Violations to this Agreement shall be handled in accordance with Attachment D.
8. **ADMINISTRATION.** This agreement shall be administered in accordance with the provisions of OMB circulars A-87, A-102, and A-133, 7 CFR 3016, 7 CFR 3017, 7 CFR 3018, and 7 CFR 3052.
9. **OFFICIALS NOT TO BENEFIT.** No member of Congress or Resident Supervisor shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom; but this shall not be construed to extend to this agreement if made with a corporation for its general benefit.

10. RECORDS. Each party agrees that the other party or their duly authorized representative shall have access to the other party's books, papers, documents, and records relative to this agreement for a period of three (3) years after the final expenditure of funds under this agreement.

11. PROJECT MANAGERS. Designated project managers shall be responsible for overall coordination and oversight of all matters relating to this agreement.

The Project Manager for the County is:

Frank Griffiths
Palm Beach County Department of Environmental Resources Management
2300 N. Jog Road
West Palm Beach, FL 33411
Phone: (561) 233-2486
FAX: (561) 233-2414

The Project Manager for the NRCS is:

Ronald Howard
USDA – Natural Resources Conservation Service
2614 N.W. 43rd Street
Gainesville, FL 32606-6611
Phone: (352) 338-9508
FAX: (352) 338-9578

The parties agree to direct all matters arising in connection with this agreement to the project managers for attempted resolution or action. All notices regarding this agreement shall be reduced to writing and shall be sent via certified mail to the project managers and shall be considered delivered upon receipt.

12. NON-DISCRIMINATION. By signing this agreement the recipient assures the U.S. Department of Agriculture that the program or activities provided for under this agreement will be conducted in compliance with all applicable Federal civil rights laws, rules, regulations, and policies. This shall satisfy the requirements of Chapter 760 of the Florida Statutes.

13. COUNTY PROVIDER. Employees of the County shall remain its employees while carrying out their duties under this Agreement and shall not be considered as Federal employees or agents of the United States for any purpose under this agreement.

**ATTACHMENT A
SCOPE OF WORK
LOXAHATCHEE SLOUGH- SANDHILL CRANE EAST**

PROJECT DESCRIPTION: The 11,012-acre Loxahatchee Slough Natural Area forms a significant portion of the headwaters and flood plain of the Loxahatchee River. Palm Beach County purchased the property from John D. and Catherine T. MacArthur Foundation October 10, 1996. The project area is primarily composed of wetland herbaceous and cypress sloughs, hydric pine flatwoods, and oak hammock vegetation communities that occur along the western edge of the central Loxahatchee Slough.

The Sandhill Crane site is in the western portion of the Loxahatchee Slough that was ditched and drained, primarily in the 1940's and 50's, for agriculture purposes. The agricultural areas were developed sequentially over a number of years and were used for tomato farming. After a couple of years they were abandoned and used as pastures. The long linear canals were added after the farm areas were abandoned and correspond with the creation of the C-18 Canal in the late 1950's. The western portion of the Sandhill Crane site was restored by the South Florida Water Management District, and is in the process of being turned over to Palm Beach County for management. The intent of the Sandhill Crane East Restoration Project (1699 acres) is to restore the wetlands by removing exotic and nuisance vegetation and filling or plugging the large drainage ditches running through the property.

Invasive, exotic vegetation infestations have reduced the ability of the wetlands to filter and store water, and have reduced their habitat value for wildlife, including several listed species known to occur in the area. Removing exotic vegetation will improve the functionality of the wetlands and allow them to store more water and prepare the site for filling the ditches. Filling and plugging ditches will help attenuate storm water surges to the Loxahatchee River while also improving the quality of the surface water reaching the river. It will also help extend base flows to the river and help re-establish suitable habitat for listed species.

The proposed restoration activities include but are not limited to the following:

- Mechanical removal of exotic vegetation, primarily Australian pine, from the spoil piles that were excavated along two parallel ditches (2.7 miles in length) and along perimeter ditches (8.5 miles). Estimated cost is \$331,320.
- Remove spoil piles (berms) to fill major ditches (2.7 miles), perimeter ditches (8.5 miles), and internal ditches (5.5 miles). Estimated cost is \$705,672.
- Ground control treatment of exotic vegetation (primarily Brazilian pepper, climbing fern, and Australian pine) for the entire project area (1699 acres). Estimated cost is \$1,018,800.

Total project cost estimate is \$2,055,792.

PROJECT BENEFITS:

The project is part of a watershed-based effort to protect the Loxahatchee River.

- The purpose of this project is to address the problems associated with hydrological changes in the Loxahatchee Slough basin caused by the detrimental effects of historic drainage ditches in the area.
- Removal of invasive exotic vegetation will help insure the long-term survival of the diverse habitats and natural communities, along with at least 36 listed plant and animal species.
- This project will provide enhancement of water resources benefiting the Loxahatchee River including natural water quality improvement, stormwater attenuation and base-flow maintenance.
- A portion of the cleared Australian pine spoil berm will be used as part of the Ocean to Lake Trail, a State designated greenway trail.

ATTACHMENT B – SPECIAL PROVISIONS

- I. DRUG-FREE WORKPLACE CERTIFICATION
- II. CERTIFICATION REGARDING LOBBYING
- III. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS-PRIMARY COVERED TRANSACTIONS
- IV. CLEAN AIR AND WATER CERTIFICATION
- V. ASSURANCES AND COMPLIANCE
- VI. EXAMINATION OF RECORDS

ATTACHMENT B – SPECIAL PROVISIONS

The Recipient agrees to comply with the following special provisions which are hereby incorporated into this Agreement.

I. Drug Free Workplace

By signing this Agreement, the recipient is providing the certification set out below. If it is later determined that the recipient knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the Department of Agriculture Natural Resources Conservation Service (hereinafter "NRCS"), in addition to other remedies available to the Federal Government, may take action under the Drug-Free Workplace Act.

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. § 812) and as further defined by regulation (21 C.F.R. §§ 1308.11 through 1308.15);

Conviction means a finding of (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal and State criminal drug statutes;

Criminal drug statute means a Federal or State criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a recipient directly engaged in the performance of work for which the NRCS is providing funding, including (i) All direct charge employees; (ii) All indirect charge employees, unless their impact or involvement is insignificant to the work performed by the recipient; and (iii) Temporary personnel and consultants who are directly engaged in the work performed by the recipient and who are on the recipient's payroll. This definition does not include workers not on the payroll of the recipient (e.g., volunteers, even if used to meet matching requirements; consultants or independent contractors not the recipient's payroll, or employees of subrecipients or subcontractors in covered workplaces).

CERTIFICATION.

A. The recipient certifies that it has or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

- (1) The danger of drug abuse in the workplace;
- (2) The recipient's policy of maintaining a drug-free workplace;

- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the Program be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment by the recipient, the employee will:
- (1) Abide by the terms of the statement; and
 - (2) Notify the recipient in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the NRCS in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every NRCS officer or other designee on whose recipient activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notice. Notice shall include the identification number(s) of the recipient.
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted:
- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; of
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a) through (f).
- (h) Agencies shall keep the original of all disclosure reports in the official files of the agency.
- B. The recipient may provide a list of the site(s) for the performance of work done in connection with the Program described in this Agreement.

II. Certification Regarding Lobbying (7 C.F.R. § 3018) (Applicable if this agreement exceeds \$100,000)

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the recipient, to any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, and officer or employee of Congress, or 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 recipient 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.

III. Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions, (7 C.F.R. § 3017)

- (1) The recipient certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of awards, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this cooperative agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the primary recipient is unable to certify to any of the statements of this certification, such prospective participant shall attach an explanation to this Agreement.

IV. Clean Air and Water Certification (Applicable if this agreement exceeds \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. § 1857c-8(c)(1)) or the Federal Water Pollution Control Act (33 U.S.C. § 1319(c)) and is listed by EPA, or is not otherwise exempt.)

The recipient signatory to this Agreement certifies as follows:

(a) Any facility to be utilized in the performance of this proposed agreement is _____, is not x listed on the Environmental Protection Agency List of Violating Facilities.

(b) To promptly notify the State or Regional Conservationist prior to the signing of this Agreement by the NRCS, of the receipt of any communication from the Director, Office of Federal Activities, U.S. Environmental Protection Agency, indicating any facility which he/she proposes to use for the performance of the agreement under consideration to be listed on the Environmental Protection Agency List of Violating Facilities.

(c) To include substantially this certification, including this subparagraph (c), in every nonexempt subagreement.

Clean Air and Water Clause

(Applicable only if this agreement exceeds \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. § 1857c-8(c)(1)) or the Federal Water Pollution Control Act (33 U.S.C. § 1319(c)) and is listed by EPA, or the agreement is not otherwise exempt.)

A. The recipient agrees as follows:

(1) To comply with all the requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. § 1857, et seq., as amended by Public Law 91-604) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. § 1251, et seq., as amended by Public Law 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water

Act, respectively, an all regulations and guidelines issued thereunder before the signing of this Agreement by the NRCS.

- (2) That no portion of the work required by this Agreement will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this Agreement was signed by the NRCS unless and until the EPA removes the name of such facility or facilities from such listing.
- (3) To use their best efforts to comply with clean air standards and clean water standards at the facilities at which the work under this Agreement is being performed.
- (4) To insert the substance of the provisions of this clause in any nonexempt subagreement, including this subparagraph A.

B. The terms used in this clause have the following meanings:

- (1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. § 1857 et seq., as amended by Public Law 91-604).
- (2) The term "Water Act" means the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq., as amended by Public Law 92-500).
- (3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. § 1857c-5(d)), an approved implementation procedure or plan under section 111(c) or section 111(d), respectively, of the Air Act (42 U.S.C. § 1857c-6(c) or (d)), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. § 1857c-7(d)).
- (4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standards, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. § 1342), or by a local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. § 1317).
- (5) The term "compliance" means compliance with the clean air or water standards. Compliance shall also mean compliance with the schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency, or any air or water pollution control issued pursuant thereto.
- (6) The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location or site of operations owned, leased or supervised by a recipient, to be utilized in the performance of an agreement or subagreement. Where a location or site

of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are located in one geographical area.

V. Assurance and Compliance

As a condition of the grant or cooperative agreement, the recipient assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive Orders and other generally applicable requirements, including those set out in 7 C.F.R. §§ 3015, 3016, 3017, 3018, 3019 and 3052, which are hereby incorporated in this Agreement by reference, and such other statutory provisions as are specifically set forth herein.

VI. Examination of Records

Give the NRCS or the Comptroller General, through any authorized representative, access to and the right to examine all records, papers, or documents related to this Agreement under the procedures set forth under Section (C)(8) of the Agreement. Retain all records related to this Agreement for a period of three years after the completion of the terms of this Agreement in accordance with the applicable OMB Circular.

ATTACHMENT C – SPECIAL PROVISIONS FOR CONSTRUCTION

- I. EQUAL OPPORTUNITY (SCS-AS-83)
- II. EQUAL OPPORTUNITY (FEDERAL ASSISTED CONSTRUCTION) (SCS-AS-83)
- III. NOTICE TO CONTRACTING LOCAL ORGANIZATION OF REQUIREMENTS FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES
- IV. NOTICE TO PROSPECTIVE FEDERALLY ASSISTED CONSTRUCTION CONTRACTORS
- V. NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES
- VI. CERTIFICATION OF NONSEGREGATED FACILITIES (SCS-AS-818)
- VII. STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

I. EQUAL OPPORTUNITY

The Contracting Local Organization agrees to incorporate, or cause to be incorporated, into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is paid for, in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following Equal Opportunity (Federally Assisted Construction) clause:

II. EQUAL OPPORTUNITY (FEDERALLY ASSISTED CONSTRUCTION)

During the performance of this contract the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. 'The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff determination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity (Federally Assisted Construction) clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The Contractor will send to each labor union or representative of workers, with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Contractor's noncompliance with the Equal Opportunity (Federally Assisted Construction) clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

7. The Contractor will include this Equal Opportunity (Federally Assisted Construction) clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Contracting Local Organization further agrees that it will be bound by the above Equal Opportunity (Federally Assisted Construction) clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, however, that if the Contracting Local Organization so participating is a State or local government, the above Equal Opportunity (Federally Assisted Construction) clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Contracting Local Organization agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the Equal Opportunity (Federally Assisted Construction) clause and the rules, regulations and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Contracting Local Organization further agrees that it will refrain from entering into any contractor contract modification subject to Executive Order No. 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity (Federally Assisted Construction) clause as may be imposed upon Contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part 11, Subpart D, of the Executive Order. In addition, the Contracting Local Organization agrees that if it fails or refuses to comply with these undertakings the administering agency may take any or all of the following actions: Cancel, terminate, or suspend, in whole or in part, this grant; refrain from extending any further assistance to the Contracting Local Organization under the program with respect to which its failure or refusal occurred until satisfactory assurance of future compliance has been received from such Contracting Local Organization; and refer the case to the Department of Justice for appropriate legal proceedings.

III. NOTICE TO CONTRACTING LOCAL ORGANIZATIONS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

- (a) A Certification of Nonsegregated Facilities must be submitted by the Contracting Local Organization prior to any agreement for Federal financial assistance where the

Contracting Local Organization will itself perform a federally assisted construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.

- (b) The Contracting Local Organization shall notify prospective federally assisted construction contractors of the Certification of Nonsegregated Facilities required, as follows:

IV. NOTICE TO PROSPECTIVE FEDERALLY ASSISTED CONSTRUCTION CONTRACTORS

- (a) A Certification of Nonsegregated Facilities must be submitted prior to the award of a federally assisted construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.
- (b) Contractors receiving federally assisted construction contract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of the following notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.

V. NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

- (a) Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.
- (b) Contractors receiving subcontract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of this notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.

SCS-AS-818

Rev. 4-70

File Code AS-14

VI. CERTIFICATION OF NONSEGREGATED FACILITIES

(Applicable to federally assisted construction contracts and related subcontracts exceeding \$10,000 which are not exempt from the Equal Opportunity Clause.)

The federally assisted construction contractor certifies that he/she does not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she does not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The federally assisted construction contractor certifies further that he/she will not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she will not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The federally assisted construction contractor agrees that a breach of this section is a violation of the Equal Opportunity Clause in this contract. As used in this caption, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The federally assisted construction contractor agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that he/she will retain such certifications in his/her files.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1 001.

Contractor: _____

Signature: _____

Title _____ Date: _____

VII. STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS
(EXECUTIVE ORDER 11246)

1. As used in these specifications:
 - a. 'Covered area' means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract act Compliance Program, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security number used on the Employees Quarterly Federal Tax Return, U.S. Treasury Department Form 94 1.
 - d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);
and
 - (iv) American Indian or Alaskan Native (all groups having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000, the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which the contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through as association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO Clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The' overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractors or Subcontractors failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in Paragraphs 7. a. through 7. p. of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female tuition that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or Federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice of and such notices may be obtained from any Office of Federal Contract Compliance Programs or from Federal Procurement Contracting Officers. The Contractor is expected to make substantial uniform progress toward meeting goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractors obligations under these specifications, Executive Order 1 1246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractors compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all at which the Contractors employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractors obligations to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
 - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority and female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for

referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in a file with the reason therefore, along with whatever additional actions the Contractor may have taken.

- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process had impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities, and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under Paragraph 7.b. above.
- f. Disseminate the Contractors EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc. - specific review of the policy with all management personnel and with all minority and female employees at least once a year, and by posing the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and action obligations under these specifications with all employees having any responsibility for hiring, assessment, layoff, termination, or their employment decisions, including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contract's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations to schools with minorities and female students and to minority and female recruitment and training organizations, serving the Contractors recruitment area and employment needs. Not later than one month prior to the date for the acceptance of the applications for apprenticeship or other, training by any recruitment sources, the Contractor shall send written notification, to organizations such as the above, describing the openings, screening procedure, and tests to be used in the selection process. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractors workforce.

- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of the Contractors workforce.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classification work assignments, and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to ensure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisor adherence to and performance under the Contractors EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in achieving one or more of the affirmative action obligations (Paragraphs 7.a. through 7.p.). The efforts of a contractor association, joint contractor-union, contractor-community, or other share group of which the Contractor is a member and participants may be asserted as to any one or more of its obligations under Paragraphs 7.a. through 7.p. of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractors minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables of affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easy understandable and retrievable form however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.
14. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in Paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 604.8.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

**ATTACHMENT D - WETLANDS RESERVE PROGRAM
RESTORATION COST-SHARE AGREEMENT
VIOLATIONS**

CAUSES:

- (a) Noncompliance. Failure to comply with all terms and conditions of the contract is noncompliance. This includes but is not limited to, failure to carry out the long term contract as scheduled, failure to begin within a 12-month period, failure to meet specifications for establishing practices, failure to satisfactorily complete or maintain all contract items, or failure of a practice because of circumstances within the control of the participant. If the participant removes the cause for noncompliance, a violation can be avoided.
- (b) Practice destruction. Destruction of a practice established under the terms of the contract without the approval of the NRCS or failure to apply compensatory treatment for a destroyed practice.
- (c) False application for payment. Filing a false application for cost-share payments.
- (d) Failure to complete contract items. Failure to satisfactorily complete all contract items before the contract expires.
- (e) Transfer of land under contract. If the transferee will not assume the obligations of the contract with respect to the transferred acreage, the transferor is subject to forfeiture and refund of payments received on the transferred acreage.
- (f) Discontinuation of an activity. If, upon notification by NRCS to discontinue application of a contract item because it may destroy or adversely impact an endangered species, significant cultural resource or historic FWMA that is known or suspected to be present, the participant elects to continue with the installation of the practice.

DETERMINATION OF VIOLATIONS:

- (1) If noncompliance is not resolved, the local NRCS office is to furnish the State Conservationist any information obtained that indicates a violation may have occurred. In every instance, the NRCS is required to ascertain if a violation has occurred and, if so, determine if a forfeiture, refund, payment adjustment, or termination is warranted.
- (2) The State Conservationist is to determine whether a violation or noncompliance did occur, and if the violation was of such a nature that a penalty of forfeiture, refund, payment adjustment or termination is necessary.
- (3) If a violation is apparent and forfeiture, refund, payment adjustment, or termination is required, the NRCS will send the participant a Notice of Preliminary Decision and Form NRCS-LTP-151. This notice is to be forwarded to the participant by certified mail-return receipt requested. A copy of the notice will be furnished to the NRCS State Office.

(4) If no violation occurred, or the violation was of such a nature that no penalty of forfeiture, refund, payment adjustment, or termination is necessary, no notice will be issued, and no further action will be taken.

VIOLATION PROCEDURES:

(a) Scope. This section prescribes the regulations dealing with contract violations. No cost-share payment shall be made pending the decision on whether a contract has been violated.

(b) Contents of Preliminary Decision. The Preliminary Decision will include the following information:

(1) The nature of the violation or noncompliance.

(2) The participant's right to request a field visit to gather additional information and discuss the facts concerning the preliminary decision.

(3) Notice that the preliminary decision will become final 30 days after issue, if a field visit is not requested.

(c) The Field Visit. A field visit should be conducted with the participant, NRCS, and a representative of the Conservation District, at the option of the district. Field visits should be conducted within 15 days of receipt of a request, unless there are delays due to weather. During the field visit the participant will be provided:

(1) an explanation regarding the basis for the preliminary decision, including information about the science and program rules impacting that decision; and

(2) an opportunity to provide any additional information relevant to the decision.

The basis for the preliminary decision will be documented in the administrative record.

(d) Notice of Final Decision. Following the field visit, or 30 days after the Preliminary Decision is issued, the designated conservationist will issue a Final Decision. All Final Decisions will be in writing, and will be sent certified mail, return receipt requested, or hand delivered. The Final decision shall include the participant's rights to:

(1) Mediation;

(2) An informal hearing before the State Conservationist; or

(3) A hearing before a National Appeals Division Hearing Officer in accordance with 7 CFR 11.

MEDIATION:

Mediation is a process, in which a trained, impartial person helps people to look at their mutual problems, identify and consider all available options, and determine if they can agree on a solution to the dispute that is within the statutory and regulatory provisions. In mediation, NRCS

representatives will try to set a positive, constructive tone, encouraging others to do the same. Mediation is private, confidential, and informal.

(a) **Preparing for mediation.** In preparation for mediation, NRCS should do a field visit, if one has not already been done, to ensure that the Preliminary Decision is correct and that all possible solutions are reviewed before mediation occurs.

(b) **Deadlines for completion.** The parties shall have not more than 30 days in which to reach an agreement. The mediator shall notify the designated conservationist in writing at the end of the period whether the parties reached an agreement.

(1) Any agreement reached during, or as a result of, the mediation process shall conform to the statutory, regulatory, and manual provisions governing the program.

(2) If the parties fail to reach an agreement within the specified period, the designated conservationist shall have 30 days after the mediator informs the parties that the mediation did not result in an agreement to issue a final decision.

(c) **Paying for mediation.** If requested by the participant, NRCS shall pay appropriate and reasonable costs associated with securing the services of a mediator. NRCS shall have the final discretion over what is considered appropriate and reasonable.

(d) **Mediator contact.** The participant will make all the necessary contacts to arrange for mediation. After selection of a mediator, the participant should inform NRCS that mediation is being requested.

APPEALS TO THE STATE CONSERVATIONIST:

After receiving a Notice of Final Decision from the designated conservationist, any participant may appeal the decision to the State Conservationist. A request for a hearing filed by a participant is considered to be a request by all participants who signed the contract. The request also supersedes any further bills for collection and interest charges if the violation involves refunds.

(a) **Appeal Requirements.** Each request for reconsideration or appeal shall be in writing and signed by the participant or authorized representative and shall provide the reasons why the participant believes that the facts of the case were not given proper consideration, or the law was incorrectly applied to the facts.

(b) **Appeal Deadline.** A request for appeal from any decision shall be filed within 30 days after the written notice is mailed to or otherwise made available to the participant.

(c) **Late-filed Appeals.** A request for appeal may be accepted and acted upon even though it is not filed within the time prescribed, if, in the judgment of the NRCS reviewing authority with whom the request is filed, the appellant shows good cause for not appealing within 30 days.

(1) The following are examples of good cause:

(i) NRCS decision was delayed in reaching the person. Refusal to receive a decision does not extend the time period.

(ii) Failure of NRCS to inform the person of appeal rights and provide the name and address of the next appeal level.

(iii) Conditions beyond the control of the participant, such as serious illness, being called into military service, etc.

(2) The following are not considered to be good cause:

(i) Change in ownership or operator.

(ii) Intent of the appellant to obtain additional data to support the appeal. The participant should appeal within the time limits and then request additional time to collect information.

(d) The Appeals Hearing. The appeal hearing proceeding shall be conducted with either an oral and written presentation or only a written presentation, as the participant specifies in the request. The hearing authority will:

(1) Determine the time and place of the hearing. A reasonable effort will be made to schedule the hearing at a time convenient to the appellant.

(2) Provide adequate notice to the appellant.

(3) Accommodate, as much as possible, for unusual circumstances such as special assistance with a foreign language or sign language interpreter; conducting the hearing by telephone if travel is difficult; or the assignment of a staff person or conservation district official to assist with interpretation of written materials.

(e) Hearing Participants. Persons other than the participant or authorized representative with personal or expert knowledge of the matters in dispute may make presentation on behalf of either party.

(f) Failure to Appear. If the participant or authorized representative does not appear at the scheduled time of the hearing, the reviewing authority may conclude the hearing. The reviewing authority may accept written information and evidence submitted by other persons at the hearing. If the participant does not appear at the hearing, the reviewing authority may make a decision based on the facts available, including any additional material previously submitted by the participant.

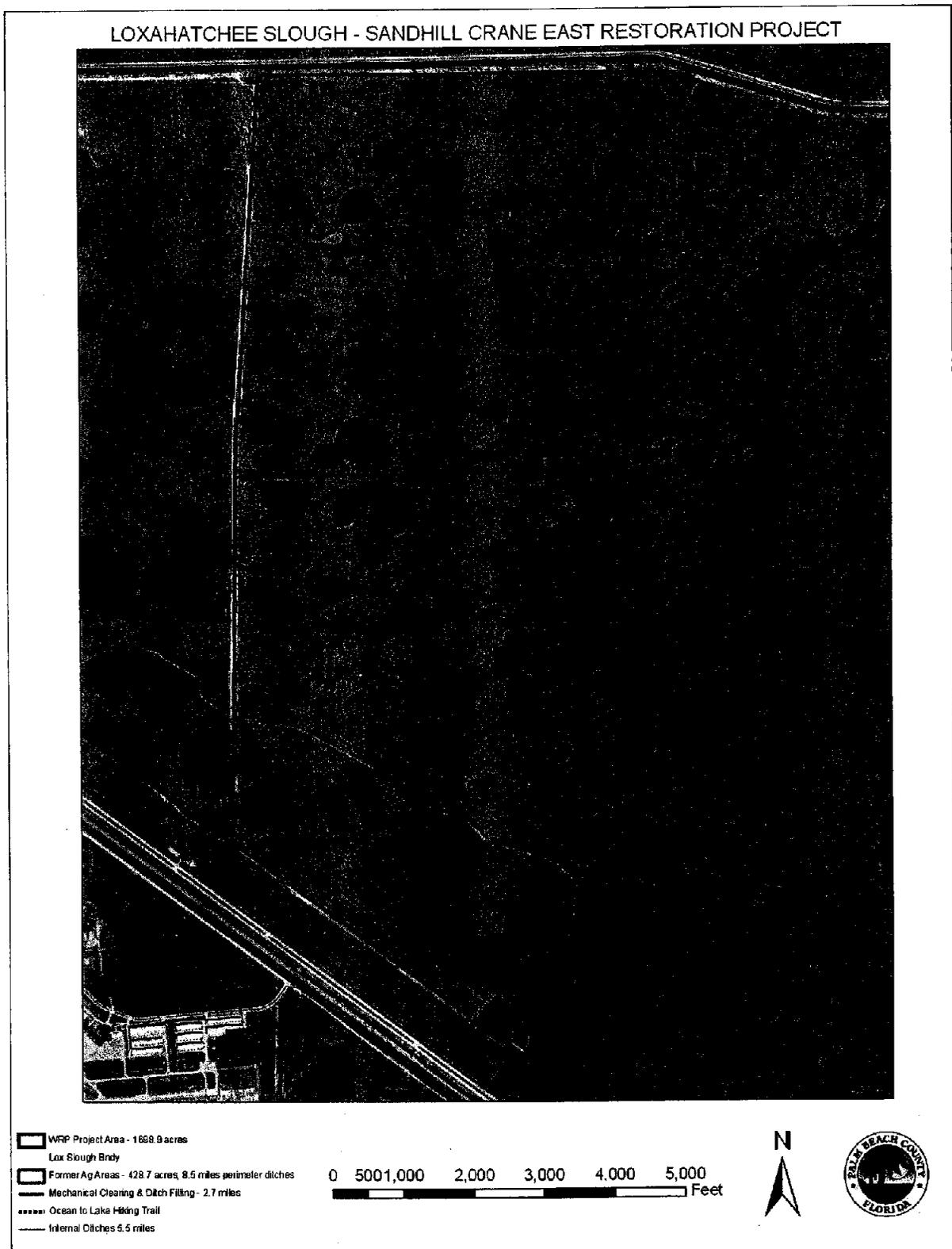
(g) Hearing Records. The administrative record should include either a transcript, recording, or a summary of the informal hearing. A verbatim transcript will be made if requested by the appellant, who pays the costs, or if requested by the reviewing authority, in which case, NRCS assumes the cost. If no transcript is made, the preference is to record the hearing on cassette and include the cassette in the administrative record.

(h) Decisions. The NRCS reviewing authority, prior to making a decision, may request the client to produce additional evidence deemed relevant, or may develop additional evidence from other sources. The reviewing authority may affirm, modify, or reverse any decision made initially by the

reviewing authority or a lower reviewing authority, or may remand the matter to a lower reviewing authority for further consideration as deemed appropriate. The participant shall be notified of the decision in writing.

Copies of documents, information, or evidence upon which a decision is made or which will form the basis of the decision shall be made available to the participant upon request. Any participant who is adversely affected by a decision of the State Conservationist may appeal to the National Appeals Division in accordance with regulations in 7 CFR 11. Where refunds are due, the appeal supersedes bills for collection and interest.

ATTACHMENT E – Maps



**RESTORATION COST-SHARE
PROJECT AGREEMENT**

Between the
**UNITED STATES OF AMERICA
NATURAL RESOURCES CONSERVATION SERVICE**
And the
PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

This Cooperative Agreement (Agreement) is entered into as of this ____ day of _____, 2007 between the United States Department of Agriculture – Natural Resources Conservation Service (hereinafter “NRCS”), and the Palm Beach County Board of County Commissioners (hereinafter “County”). For purposes of this Agreement, the NRCS and the County are referred to collectively as “the parties.”

AUTHORITY

- A. For the NRCS: The NRCS enters into this Agreement under the authorities of the Commodity Credit Charter Act, (15 U.S.C. 714 et seq.); the Food Security Act of 1985, as amended (16 U.S.C. 3837 et seq.); 7 CFR Part 1467; and Public Law 105-277, Section 717; Public Law 106-387, Section 714.
- B. For the County: The County enters into this Agreement under the authority of Section 373.083, Florida Statutes, which authorizes the County’s Governing Board to enter into agreements with other public agencies to accomplish the directives and goals of Chapter 373, Florida Statutes; and Section 125.01, Florida Statutes, which authorizes the County to enter into agreements with other governmental entities for joint performance, or performance of one unit on behalf of the other and authorizes the County to perform all acts in the common interest not inconsistent with the law.

BACKGROUND AND PURPOSE

WHEREAS, the parties have a mutual interest in restoring and protecting wetlands and associated uplands within the County;

WHEREAS, under the provisions of the Wetlands Reserve Program (WRP) the County and the NRCS have agreed to provide for the restoration of properties to be described as the Land Tract – Winding Waters (hereinafter “Property”) to be detailed in a site-specific Restoration Plan to be developed under this Agreement. See Attachment E – Maps.

NOW THEREFORE, the NRCS and the County deem it mutually advantageous to cooperate in this undertaking and hereby agree as follows.

ATT.# 2

A. The County Agrees to:

1. Provide matching funds or in-kind services in the amount of 30% of the overall hydrological restoration and exotic/nuisance vegetation removal and control costs estimated to be **\$2,141,340**. The amount to be expended by the County under this Agreement shall not exceed **\$641,340**. The parties may agree to spend in excess of the estimated amount by written amendment to this Agreement. All County funding obligations under this Agreement are subject to the availability of future appropriations and budgetary approval by the County Governing Board. If the actual cost for implementing the approved Final Restoration Plan exceeds the estimated **\$2,141,340** total cost, then the County agrees to seek Governing Board approval of additional funding in future fiscal years as necessary to provide 30% of the total restoration cost.
2. Develop a Restoration Plan for the Property with input from an interagency team including but not limited to the following government agencies: U.S. Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission. The plan shall be completed within three months of the execution of this Agreement. The plan will include a description of restoration activities to be employed, including, but not limited to the following: a) backfilling and/or plugging of ditches and canals to restore a more natural hydrologic regime; b) installation of new water control structures, modifications to existing water control structures, and/or installation of perimeter berms, seepage barriers and canals, as needed, to restore wetlands on the property without adversely impacting water levels on adjacent landowner properties; and c) physical removal and treatment of invasive exotic and native nuisance vegetation to maintain high quality wildlife habitat in the wetlands and associated uplands. Once developed, the Restoration Plan will be submitted to NRCS for approval. After the plan is approved, an approval letter will be forwarded to the County. It will serve as the guiding document for restoring the property unless changed by a duly executed amendment to this Agreement by both parties.
3. Develop final engineering plans and specifications in conformance with NRCS standards. The draft engineering plans and specifications will be submitted to NRCS (60% completion level at a minimum) for concurrence as such are prepared by the County or received by the County from its consultants. The final design shall be submitted to NRCS for approval before construction is initiated.
4. Prior to commencing restoration activities, submit detailed work plans, schedule, budget and cost-share breakdown for review and approval by NRCS. The schedule, budget and cost-share breakdown will be based on the approved Restoration Plan. The cost-share breakdown will identify those costs to be credited toward the County's 30% cost-share and those activities and costs for which the County will request reimbursement payment from NRCS pursuant to paragraph C.2.
5. Obtain all necessary local, state, and federal permits prior to commencing restoration activities.

6. Perform restoration activities in accordance with the approved Final Restoration Plan with cost-share provided by the NRCS on a reimbursement basis. Restoration shall be initiated within one year of the execution of this Agreement.
7. Maintain all restoration improvements for a **minimum of 10 years** beyond the date that all restoration practices have been effectively implemented.
8. Designate a project manager and contact person for this project.
9. Request reimbursement quarterly by submitting a completed form AD-1161, Request for Advance or Reimbursement, with supporting documentation to NRCS. The documentation shall include (but not be limited to) GIS shape files of completed practices, maps, pictures, and a narrative relative the completed practices. Include a Vendor Identification Number (VIN) on the second line of the remittance address on all AD-1161 forms submitted for payment in order for NRCS to make payment by electronic funds transfer.

Submit form AD-1161 and supporting documents to:

Title:	Wetlands Reserve Program Coordinator
Name:	Ronald Howard
Address:	USDA-NRCS P.O. Box 141510 Gainesville, Florida 32614-1510
Telephone No.	(352) 338-9508
Facsimile No.	(352) 338-9578
Email Address:	ron.howard@fl.usda.gov

10. Obtain a Vendor Identification Number (VIN) if the County does not currently have one. VIN can be obtained as follows:

Contact the Miscellaneous Payment Section of the National Finance Center (NFC) to request an Enrollment Package. The telephone number is 800-421-0323. The package will include a nine-digit Vendor Identification Number (VIN). Complete the enrollment package, which includes a section for the financial institution to complete, and return the package to the NFC. Follow up with the NFC to ensure that VIN is coded as "Active" prior to submitting first payment request.

11. Comply with Attachment A – Scope of Work, Attachment B – Special Provisions, Attachment C – Special Provisions for Construction, and Attachment D – WRP Restoration Cost-Share Agreement Violations.

B. The NRCS agrees to:

1. Provide cost-share funding, on a reimbursement basis, in the amount of 70% of the overall hydrological restoration and exotic/nuisance vegetation removal and control costs estimated to be **\$2,141,340**. The amount to be expended by NRCS under this Agreement shall not exceed **\$1,500,000**. The parties may agree to spend in excess of the estimated amount by written amendment to this Agreement. If the actual costs for implementing the approved Restoration Plan exceeds the estimated **\$2,141,340** total cost, then the NRCS agrees to request additional WRP fund allocation(s) in future fiscal years as necessary to provide 70% of the total restoration cost.
2. Provide technical staff to support the interagency team for development, review, and concurrence with the Restoration Plan.
3. Provide technical staff to support the interagency team for development, review, and concurrence with the restoration design.
4. Provide technical support, as needed, during the restoration construction period.
5. Designate a project manager and contact person for this project.
6. Request additional WRP funds in future fiscal years, as necessary, for repairs and enhancements to preserve and protect the wetland and upland functions of the lands covered by this Agreement.
7. Reimburse upon receipt and approval of form AD-1161. Items of work approved for reimbursement are shown in Attachment A.

C. It is mutually understood and agreed:

1. **TERM.** This agreement shall commence upon the last date of execution by the NRCS and the County and shall continue until **September 30, 2010**, provided that such continuation does not extend the agreement beyond the fiscal year in which the work is completed.
2. **METHOD OF PAYMENT.** After approval of a Restoration Plan by NRCS in accordance with paragraphs A.2 and A.3, the County will conduct restoration activities in accordance with the approved plan. After completion of restoration activities outlined in the Restoration Plan, the County will supply NRCS with invoices for all work completed. The invoice shall differentiate between which costs are to be credited and which are to be reimbursed. The County will be paid by NRCS cost reimbursement basis or receive written notification of credit within a 30-day period following receipt of the invoices. Attachment A, Scope of Work, attached hereto and made an integral part of this Agreement, provides a description of the anticipated major project activities to be completed.

3. **INTENT TO COOPERATE.** It is the intent of the NRCS and the County to fulfill their obligations under this agreement. However, commitments cannot be made beyond the period for which funds have been appropriated. In the event funds from which the NRCS or the County may fulfill their obligations are not appropriated, the parties agree to notify each other in writing and this Agreement is subject to termination in accordance with paragraph C.4 below. Reimbursement will then be for work completed that is otherwise eligible for reimbursement prior to the effective date of termination.
4. **TERMINATION.** This agreement may be terminated by either party giving a thirty (30) day advance written notice to the other party. Either party may unilaterally cancel this agreement for refusal by the other party to allow public access to documents or other materials related to this agreement for compliance with the provisions of the Freedom of Information Act or Chapter 119 of the Florida Statutes, as amended. Each party shall comply with their own statutes. Termination of this Agreement by either party as provided herein shall be effective on the date specified in the termination notice.
5. **MODIFICATION.** This agreement may be modified by amendment duly executed by authorized officials of the County and the NRCS, provided such modification does not extend this agreement beyond the close of the fiscal year in which the work is completed.
6. **TERMINATION FOR CAUSE.** Either the County or NRCS may terminate this Agreement in whole or in part if the terminating party determines the other party has violated the terms of this Agreement. Violations to this Agreement shall be handled in accordance with Attachment D. The terminating party shall promptly notify the other party in writing of the determination and reasons for the termination, together with the effective date; provided however, the terminating party shall provide the other party with a minimum of sixty (60) days in which to cure or remedy any such violation prior to the effective termination date. Payments made by or recoveries by NRCS under this termination shall be in accord with the legal rights and liabilities of NRCS and the County. If the County terminates this Agreement for Cause, NRCS shall reimburse the County for restoration activities that otherwise qualify for reimbursement hereunder and that the County has completed or is contractually obligated to complete.
7. **SUSPENSION FOR CAUSE.** This Agreement may be temporarily suspended by NRCS or the County if either party determines that corrective action is needed to meet the provisions of this Agreement. Further, either NRCS or the County may suspend this Agreement when it is evident that a termination is pending. Violations to this Agreement shall be handled in accordance with Attachment D.
8. **ADMINISTRATION.** This agreement shall be administered in accordance with the provisions of OMB circulars A-87, A-102, and A-133, 7 CFR 3016, 7 CFR 3017, 7 CFR 3018, and 7 CFR 3052.
9. **OFFICIALS NOT TO BENEFIT.** No member of Congress or Resident Supervisor shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom; but this shall not be construed to extend to this agreement if made with a corporation for its general benefit.

10. RECORDS. Each party agrees that the other party or their duly authorized representative shall have access to the other party's books, papers, documents, and records relative to this agreement for a period of three (3) years after the final expenditure of funds under this agreement.

11. PROJECT MANAGERS. Designated project managers shall be responsible for overall coordination and oversight of all matters relating to this agreement.

The Project Manager for the County is:

Steven Pisano
Palm Beach County
2300 N. Jog Road
West Palm Beach, FL 33411
Phone: (561) 233-2466
FAX: (561) 233-2414

The Project Manager for the NRCS is:

Ronald Howard
USDA – Natural Resources Conservation Service
2614 N.W. 43rd Street
Gainesville, FL 32606-6611
Phone: (352) 338-9508
FAX: (352) 338-9578

The parties agree to direct all matters arising in connection with this agreement to the project managers for attempted resolution or action. All notices regarding this agreement shall be reduced to writing and shall be sent via certified mail to the project managers and shall be considered delivered upon receipt.

12. NON-DISCRIMINATION. By signing this agreement the recipient assures the U.S. Department of Agriculture that the program or activities provided for under this agreement will be conducted in compliance with all applicable Federal civil rights laws, rules, regulations, and policies. This shall satisfy the requirements of Chapter 760 of the Florida Statutes.

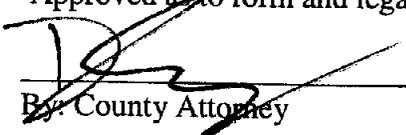
13. COUNTY PROVIDER. Employees of the County shall remain its employees while carrying out their duties under this Agreement and shall not be considered as Federal employees or agents of the United States for any purpose under this agreement.

IN WITNESS WHEREOF, the following authorized representatives of the United States and the County have executed this Agreement:

PALM BEACH COUNTY,
Board of County Commissioners

By: Addie L. Greene, Chairperson

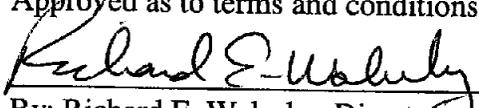
Approved as to form and legal sufficiency



By: County Attorney

7/9/07
Date

Approved as to terms and conditions



By: Richard E. Walesky, Director Date

7/9/07
Department of Environmental Resources Management

United States Department of Agriculture
Natural Resources Conservation Service

By: _____
Florida State Conservationist Date

By: _____
NRCS Contracting Officer Date

**ATTACHMENT A
SCOPE OF WORK
WINDING WATERS**

The approximately 550-acre project area is located in north-central Palm Beach County in Section 35, Township 42 south, Range 42 east. The site is an upland/wetland mosaic comprised of pine flatwoods, wet prairie, cypress forest, and prairie hammock that has been highly impacted by agriculture and offsite drainage. The project includes enhancing hydrology on site by constructing a water control structure along the east side of the property that will raise the water control elevation from 9 feet to 13 feet NGVD and installing a hydrological barrier along the southern boundary of the property to minimize seepage loss to the Northern Palm Beach County Improvement District EPB-10 canal and City of Riviera Beach wellfield. Additionally, 2 acres of existing ditches will be enhanced by backfilling with appropriate material to a natural wetland grade. Exotic vegetation will be eradicated on site by mechanical treatment as well as ground crews. Additionally, the project includes the construction of a 171-acre wetland system consisting of shallow water marsh (67 acres), deep water marsh (73 acres), 7 existing islands of native vegetation (15 acres), shallow pond (10 acres), wading bird foraging flats and moats (6 acres), and 2.8 miles of navigable canoe trail.

After completion of the hydrological restoration and the wetland creation/restoration, public-use facilities will be constructed to allow for visitor use of an Americans with Disabilities Act accessible nature trail, unimproved hiking trail, elevated boardwalk, and canoe trail for wildlife observation and other passive recreational uses.

**WRP Restoration Cost-Share Agreement
Budget Items**

	Cost-Share %	Cost
Total Agreement Budget	100%	\$2,141,340
NRCS Cost-Share	70%	\$1,500,000
PBCC Cost-Share	30%	\$ 641,340

Table 1

LINE	ITEM	UNITS*	QUANTITY	UNIT COST	COST
1	TELEMETRY	LS	1	30,000	30,000
2	HAVERHILL WCS	LS	1	300,000	300,000
3	FOR TURNPIKE DITCH CONNECTION TO NW-BOUNDARY DITCH:	LS	1	30,000	30,000
4	ENGINEER CONSULTANT	LS	1	94,000	94,000
5	SEEPAGE BARRIER (BENTONITE SLURRY WALL)	LF	5280	100	528,000
6	CLEANING OF NW-BOUNDARY CONNECTOR DITCH	LS	1	125,000	125,000
7	BACKFILLING/PLUGGING EXISTING CANALS	LF	7920	52	411,840
8	EXOTIC VEGETATION CONTROL				
	Mechanical Removal	AC	250	1,500	375,000
	Ground Crews	AC	550	450	247,500
	TOTAL ESTIMATED PROJECT COST			\$	2,141,340

* Notes
LS = LUMP SUM
CY = CUBIC YARDS
AC = ACRE
LF = LINEAR FOOT

Total Hydrological Restoration	\$1,518,840.00
Total Exotic Removal	\$622,500.00
Total Restoration Cost	\$2,141,340

ATTACHMENT B – SPECIAL PROVISIONS

- I. DRUG-FREE WORKPLACE CERTIFICATION
- II. CERTIFICATION REGARDING LOBBYING
- III. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS-PRIMARY COVERED TRANSACTIONS
- IV. CLEAN AIR AND WATER CERTIFICATION
- V. ASSURANCES AND COMPLIANCE
- VI. EXAMINATION OF RECORDS

ATTACHMENT B – SPECIAL PROVISIONS

The Recipient agrees to comply with the following special provisions which are hereby incorporated into this Agreement.

I. Drug Free Workplace

By signing this Agreement, the recipient is providing the certification set out below. If it is later determined that the recipient knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the Department of Agriculture Natural Resources Conservation Service (hereinafter "NRCS"), in addition to other remedies available to the Federal Government, may take action under the Drug-Free Workplace Act.

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. § 812) and as further defined by regulation (21 C.F.R. §§ 1308.11 through 1308.15);

Conviction means a finding of (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal and State criminal drug statutes;

Criminal drug statute means a Federal or State criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a recipient directly engaged in the performance of work for which the NRCS is providing funding, including (i) All direct charge employees; (ii) All indirect charge employees, unless their impact or involvement is insignificant to the work performed by the recipient; and (iii) Temporary personnel and consultants who are directly engaged in the work performed by the recipient and who are on the recipient's payroll. This definition does not include workers not on the payroll of the recipient (e.g., volunteers, even if used to meet matching requirements; consultants or independent contractors not the recipient's payroll, or employees of subrecipients or subcontractors in covered workplaces).

CERTIFICATION.

- A. The recipient certifies that it has or will continue to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug-free awareness program to inform employees about:
 - (1) The danger of drug abuse in the workplace;
 - (2) The recipient's policy of maintaining a drug-free workplace;

- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the Program be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment by the recipient, the employee will:
- (1) Abide by the terms of the statement; and
 - (2) Notify the recipient in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the NRCS in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every NRCS officer or other designee on whose recipient activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notice. Notice shall include the identification number(s) of the recipient.
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted:
- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; of
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a) through (f).
- (h) Agencies shall keep the original of all disclosure reports in the official files of the agency.

B. The recipient may provide a list of the site(s) for the performance of work done in connection with the Program described in this Agreement.

II. Certification Regarding Lobbying (7 C.F.R. § 3018) (Applicable if this agreement exceeds \$100,000)

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the recipient, to any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, and officer or employee of Congress, or 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 recipient 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.

III. Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions, (7 C.F.R. § 3017)

- (1) The recipient certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of awards, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this cooperative agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the primary recipient is unable to certify to any of the statements of this certification, such prospective participant shall attach an explanation to this Agreement.

IV. Clean Air and Water Certification (Applicable if this agreement exceeds \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. § 1857c-8(c)(1)) or the Federal Water Pollution Control Act (33 U.S.C. § 1319(c)) and is listed by EPA, or is not otherwise exempt.)

The recipient signatory to this Agreement certifies as follows:

(a) Any facility to be utilized in the performance of this proposed agreement is _____, is not x listed on the Environmental Protection Agency List of Violating Facilities.

(b) To promptly notify the State or Regional Conservationist prior to the signing of this Agreement by the NRCS, of the receipt of any communication from the Director, Office of Federal Activities, U.S. Environmental Protection Agency, indicating any facility which he/she proposes to use for the performance of the agreement under consideration to be listed on the Environmental Protection Agency List of Violating Facilities.

(c) To include substantially this certification, including this subparagraph (c), in every nonexempt subagreement.

Clean Air and Water Clause

(Applicable only if this agreement exceeds \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. § 1857c-8(c)(1)) or the Federal Water Pollution Control Act (33 U.S.C. § 1319(c)) and is listed by EPA, or the agreement is not otherwise exempt.)

A. The recipient agrees as follows:

(1) To comply with all the requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. § 1857, et seq., as amended by Public Law 91-604) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. § 1251, et seq., as amended by Public Law 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water

Act, respectively, an all regulations and guidelines issued thereunder before the signing of this Agreement by the NRCS.

- (2) That no portion of the work required by this Agreement will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this Agreement was signed by the NRCS unless and until the EPA removes the name of such facility or facilities from such listing.
- (3) To use their best efforts to comply with clean air standards and clean water standards at the facilities at which the work under this Agreement is being performed.
- (4) To insert the substance of the provisions of this clause in any nonexempt subagreement, including this subparagraph A.

B. The terms used in this clause have the following meanings:

- (1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. § 1857 et seq., as amended by Public Law 91-604).
- (2) The term "Water Act" means the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq., as amended by Public Law 92-500).
- (3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. § 1857c-5(d)), an approved implementation procedure or plan under section 111(c) or section 111(d), respectively, of the Air Act (42 U.S.C. § 1857c-6(c) or (d)), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. § 1857c-7(d)).
- (4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standards, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. § 1342), or by a local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. § 1317).
- (5) The term "compliance" means compliance with the clean air or water standards. Compliance shall also mean compliance with the schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency, or any air or water pollution control issued pursuant thereto.
- (6) The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location or site of operations owned, leased or supervised by a recipient, to be utilized in the performance of an agreement or subagreement. Where a location or site

of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are located in one geographical area.

V. Assurance and Compliance

As a condition of the grant or cooperative agreement, the recipient assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive Orders and other generally applicable requirements, including those set out in 7 C.F.R. §§ 3015, 3016, 3017, 3018, 3019 and 3052, which are hereby incorporated in this Agreement by reference, and such other statutory provisions as are specifically set forth herein.

VI. Examination of Records

Give the NRCS or the Comptroller General, through any authorized representative, access to and the right to examine all records, papers, or documents related to this Agreement under the procedures set forth under Section (C)(8) of the Agreement. Retain all records related to this Agreement for a period of three years after the completion of the terms of this Agreement in accordance with the applicable OMB Circular.

ATTACHMENT C – SPECIAL PROVISIONS FOR CONSTRUCTION

- I. EQUAL OPPORTUNITY (SCS-AS-83)
- II. EQUAL OPPORTUNITY (FEDERAL ASSISTED CONSTRUCTION) (SCS-AS-83)
- III. NOTICE TO CONTRACTING LOCAL ORGANIZATION OF REQUIREMENTS FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES
- IV. NOTICE TO PROSPECTIVE FEDERALLY ASSISTED CONSTRUCTION CONTRACTORS
- V. NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES
- VI. CERTIFICATION OF NONSEGREGATED FACILITIES (SCS-AS-818)
- VII. STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

I. EQUAL OPPORTUNITY

The Contracting Local Organization agrees to incorporate, or cause to be incorporated, into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is paid for, in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following Equal Opportunity (Federally Assisted Construction) clause:

II. EQUAL OPPORTUNITY (FEDERALLY ASSISTED CONSTRUCTION)

During the performance of this contract the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff determination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity (Federally Assisted Construction) clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The Contractor will send to each labor union or representative of workers, with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Contractor's noncompliance with the Equal Opportunity (Federally Assisted Construction) clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

7. The Contractor will include this Equal Opportunity (Federally Assisted Construction) clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Contracting Local Organization further agrees that it will be bound by the above Equal Opportunity (Federally Assisted Construction) clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, however, that if the Contracting Local Organization so participating is a State or local government, the above Equal Opportunity (Federally Assisted Construction) clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Contracting Local Organization agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the Equal Opportunity (Federally Assisted Construction) clause and the rules, regulations and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Contracting Local Organization further agrees that it will refrain from entering into any contractor contract modification subject to Executive Order No. 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity (Federally Assisted Construction) clause as may be imposed upon Contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part 11, Subpart D, of the Executive Order. In addition, the Contracting Local Organization agrees that if it fails or refuses to comply with these undertakings the administering agency may take any or all of the following actions: Cancel, terminate, or suspend, in whole or in part, this grant; refrain from extending any further assistance to the Contracting Local Organization under the program with respect to which its failure or refusal occurred until satisfactory assurance of future compliance has been received from such Contracting Local Organization; and refer the case to the Department of Justice for appropriate legal proceedings.

III. NOTICE TO CONTRACTING LOCAL ORGANIZATIONS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

- (a) A Certification of Nonsegregated Facilities must be submitted by the Contracting Local Organization prior to any agreement for Federal financial assistance where the

Contracting Local Organization will itself perform a federally assisted construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.

- (b) The Contracting Local Organization shall notify prospective federally assisted construction contractors of the Certification of Nonsegregated Facilities required, as follows:

IV. NOTICE TO PROSPECTIVE FEDERALLY ASSISTED CONSTRUCTION CONTRACTORS

- (a) A Certification of Nonsegregated Facilities must be submitted prior to the award of a federally assisted construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.
- (b) Contractors receiving federally assisted construction contract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of the following notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.

V. NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

- (a) Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.
- (b) Contractors receiving subcontract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of this notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.

SCS-AS-818

Rev. 4-70

File Code AS-14

VI. CERTIFICATION OF NONSEGREGATED FACILITIES

(Applicable to federally assisted construction contracts and related subcontracts exceeding \$10,000 which are not exempt from the Equal Opportunity Clause.)

The federally assisted construction contractor certifies that he/she does not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she does not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The federally assisted construction contractor certifies further that he/she will not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she will not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The federally assisted construction contractor agrees that a breach of this section is a violation of the Equal Opportunity Clause in this contract. As used in this caption, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The federally assisted construction contractor agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that he/she will retain such certifications in his/her files.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

Contractor: _____

Signature: _____

Title _____ Date: _____

VII. STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS
(EXECUTIVE ORDER 11246)

1. As used in these specifications:
 - a. 'Covered area' means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract act Compliance Program, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security number used on the Employees Quarterly Federal Tax Return, U.S. Treasury Department Form 94 1.
 - d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);
and
 - (iv) American Indian or Alaskan Native (all groups having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000, the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which the contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through as association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO Clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The' overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractors or Subcontractors failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in Paragraphs 7. a. through 7. p. of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female tuition that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or Federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice of and such notices may be obtained from any Office of Federal Contract Compliance Programs or from Federal Procurement Contracting Officers. The Contractor is expected to make substantial uniform progress toward meeting goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractors obligations under these specifications, Executive Order 1 1246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractors compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all at which the Contractors employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractors obligations to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
 - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority and female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for

referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in a file with the reason therefore, along with whatever additional actions the Contractor may have taken.

- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process had impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities, and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under Paragraph 7.b. above.
- f. Disseminate the Contractors EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc. - specific review of the policy with all management personnel and with all minority and female employees at least once a year, and by posing the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and action obligations under these specifications with all employees having any responsibility for hiring, assessment, layoff, termination, or their employment decisions, including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contract's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations to schools with minorities and female students and to minority and female recruitment and training organizations, serving the Contractors recruitment area and employment needs. Not later than one month prior to the date for the acceptance of the applications for apprenticeship or other, training by any recruitment sources, the Contractor shall send written notification, to organizations such as the above, describing the openings, screening procedure, and tests to be used in the selection process. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractors workforce.

- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of the Contractors workforce.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classification work assignments, and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to ensure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisor adherence to and performance under the Contractors EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in achieving one or more of the affirmative action obligations (Paragraphs 7.a. through 7.p.). The efforts of a contractor association, joint contractor-union, contractor-community, or other share group of which the Contractor is a member and participants may be asserted as to any one or more of its obligations under Paragraphs 7.a. through 7.p. of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractors minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables of affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easy understandable and retrievable form however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.
14. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in Paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 604.8.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

**ATTACHMENT D - WETLANDS RESERVE PROGRAM
RESTORATION COST-SHARE AGREEMENT
VIOLATIONS**

CAUSES:

(a) Noncompliance. Failure to comply with all terms and conditions of the contract is noncompliance.

This includes but is not limited to, failure to carry out the long term contract as scheduled, failure to begin within a 12-month period, failure to meet specifications for establishing practices, failure to satisfactorily complete or maintain all contract items, or failure of a practice because of circumstances within the control of the participant. If the participant removes the cause for noncompliance, a violation can be avoided.

(b) Practice destruction. Destruction of a practice established under the terms of the contract without the approval of the NRCS or failure to apply compensatory treatment for a destroyed practice.

(c) False application for payment. Filing a false application for cost-share payments.

(d) Failure to complete contract items. Failure to satisfactorily complete all contract items before the contract expires.

(e) Transfer of land under contract. If the transferee will not assume the obligations of the contract with respect to the transferred acreage, the transferor is subject to forfeiture and refund of payments received on the transferred acreage.

(f) Discontinuation of an activity. If, upon notification by NRCS to discontinue application of a contract item because it may destroy or adversely impact an endangered species, significant cultural resource or historic FWMA that is known or suspected to be present, the participant elects to continue with the installation of the practice.

DETERMINATION OF VIOLATIONS:

(1) If noncompliance is not resolved, the local NRCS office is to furnish the State Conservationist any information obtained that indicates a violation may have occurred. In every instance, the NRCS is required to ascertain if a violation has occurred and, if so, determine if a forfeiture, refund, payment adjustment, or termination is warranted.

(2) The State Conservationist is to determine whether a violation or noncompliance did occur, and if the

violation was of such a nature that a penalty of forfeiture, refund, payment adjustment or termination is necessary.

(3) If a violation is apparent and forfeiture, refund, payment adjustment, or termination is required, the NRCS will send the participant a Notice of Preliminary Decision and Form NRCS-LTP-151. This notice is to be forwarded to the participant by certified mail-return receipt requested. A copy of the notice will be furnished to the NRCS State Office.

(4) If no violation occurred, or the violation was of such a nature that no penalty of forfeiture, refund, payment adjustment, or termination is necessary, no notice will be issued, and no further action will be taken.

VIOLATION PROCEDURES:

(a) Scope. This section prescribes the regulations dealing with contract violations. No cost-share payment shall be made pending the decision on whether a contract has been violated.

(b) Contents of Preliminary Decision. The Preliminary Decision will include the following information:

(1) The nature of the violation or noncompliance.

(2) The participant's right to request a field visit to gather additional information and discuss the facts concerning the preliminary decision.

(3) Notice that the preliminary decision will become final 30 days after issue, if a field visit is not requested.

(c) The Field Visit. A field visit should be conducted with the participant, NRCS, and a representative of the Conservation District, at the option of the district. Field visits should be conducted within 15 days of receipt of a request, unless there are delays due to weather. During the field visit the participant will be provided:

(1) an explanation regarding the basis for the preliminary decision, including information about the science and program rules impacting that decision; and

(2) an opportunity to provide any additional information relevant to the decision.
The basis for the preliminary decision will be documented in the administrative record.

(d) Notice of Final Decision. Following the field visit, or 30 days after the Preliminary Decision is issued, the designated conservationist will issue a Final Decision. All Final Decisions will be in writing, and will be sent certified mail, return receipt requested, or hand delivered. The Final decision shall include the participant's rights to:

- (1) Mediation;
- (2) An informal hearing before the State Conservationist; or
- (3) A hearing before a National Appeals Division Hearing Officer in accordance with 7 CFR 11.

MEDIATION:

Mediation is a process, in which a trained, impartial person helps people to look at their mutual problems, identify and consider all available options, and determine if they can agree on a solution to the dispute that is within the statutory and regulatory provisions. In mediation, NRCS representatives will try to set a positive, constructive tone, encouraging others to do the same. Mediation is private, confidential, and informal.

(a) Preparing for mediation. In preparation for mediation, NRCS should do a field visit, if one has not already been done, to ensure that the Preliminary Decision is correct and that all possible solutions are reviewed before mediation occurs.

(b) Deadlines for completion. The parties shall have not more than 30 days in which to reach an agreement. The mediator shall notify the designated conservationist in writing at the end of the period whether the parties reached an agreement.

(1) Any agreement reached during, or as a result of, the mediation process shall conform to the statutory, regulatory, and manual provisions governing the program.

(2) If the parties fail to reach an agreement within the specified period, the designated conservationist shall have 30 days after the mediator informs the parties that the mediation did not result in an agreement to issue a final decision.

(c) Paying for mediation. If requested by the participant, NRCS shall pay appropriate and reasonable costs associated with securing the services of a mediator. NRCS shall have the final discretion over what is considered appropriate and reasonable.

(d) Mediator contact. The participant will make all the necessary contacts to arrange for mediation. After selection of a mediator, the participant should inform NRCS that mediation is being requested.

APPEALS TO THE STATE CONSERVATIONIST:

After receiving a Notice of Final Decision from the designated conservationist, any participant may appeal the decision to the State Conservationist. A request for a hearing filed by a participant is considered to be a request by all participants who signed the contract. The request also supersedes any further bills for

collection and interest charges if the violation involves refunds.

(a) Appeal Requirements. Each request for reconsideration or appeal shall be in writing and signed by the participant or authorized representative and shall provide the reasons why the participant believes that the facts of the case were not given proper consideration, or the law was incorrectly applied to the facts.

(b) Appeal Deadline. A request for appeal from any decision shall be filed within 30 days after the written notice is mailed to or otherwise made available to the participant.

(c) Late-filed Appeals. A request for appeal may be accepted and acted upon even though it is not filed within the time prescribed, if, in the judgment of the NRCS reviewing authority with whom the request is filed, the appellant shows good cause for not appealing within 30 days.

(1) The following are examples of good cause:

(i) NRCS decision was delayed in reaching the person. Refusal to receive a decision does not extend the time period.

(ii) Failure of NRCS to inform the person of appeal rights and provide the name and address of the next appeal level.

(iii) Conditions beyond the control of the participant, such as serious illness, being called into military service, etc.

(2) The following are not considered to be good cause:

(i) Change in ownership or operator.

(ii) Intent of the appellant to obtain additional data to support the appeal. The participant should appeal within the time limits and then request additional time to collect information.

(d) The Appeals Hearing. The appeal hearing proceeding shall be conducted with either an oral and written presentation or only a written presentation, as the participant specifies in the request. The hearing authority will:

(1) Determine the time and place of the hearing. A reasonable effort will be made to schedule the hearing at a time convenient to the appellant.

(2) Provide adequate notice to the appellant.

(3) Accommodate, as much as possible, for unusual circumstances such as special assistance with a foreign language or sign language interpreter; conducting the hearing by telephone if travel is difficult; or the assignment of a staff person or conservation district official to assist with interpretation of written materials.

(e) Hearing Participants. Persons other than the participant or authorized representative with

personal or expert knowledge of the matters in dispute may make presentation on behalf of either party.

(f) Failure to Appear. If the participant or authorized representative does not appear at the scheduled time of the hearing, the reviewing authority may conclude the hearing. The reviewing authority may accept written information and evidence submitted by other persons at the hearing. If the participant does not appear at the hearing, the reviewing authority may make a decision based on the facts available, including any additional material previously submitted by the participant.

(g) Hearing Records. The administrative record should include either a transcript, recording, or a summary of the informal hearing. A verbatim transcript will be made if requested by the appellant, who pays the costs, or if requested by the reviewing authority, in which case, NRCS assumes the cost. If no transcript is made, the preference is to record the hearing on cassette and include the cassette in the administrative record.

(h) Decisions. The NRCS reviewing authority, prior to making a decision, may request the client to produce additional evidence deemed relevant, or may develop additional evidence from other sources. The reviewing authority may affirm, modify, or reverse any decision made initially by the reviewing authority or a lower reviewing authority, or may remand the matter to a lower reviewing authority for further consideration as deemed appropriate. The participant shall be notified of the decision in writing.

Copies of documents, information, or evidence upon which a decision is made or which will form the basis of the decision shall be made available to the participant upon request. Any participant who is adversely affected by a decision of the State Conservationist may appeal to the National Appeals Division in accordance with regulations in 7 CFR 11. Where refunds are due, the appeal supersedes bills for collection and interest.

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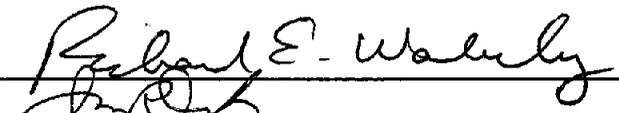
BOARD OF COUNTY COMMISSIONERS
 PALM BEACH COUNTY, FLORIDA

BUDGET AMENDMENT
FUND 3900, Capital Outlay

ACCOUNT NAME AND NUMBER	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	ENCUMBERED 6/13/2007	REMAINING BALANCE
<u>REVENUES</u>							
Loxahatchee Slough-Ecosite 109							
381-E270 3103 F50 Grant Cap - Physical Env	0	0	1,541,844	0	1,541,844		
TOTAL RECEIPTS & BALANCES	38,521,780	41,053,358	1,541,844	0	42,595,202		
<u>EXPENDITURES</u>							
Loxahatchee Slough-Ecosite 109							
381-E270 6504 Iotb non infrastructure	0	1,378,074	1,241,844	0	2,619,918	554,558	2,065,360
381-E270 6505 Design/Eng/Mgmt- Cip Admin	0	189,028	300,000	0	489,028	189,027	300,000
TOTAL APPROPRIATIONS & EXPENDITURES	38,521,780	41,053,358	1,541,844	0	42,595,202		

Environmental Resources
 Management

 INITIATING DEPARTMENT/DIVISION
 Administration/Budget Department Approval
 OFMB Department - Posted

Signatures & Dates


 6/28/07

BY BOARD OF COUNTY COMMISSIONERS
 AT MEETING OF

 July 10, 2007

 Deputy Clerk to the
 Board of County Commissioners

ATTACHMENT 3

2007 - 1156

BGEX - 06130700000000001812

BGRV - 06130700000000000581

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA

BUDGET AMENDMENT
FUND 3900, Capital Outlay

ACCOUNT NAME AND NUMBER	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	ENCUMBERED 6/13/2007	REMAINING BALANCE
<u>REVENUES</u>							
<u>Winding Waters Natural Area</u>							
381-E433 3103 Fed Grant Capital - Physical Envir	0	0	1,500,000	0	1,500,000		
TOTAL RECEIPTS & BALANCES	38,521,780	42,995,202	1,500,000	0	44,495,202		
<u>EXPENDITURES</u>							
<u>Winding Waters Natural Area</u>							
381-E433 6504 Iotb non infrastructure	0	600,000	1,335,000	0	1,935,000	172,038	1,762,963
381-E433 6505 Design/Eng/Mgmt- Cip Admin	0	0	165,000	0	165,000		165,000
TOTAL APPROPRIATIONS & EXPENDITURES	38,521,780	42,995,202	1,500,000	0	44,495,202		

Environmental Resources
Management

Signatures & Dates

BY BOARD OF COUNTY COMMISSIONERS
AT MEETING OF

INITIATING DEPARTMENT/DIVISION
Administration/Budget Department Approval
OFMB Department - Posted

[Signature] 7/9/07
[Signature] 7/9/07

July 10, 2007
Deputy Clerk to the
Board of County Commissioners

ATTACHMENT 4