

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Kenneth G. Ammon, P.E., Deputy Executive Director,  
Everglades Restoration Resource Area

**DATE:** April 9, 2009

**SUBJECT:** Pre-Partnership Credit Agreement for the Picayune Strand Restoration Project – Contract Number 4600001761

**Background:** Staff requests Governing Board approval to enter into a Pre-Partnership Credit Agreement with the U.S. Department of the Army, at no-cost to the SFWMD, to establish eligibility to receive credit for the costs of constructing features of the Picayune Strand Restoration Project toward the SFWMD's 50 percent share of the costs for the Comprehensive Everglades Restoration Plan (CERP).

Between 2004 and 2007, SFWMD completed the following construction activities at a cost of approximately \$15 million that are part of the recommended restoration plan identified in the Project Implementation Report for the Picayune Strand Restoration Project:

- Backfilling and plugging seven miles of the Prairie Canal
- Installing a total of 16 culverts under Steward Boulevard, Janes Scenic Drive, and U.S. Highway 41 (Tamiami Trail)
- Removing approximately 62 miles of roadway within the Southern Golden Gate Estates development
- Removing the Janes Scenic Drive Bridge over the Prairie Canal
- Capping approximately 128 wells
- Demolishing and removing approximately 153 homes
- Clearing approximately 97 trash sites
- Removing abandoned septic sites

In Section 6004 of the Water Resources Development Act of 2007, Congress authorized the Assistant Secretary of the Army to provide credit for construction costs incurred by the SFWMD prior to signing a Project Partnership Agreement, if the construction is carried out in accordance with the terms and conditions of an agreement between the SFWMD and the Assistant Secretary of the Army. The Army's implementation guidance for Section 6004 specifies that in order to maintain credit eligibility for construction completed prior to signing a Project Partnership Agreement, the SFWMD must execute a Pre-Partnership Credit Agreement with the U.S. Department of the Army. The SFWMD and the U.S. Army Corps of Engineers have developed a Pre-Partnership Credit Agreement for the Picayune Strand Restoration Project covering SFWMD's construction activities listed above.

While execution of this Pre-Partnership Credit Agreement is a necessary step in maintaining the SFWMD's eligibility for credit, the Agreement does not provide credit, nor does it guarantee that credit will be provided at any time in the future. Actual approval of credit requires that the Army first determine that the construction work is integral to the authorized project and that the SFWMD's construction costs are necessary, reasonable, allowable, allocable and auditable. The Army has developed a memorandum to be signed by the Assistant Secretary of the Army for Civil Works determining that the SFWMD's completed construction work listed above is integral to the Picayune Strand Restoration Project authorized by Congress and thereby eligible for credit under a Project Partnership Agreement. The Army's review of the SFWMD's costs for final approval of credit will occur after execution of a Project Partnership Agreement.

**How this helps meet the District's 10-Year Strategic Plan:** This Agreement will establish eligibility for future credit toward the SFWMD's 50 percent cost-share on CERP, which is a major component of the Strategic Plan. If credited for this expenditure, it would reduce the SFWMD's future required contributions for the remainder of CERP.

**Funding Source:** No funding is needed for this action.

**This Board item impacts what areas of the District, both resource areas and geography:** Because this Agreement enhances the SFWMD's credit toward the 50/50 cost-share for CERP, it has potential positive impact on the entire SFWMD. Staff from the Everglades Restoration Resource Area will manage the contract.

**What concerns could this Board item raise?** By approving this Pre-Partnership Credit Agreement, the Governing Board will be agreeing that the SFWMD will not receive credit for the following costs incurred by the State of Florida and SFWMD: 1) the State's costs for management and maintenance of the Picayune Strand lands prior to signing a Project Partnership Agreement; and 2) the SFWMD's costs of remediating soils contaminated with hazardous agricultural chemicals. Similar to previous cost-share agreements between the Army and the SFWMD, the Army has determined that providing credit for these costs is inconsistent with its statutory authority and/or its nationwide policy. However, the Army will be providing the SFWMD with credit for the State's actual costs of acquiring lands necessary for the project estimated at approximately \$160 million, as well as approximately \$29 million worth of incidental costs of acquisition (e.g., appraisals, surveys, title searches, legal fees, etc.) and will cost-share in the long-term control of invasive exotic vegetation within over 55,000 acres of the project lands.

**Why should the Governing Board approve this item?** The SFWMD needs to sign this Agreement to be eligible to receive credit for the \$15 million of early construction completed on the Picayune Strand Restoration Project.

Attachment – Resolution  
KGA/pw