

LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

BLUE SHEET NO: 20020388-DNR

**1. REQUESTED MOTION:**

**ACTION REQUESTED:**

Execute Amendment No. 1 to FDEP Agreement No. SP546 between the Florida Department of Environmental Protection and Lee County Board of County Commissioners for the Halfway Creek Stormwater Management System Improvements.

**WHY ACTION IS NECESSARY:**

Amendment to extend time requires Board approval.

**WHAT ACTION ACCOMPLISHES:**

Allows additional time to complete construction and restore native wetland plant species.

**2. DEPARTMENTAL CATEGORY:** 8 - NAT. RESOURCES  
**COMMISSION DISTRICT #:** 3

C8A

**3. MEETING DATE:**

04-30-2002

**4. AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED: \_\_\_\_\_

**5. REQUIREMENT/PURPOSE:**

(Specify)

- STATUTE \_\_\_\_\_
- ORDINANCE \_\_\_\_\_
- ADMIN. CODE \_\_\_\_\_
- OTHER Grant Agmt Amend

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER: \_\_\_\_\_
- B. DEPARTMENT: Lee County-Public Works
- C. DIVISION/SECTION: Natural Resources Division
- BY: Roland Ottolini, Nat. Resources Dir.

DATE: 4/16/02

**7. BACKGROUND:**

On November 16, 1999 Lee County entered into an agreement with the Florida Department of Environmental Protection for \$275,000 on a cost reimbursement basis to remove a spoil berm along Halfway Creek from U.S. 41 to the F.P.L. power line. The grant amount is to cover the costs of engineering, permitting and construction. The present agreement expires June 01, 2002.

The attached Amendment No. 1 provides a time extension until June 30, 2003.

No additional funding required.

Attachments: 2 Originals

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL**

(A) DEPARTMENT DIRECTOR	(B) PURCH. OR CONTRACTS	(C) HUMAN RESOURCES	(D) OTHER	(E) COUNTY ATTORNEY	(F) BUDGET SERVICES				(G) COUNTY MANAGER
					OA	OM	Risk	GC	
<i>J. Lavender</i> Date: <u>4-16-02</u>	<i>J. Lavender</i> Date: <u>4/16/02</u>	N/A	N/A	<i>KID</i> Date: <u>4/17/02</u>	<i>P.M.</i> <u>4/17/02</u>	<i>4/18/02</i>	<i>4/18</i>	<i>4/18/02</i>	<i>J. Lavender</i> Date: <u>4-16-02</u>

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

REC'D.  
by CO. ATTY.  
4/17/02  
10:00 AM  
CO. ATTY.  
FORWARDED TO:  
ADMIN 11:15 AM  
4/17/02

RECEIVED BY  
COUNTY ADMIN.  
4-17-02  
2:05  
COUNTY ADMIN.  
FORWARDED TO:

DEP AGREEMENT NO. SP546  
AMENDMENT NO. 1

THIS AGREEMENT as entered into on the 16<sup>th</sup> day of November, 1999, between the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter referred to as the "Department") and LEE COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA (hereinafter referred to as the "Grantee") is hereby amended as follows:

- Paragraph no. 2 is hereby revised to change the completion date of the Agreement from June 30, 2002 to June 30, 2003 and the second sentence is hereby deleted in its entirety and replaced with the following:

The Grantee shall not be eligible for reimbursement for services rendered prior to the execution date of this Agreement.

- Paragraph numbers 6 and 7 are hereby deleted in their entirety.

- Paragraph no. 11, the second sentence is hereby deleted in its entirety and replaced with the following:

The Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five years following Agreement completion.

- Paragraph no. 12 is hereby deleted in its entirety and replaced with the following:

12. In addition to the provisions contained in Paragraph 11 above, the Grantee shall comply with the applicable provisions contained in Attachment C-1, Special Audit Requirements. A revised copy of Attachment C-1, Exhibit-1, must be provided to the Grantee with each amendment which authorizes a funding increase or decrease. The revised Exhibit-1 shall summarize the funding sources supporting the Agreement for purposes of assisting the Grantee in complying with the requirements of Attachment C-1. If the Grantee fails to receive a revised copy of Attachment C-1, Exhibit-1, the Grantee shall notify the Department's Grants Development and Review Manager at (850) 922-5942 to request a copy of the updated information.

- Paragraph no. 13 is hereby deleted in its entirety and replaced with the following:

13. A. Grantee shall not subcontract, assign, or transfer any work under this Agreement without the prior written consent of the Department's Project Manager. The Grantee agrees to be responsible for the fulfillment of all work elements included in any subcontract consented to by the Department and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the Grantee that the Department shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.
- B. The Department of Environmental Protection supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. The Department will be glad to furnish a list of minority owned businesses for consideration in subcontracting opportunities.

-- The following language is hereby added to the Agreement as Paragraph no. 25:

25.     A.    No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
- B.    An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and intends to post the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at 850/487-0915.

-- Attachment A, Scope of Services is hereby deleted in its entirety and replaced with Attachment A-1 Revised Scope of Services attached hereto and made a part of the Agreement. All references in the Agreement to Attachment A shall hereinafter refer to Attachment A-1.

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: \_\_\_\_\_  
Title: \* Chairman

By: *Ann DeW*  
Director, Division of Water Resource Management or designee

Date: \_\_\_\_\_

Date: 4-01-02

*Bhupendra H. Vora*  
DEP Project Manager

*Shirley A. Gray*  
DEP Contracts Administrator

APPROVED as to form and legality:

APPROVED as to form and legality:

\_\_\_\_\_  
Office of County Attorney

*Murray G. [Signature]*  
DEP Attorney

FEID No.: 59-6000702

\*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 (including number of pages)
Attachment	A-1	Scope of Services (1 page)
Attachment	C-1	Special Audit Requirements (5 pages)

ATTACHMENT A-1  
REVISED SCOPE OF SERVICES



Lee County  
Halfway Creek Stormwater Management System Improvements

Description of Work:

Design and construct improvements to the Halfway Creek stormwater management facilities including all engineering, surveying, permitting, and construction required to remove the spoil berm downstream of U.S. 41.

Estimated costs are

1. Construction	\$225,000
2. Permitting	\$ 10,000
3. Engineering	\$ 40,000
<u>Total Project Estimate</u>	\$275,000

Deliverables:

1. Stormwater System Improvements Plans and Spec	January 30, 2002
2. SFWMD Stormwater Permit	June 1, 2002
3. Bid Documents	July 1, 2002
4. Completion Report	June 30, 2003

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**ATTACHMENT C-1  
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 attachments.

**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 Comptroller 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 \$300,000 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 \$300,000 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 \$300,000 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://aspe.os.dhhs.gov/cfda>.

## PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2)(1), Florida Statutes.

1. In the event that the recipient expends a total amount of State financial assistance equal to or in excess of \$300,000 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 Executive Office of the Governor and the Comptroller; 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)(d), 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 \$300,000 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 \$300,000 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 (CFSA), a recipient should access the Florida Single Audit Act website located at <http://sun6.dms.state.fl.us/fsaa/catalog.htm> or the Governor's Office of Policy and Budget website located at <http://www.eog.state.fl.us/> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website <http://www.leg.state.fl.us/>, Governor's Website <http://www.flgov.com/>, Department of Banking and Finance's Website <http://www.dbf.state.fl.us/>, and the Auditor General's Website <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(7)(m), 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 Agreement 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 each of the following addresses:

Bhupendra Vora, Professional Engineer.  
Florida Department of Environmental Protection  
Bureau of Water Facility Funding  
2600 Blair Stone Road, MS 3505  
Tallahassee, Florida 32399-2400

Audit Director  
Florida Department of Environmental Protection  
Office of the Inspector General  
2600 Blair Stone Road, MS 40  
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 each of the following addresses:

Bhupendra Vora, Professional Engineer.  
Florida Department of Environmental Protection  
Bureau of Water Facility Funding  
2600 Blair Stone Road, MS 3505  
Tallahassee, Florida 32399-2400

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

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

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

Bhupendra Vora, Professional Engineer  
Florida Department of Environmental Protection  
Bureau of Water Facility Funding  
2600 Blair Stone Road, MS 3505  
Tallahassee, Florida 32399-2400

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

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

State of Florida Auditor General  
Room 574, Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450



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

Bhupendra Vora, Professional Engineer  
Florida Department of Environmental Protection  
Bureau of Water Facility Funding  
2600 Blair Stone Road, MS 3505  
Tallahassee, Florida 32399-2400

Audit Director  
Florida Department of Environmental Protection  
Office of the Inspector General  
2600 Blair Stone Road, MS 40  
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, Comptroller, 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, Comptroller, 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.

**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	Catalog of State Financial Assistance Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Original Contract	General Revenue- Line Item 1241 A	1999-2000	37039	Statewide Surface Water Restoration and Wastewater Projects	275,000.00	140010

<b>Total Award</b>					<b>\$275,000.00</b>
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For each program identified above, the recipient shall comply with the program requirements described in the Federal Catalog of Domestic Assistance (CFDA) [<http://aspe.os.dhhs.gov/cfda>] and/or the Florida Catalog of State Financial Assistance (CFSFA) [<http://sum6.dhrs.state.fl.us/fsaa/catalog.htm>]. 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.