

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20070511

1. ACTION REQUESTED/PURPOSE: Board approve and execute Amendment No. 4 to DEP Agreement No. WAP037, Gator Slough Watershed Management Project, amending the completion date to July 30, 2008.

2. FUNDING SOURCE: N/A

3. WHAT ACTION ACCOMPLISHES: Provides additional time to complete project.

4. MANAGEMENT RECOMMENDATION: Approve.

5. Departmental Category: 08

C8B

6. Meeting Date: APR 17 2007

7. Agenda:
 Consent
 Administrative
 Appeals
 Public
 Walk-On

8. Requirement/Purpose: (specify)
 _____ Statute
 _____ Ordinance
 _____ Admin. Code
 Other Grant Agreement

9. Request Initiated:
 Commissioner _____
 Department Public Works
 Division Natural Resources
 By: Roland Ottolini, P.E.

RO

10. Background:

On May 29, 2001, the Board of County Commissioners approved DEP Agreement No. WAP037 to provide enhancements to the Gator Slough Watershed with a total project cost of \$1,960,000. Amendment No. 1 to the agreement revised the project completion date to July 31, 2003 and was approved by the Board on September 4, 2001. Amendment No. 2 approved by the Board on April 15, 2003 increased the total project cost to \$2,460,000, revised the scope of the project and completion date to July 31, 2003. Amendment No. 3 extended the contract through July 30, 2007 and was approved by the Board on April 6, 2004.

Amendment No. 4 extends the contract through July 30, 2008 required to accommodate permitting and land acquisition for the final phase of the project. The amendment also includes language revising audit requirements, correcting contact telephone numbers, and estimated time of completion.

No additional funding is required.

Attachment: Two (2) original Amendment No. 4 to DEP Agreement No. WAP037

11. Review for Scheduling:

| Department Director | Purchasing or Contracts | Human Resources | Other | County Attorney | Budget Services | | | | County Manager/P.W. Director |
|-------------------------------------|-------------------------|-----------------|-------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|-------------------------------|
| | | | | | Analyst | Risk | Grants | Mgr. | |
| <i>J. J. [Signature]</i> 3-29-07 | <i>[Signature]</i> | N/A | N/A | <i>[Signature]</i> 4-3-07 | <i>[Signature]</i> 4/5/07 | <i>[Signature]</i> 4/5/07 | <i>[Signature]</i> 4/5/07 | <i>[Signature]</i> 4/5/07 | <i>[Signature]</i> 3-29-07 |

12. Commission Action:

Approved
 Deferred
 Denied
 Other

RECEIVED BY
 COUNTY ADMIN: *[Signature]*
 4-3-07 12:30
 COUNTY ADMIN
 FORWARDED TO: *[Signature]*
 4-5-07
 11:30

Rec. by CoAtty
 Date: 4/3/07
 Time: 8:30 AM
 Forwarded to:
 4/3/07
 11:45 AM

DEP AGREEMENT NO. WAP037
AMENDMENT NO. 4

THIS AGREEMENT as entered into on the 14th day of June, 2001, and amended on the 4th day of September, 2001, the 15th day of April, 2003, and the 6th day of April, 2004, between the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter referred to as the "Department") and the LEE COUNTY BOARD OF COUNTY COMMISSIONERS (hereinafter referred to as the "Grantee" or "Recipient") is hereby amended.

WHEREAS, due to permitting and land purchasing delays related to the project the Grantee has requested a no cost time extension; and,

WHEREAS, the Department agrees to extend the Agreement to July 30, 2008; and,

WHEREAS, the Grantee understands that certification forward of State Fiscal Years 2000-20001 and 2002-2003 funds supporting this Agreement beyond June 30th of each year is subject to the approval of the Governor's Office; and,

WHEREAS, the Grantee has requested an end date that extends beyond the current authorized funding period; and,

WHEREAS, the Grantee understands that if the Governor's Office does not approve the Department's request to certify the funds forward, the Grantee will not be eligible for reimbursement for the activities covered by the remaining unpaid State Fiscal Years 2000-2001 and 2002-2003 funds; and,

WHEREAS, other changes to the Agreement are necessary.

NOW, THEREFORE, the parties hereto agree as follows:

- Paragraph 2, is hereby revised to change the Agreement completion date from July 30, 2007 to July 30, 2008 and to include the following language as a separate subparagraph:

The Grantee understands and agrees that certification forward of the State Fiscal Years 2000-2001 and 2002-2003 funds supporting this Agreement beyond June 30th of each year is subject to the approval of the Governor's Office.

- Paragraph 10 is hereby deleted in its entirety and replaced with the following:

10. A. In addition to the requirements of the preceding paragraph, the Grantee shall comply with the applicable provisions contained in **Attachment C-2 (Second Revised Special Audit Requirements)**, attached hereto and incorporated herein by reference. **Exhibit 1 to Attachment C-2** summarizes the funding sources supporting the Agreement for purposes of assisting the Grantee in complying with the requirements of **Attachment C-2**. A revised copy of **Exhibit 1** must be provided to the Grantee for each amendment which authorizes a funding increase or decrease. If the Grantee fails to receive a revised copy of **Exhibit 1**, the Grantee shall notify the Department's Grants Development and Review Manager at 850/245-2361 to request a copy of the updated information.

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- B. The Grantee is hereby advised that the Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. The Grantee shall consider the type of financial assistance (federal and/or state) identified in **Attachment C-2, Exhibit 1** when making its determination. For federal financial assistance, the Grantee shall utilize the guidance provided under OMB Circular A-133, Subpart B, Section __.210 for determining whether the relationship represents that of a subrecipient or vendor. For state financial assistance, the Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website:

<https://apps.fldfs.com/fsaa>

The Grantee should confer with its chief financial officer, audit director or contact the Department for assistance with questions pertaining to the applicability of these requirements.

- Paragraph 14 is hereby revised to change the area code for the Department's Grant Manager's phone number and fax number from 941 to 239.
- Paragraph 15 is hereby revised to change the area code for the Grantee's Grant Manager's phone number and fax number from 941 to 239.
- Attachment A-1, Page 2 (Revised) of 3 is hereby amended to change the Estimated Time for Completion for Item 6 from 2175 days to 2540 days.
- Attachment C-1, Revised Special Audit Requirements is hereby deleted in its entirety and replaced with **Attachment C-2, Second Revised Special Audit Requirements**, attached hereto and made a part of the Agreement. All references in the Agreement to Attachment C-1 shall hereinafter refer to **Attachment C-2, Second Revised Special Audit Requirements**.

In all other respects, the Agreement of which this is an Amendment, and attachments relative thereto, shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed the day and year last written below.

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____
Chairman*

By: *P. J. [Signature]*
Secretary or designee

Date: _____

Date: MARCH 16, 2007

Gordon Romeis
Gordon Romeis, DEP Grant Manager

L. Debbie Skelton
DEP Contracts Administrator

APPROVED AS TO FORM:

APPROVED as to form and legality

County Attorney's Office

M. [Signature]
DEP Attorney

*For Agreements with governmental boards/commissions: If someone other than the Chairman signs this Amendment, a resolution, statement or other document authorizing that person to sign the Amendment on behalf of the Grantee must accompany the Amendment.

List of attachments/exhibits included as part of this Amendment:

| Specify Type | Letter/ Number | Description (include number of pages) |
|--------------|----------------|---|
| Attachment | C-2 | Second Revised Special Audit Requirements (5 Pages) |

ATTACHMENT C-2

SECOND REVISED SPECIAL AUDIT REQUIREMENTS

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the contract/agreement*) to the recipient (*which may be referred to as the "Contractor", Grantee" or other name in the contract/agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

1. In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this Agreement indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department of Environmental Protection. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than \$500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <http://12.46.245.173/cfda/cfda.html>.

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2)(m), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this Agreement indicates state financial assistance awarded through the Department of Environmental Protection by this Agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.state.fl.us/audgen>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this Attachment shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:

- A. The Department of Environmental Protection at the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

- B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

- C. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. Pursuant to Section .320(f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320(c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the Department of Environmental Protection at the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

3. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

- A. The Department of Environmental Protection at the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

- B. The Auditor General's Office at the following address:

State of Florida Auditor General
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

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4. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

5. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
6. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with OMB Circular A-133, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of 5 years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of 3 years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

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EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

| Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following: | | | | | |
|--|----------------|-------------|------------|----------------|------------------------------|
| Federal Program Number | Federal Agency | CFDA Number | CFDA Title | Funding Amount | State Appropriation Category |
| | | | | | |
| | | | | | |
| | | | | | |

| State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs: | | | | | |
|--|----------------|------|------------|----------------|------------------------------|
| Federal Program Number | Federal Agency | CFDA | CFDA Title | Funding Amount | State Appropriation Category |
| | | | | | |
| | | | | | |
| | | | | | |

| State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.: | | | | | | |
|--|---|-------------------|-------------|---|----------------|------------------------------|
| State Program Number | Funding Source | State Fiscal Year | CSFA Number | CSFA Title or Funding Source Description | Funding Amount | State Appropriation Category |
| Original Agreement | General Revenue – GAA Line Item 1591G | 2000-2001 | 37.039 | Statewide Restoration Projects | \$500,000.00 | 141116 |
| Amendment No. 2 | Ecosystems Management and Restoration Trust Fund – GAA Line Item 1769 | 2002-2003 | 37.039 | Statewide Surface Water Restoration and Wastewater Projects | \$500,000.00 | 141116 |
| | | | | | | |

| | | | | | | |
|--------------------|--|--|--|--|-----------------------|--|
| Total Award | | | | | \$1,000,000.00 | |
|--------------------|--|--|--|--|-----------------------|--|

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<http://12.46.245.173/cfda/cfda.html>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>]. The services/purposes for which the funds are to be used are included in the Contract scope of services/work. Any match required by the recipient is clearly indicated in the Contract.