

DEP AGREEMENT NO. LP3602B
AMENDMENT NO. 1

THIS AGREEMENT as entered into on November 28, 2016 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") is hereby amended.

WHEREAS, due to unexpected delays related to consultant selection and land lease issues, the Grantee has requested a no-cost extension of thirty (30) months to complete the project; and,

WHEREAS, the Department has agreed to the no-cost extension to complete the project; and,

WHEREAS, other changes to the Agreement are necessary.

NOW, THEREFORE, the parties hereto agree as follows:

1. Paragraph 2 is hereby revised to change the expiration date of the Agreement to June 30, 2022.
2. Paragraph 26 is hereby deleted in its entirety and replaced with "RESERVED".
3. Paragraph 27 is hereby deleted in its entirety and replaced with the following:

SCRUTINIZED COMPANIES

- A. Grantee certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
 - B. If this Agreement is for more than one million dollars, the Grantee certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
 - C. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.
4. The following is hereby added to the Agreement as Paragraph 31:

REFUND OF PAYMENTS TO THE DEPARTMENT

Any balance of unobligated funds that have been advanced or paid must be refunded to the Department. Any funds paid in excess of the amount to which Grantee or subgrantee is entitled under the terms of the Agreement must be refunded to the Department.

5. Attachment A, Project Timeline table is hereby deleted and replaced with the following:

| Task No. | Task Title | Task Start Date | Task End Date |
|-----------------|-------------------|------------------------|----------------------|
| 1 | Construction | 07/01/2016 | 12/31/2021 |

Note that, per paragraph 4 of the agreement, authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the Department if the Legislature reduces or eliminates appropriations. Extending the contract end date carries the risk that funds for this project may become unavailable in the future. This should be a consideration for the Grantee with this and future requests for extension.

6. Exhibit 1, Public Records Requirements, as attached to this Amendment, is hereby incorporated into the Agreement.
7. All other terms and conditions of the Agreement remain in effect. If and to the extent that any inconsistency may appear between the Agreement and this Amendment, the provisions of this Amendment shall control.

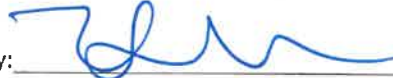
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IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed the day and year last written below.

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: 
Title: * CHAIR

By: 
Secretary or designee

Date: 8/19/19

Date: 8/23/19

Approved as to Form for the Reliance of Lee County Only


Taufiqul Aziz, DEP Grant Manager

By: 
Office of the County Attorney


DEP QC Reviewer

*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:

| <u>Specify Type</u> | <u>Letter/Number</u> | <u>Description</u> |
|---------------------|----------------------|-----------------------------|
| Exhibit | 1 | Public Records Requirements |

EXHIBIT 1, PUBLIC RECORDS REQUIREMENTS

1. Public Records

- a. If the Agreement exceeds \$35,000.00, and if the Grantee is acting on behalf of the Department in its performance of services under the Agreement, the Grantee must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by the Grantee in conjunction with the Agreement (Public Records), unless the Public Records are exempt from section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Agreement if the Grantee refuses to allow public access to Public Records as required by law.

2. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.

For the purposes of this paragraph, the term "contract" means the "Agreement." If the Grantee is a "contractor" as defined in section 119.0701(1)(a), F.S., the following provisions apply and the Contractor shall:

- a. Keep and maintain Public Records required by the Department to perform the service.
- b. Upon request, provide the Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- c. A contractor who fails to provide the Public Records to the Department within a reasonable time may be subject to penalties under section 119.10, F.S.
- d. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the Public Records to the Department.
- e. Upon completion of the contract, transfer, at no cost, to the Department all Public Records in possession of the contractor or keep and maintain Public Records required by the Department to perform the service. If the contractor transfers all Public Records to the Department upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the Department, upon request from the Department's custodian of Public Records, in a format specified by the Department as compatible with the information technology systems of the Department. These formatting requirements are satisfied by using the data formats as authorized in the contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the contractor is authorized to access.
- f. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS AT:**

Telephone: (850) 245-2118

Email: public.services@dep.state.fl.us

Mailing address: Department of Environmental Protection

ATTN: Office of Ombudsman and Public Services

Public Records Request

3900 Commonwealth Boulevard, MS 49

Tallahassee, Florida 32399