

**APPENDIX D**  
**REAL ESTATE**

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## APPENDIX D REAL ESTATE

### D.1 STATEMENT OF PURPOSE OF THE REAL ESTATE PLAN

The purpose of this Real Estate Plan (REP) is to present the overall real estate requirements, costs, acquisition schedules, and other real estate requirements necessary for the Central and Southern Florida (C&SF) Project, Comprehensive Everglades Restoration Plan (CERP), and Central Everglades Planning Project (CEPP) Post Authorization Change Report (PACR). This REP is tentative in nature and both the final real property acquisition lines and estimates of value are subject to change after approval of the decision document to which this Plan is appended. The CEPP PACR REP identifies the lands changed from the Federally authorized CEPP by the CEPP PACR; the CEPP PACR lands already acquired by the South Florida Water Management District (SFWMD or District), the non-Federal sponsor; the CEPP PACR lands that have not been acquired by the SFWMD; the value of CEPP PACR lands and what has already been cost shared under the Federal Agriculture Improvement and Reform Act of 1996 (Public Law [P.L.] 104-127, 110 Stat. 1022) (the Farm Bill); what CEPP PACR lands have not been cost shared; and other details associated with land requirements and estates required for the CEPP PACR.

### D.2 PROJECT AUTHORIZATION

In Section 601 of the Water Resources Development Act of 2000 (P.L. 106-541) (WRDA 2000), Congress approved the C&SF Project Comprehensive Review Study Integrated Feasibility Report and Programmatic Environmental Impact Statement (known as the “Yellow Book”), which describes and outlines the CERP. The CEPP PACR components are encompassed in the CERP.

Section 601 (e)(3) of the WRDA 2000 (P.L. 106-541) details the cost sharing related to Federal funding provided to the non-Federal sponsor applicable to the acquisition of lands required for CERP projects:

*(e) COST SHARING.*

*(3) FEDERAL ASSISTANCE.*

*(A) IN GENERAL.--The non-Federal sponsor with respect to a project authorized by subsection (b), (c), or (d) may use Federal funds for the purchase of any land, easement, rights-of-way, or relocation that is necessary to carry out the project if any funds so used are credited toward the Federal share of the cost of the project.*

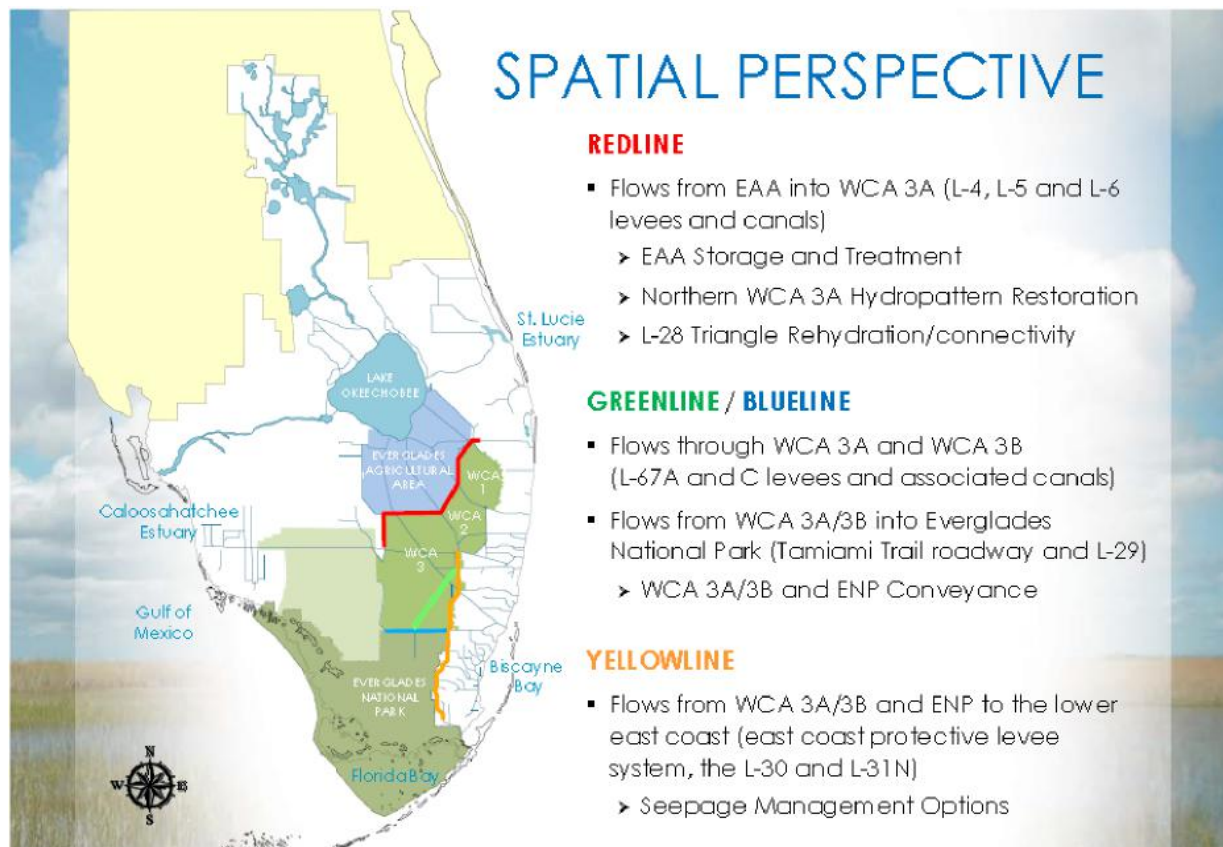
*(B) AGRICULTURE FUNDS.--Funds provided to the non-Federal sponsor under the Conservation Restoration and Enhancement Program (CREP) and the Wetlands Reserve Program (WRP) for projects in the Plan shall be credited toward the non-Federal share of the cost of the Plan if the Secretary of Agriculture certifies that the funds provided may be used for that purpose. Funds to be credited do not include funds provided under section 390 of the Federal Agriculture Improvement and Reform Act of 1996 (110 Stat. 1022).*

For the CEPP PACR, Federal Department of Interior funds were utilized to acquire some of the project lands as detailed below.

### D.3 PROJECT LOCATION AND DESCRIPTION

The Federally authorized CEPP project location is generally located in south Florida in Palm Beach, Broward, and Miami-Dade counties. The study area for the CEPP encompasses the Northern Estuaries (the St. Lucie River and Estuary, Indian River Lagoon, and Caloosahatchee River and Estuary), Lake Okeechobee, a portion of the Everglades Agricultural Area (EAA), the Water Conservation Areas (WCAs), Everglades National Park (ENP), the Southern Estuaries (Florida Bay and Biscayne Bay), and the Lower East Coast (LEC). The CEPP PACR study area is approximately 17,980 acres of land and includes the project footprint of the A-2 parcel included in CEPP and the A-2 Expansion area to the west of the A-2 parcel and existing A-1 FEB parcel.

CEPP PACR project features include storage, treatment, and conveyance modifications. The Spatial Perspective Map of the CEPP project area is shown in **Figure D-1**. EAA storage and treatment features of the CEPP PACR are included north of the Red line.



**Figure D-1. Spatial Perspective Map**

### D.4 TENTATIVELY SELECTED PLAN

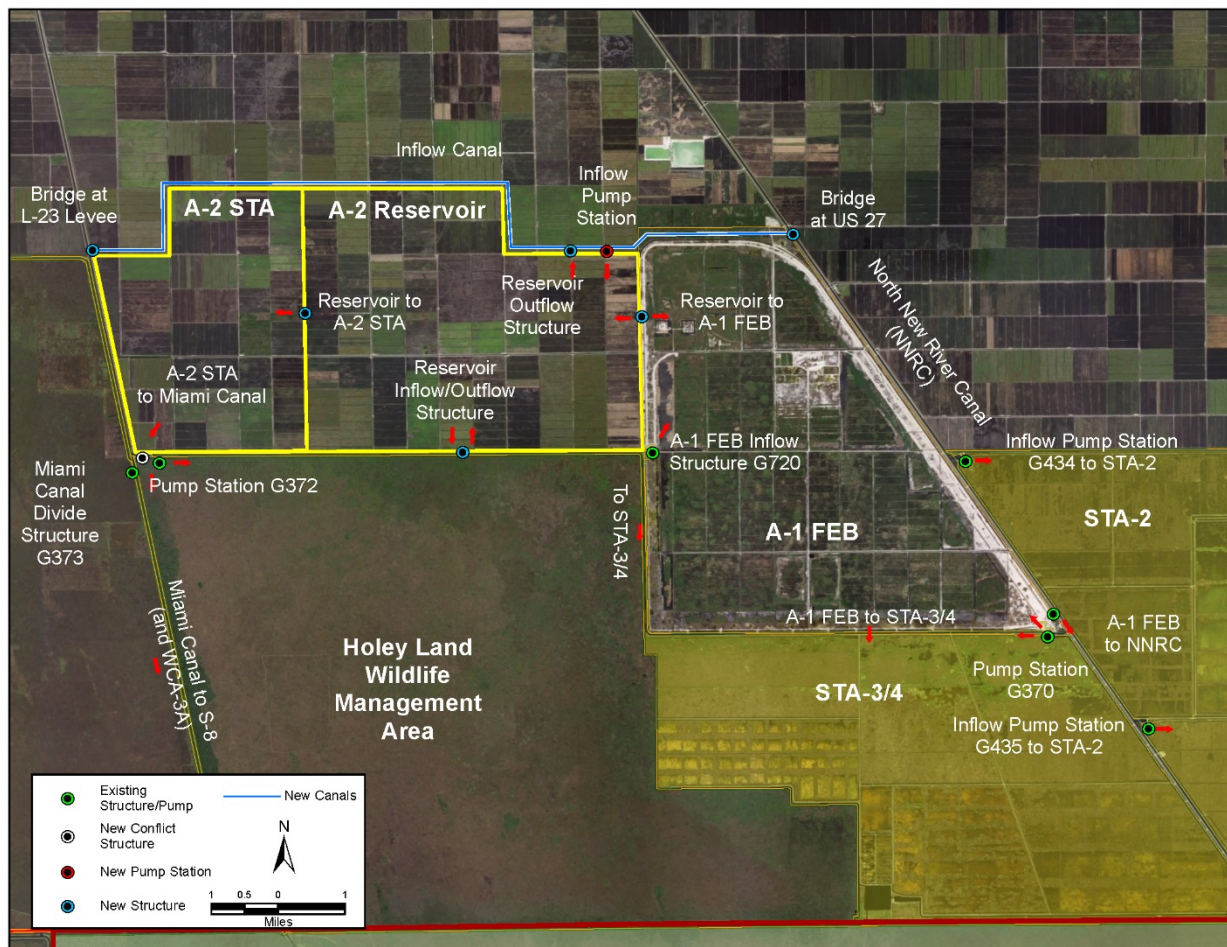
The components of the Tentatively Selected Plan (TSP) are located north of the Red line. The REP for CEPP organized features by geographic location; however, no features of the CEPP PACR are located south of the Red line. Therefore, the CEPP PACR REP does not include a discussion of CEPP features south of the Red line, the Green line/Blue line, or along the Yellow line.

## D.4.1 FEATURES—A-2 RESERVOIR AND A-2 STA

### D.4.1.1 General Information and Location

The TSP includes construction and operations to divert, store, and treat Lake Okeechobee regulatory releases. Storage and treatment of new water would be possible with the construction of a 240,000 acre-foot (ac-ft) reservoir and associated treatment and distribution features on the A-2 parcel and A-2 Expansion area. An additional 4,155-acre A-2 Expansion area would allow additional storage and treatment, providing a total of 17,980 acres operationally integrated with the State-funded and State-constructed A-1 Flow Equalization Basin (FEB) and existing Stormwater Treatment Areas (STAs). The A-2 Reservoir would accept EAA runoff, and undesirable discharges from Lake Okeechobee to the estuaries would be diverted south to the A-2 Reservoir when STAs and canals have capacity.

The combined A-2 parcel and A-2 Expansion area component is located in Palm Beach County, between the Miami Canal and the North New River Canal, and north of the Holey Land tract. It is adjacent to the western boundary of the A-1 FEB. The A-2 Expansion area extends the A-2 parcel to the west so that the project will physically abut the Miami Canal. The land area within the A-2 Expansion area totals 4,155 acres. **Figure D-2** shows the TSP treatment and storage features and location. More details regarding these features can be found in **Appendix A**. **Table D-1** shows details on the lands required for the TSP.



**Figure D-2. Tentatively Selected Plan Treatment and Storage Features and Location**

Table D-1. CEPP PACR Lands

TENTATIVELY SELECTED PLAN STORAGE AND TREATMENT							
Number	Structure/ Feature No.	Structure/ Feature Type	Approximate Acres Required for Features	Estate Owned by SFWMD	Estate Required for CEPP	Federal Cost Share	Non- Federal Cost Share
1	L-624	FEB Perimeter Levee	516	Fee	Fee	Note 1	Note 1
2	L-625	FEB Interior Inflow Canal Levee	103	Fee	Fee	Note 1	Note 1
3	S-623 (DS-8)	Gated Spillway-On STA 3/4 Supply Canal	4	Fee	Fee	\$0	\$0
4	S-624 (DS-5)	Gated Sag Culvert (FEB Inflow Structure) On STA 3 / 4 Supply Canal	4	Fee	Fee	Note 1	Note 1
5	C-624	Inflow Canal-West Side Interior of FEB	77	Fee	Fee	Note 1	Note 1
6	C-624E	Spreader Canal- Northern Boundary of FEB	116	Fee	Fee	Note 1	Note 1
7	C-625E	FEB Interior Collection Canal along Southern Perimeter	116	Fee	Fee	Note 1	Note 1
8	S-625 (DS-7)	Gated Culverts (FEB Discharge Structure) in FEB Perimeter Levee L-624	4	Fee	Fee	Note 1	Note 1
9 (Eastern Portion)	C-625W (Eastern Portion)	FEB Exterior Outflow; between S- 625 and G-372 Headwater	34.23	Fee	Fee	\$78,801	\$10,246
9 (Western Portion)	C-625W (Western Portion)	FEB Exterior Outflow; between S- 625 and G-372 Headwater	57.02	None	Fee to be provided by State by Supplement al Agreement or Perpetual Channel Easement	\$0	\$712,750
10	S-628 (DS-9)	Gated Culvert FEB Intake/ Discharge Structure, between A- 2 and A-1 FEB	3	Fee	Fee	Note 1	Note 1



**Table D-1. CEPP PACR Lands (continued)**

TENTATIVELY SELECTED PLAN STORAGE AND TREATMENT							
Number	Structure/ Feature No.	Structure/ Feature Type	Approximate Acres Required for Features	Estate Owned by SFWMD	Estate Required for CEPP	Federal Cost Share	Non- Federal Cost Share
11	S-627 (CS- 4)	Emergency Overflow Weir- between A-2 and A- 1 FEB	3	Fee	Fee	Note 1	Note 1
12	C-626	Seepage Canal-West and Northern Exterior Perimeter of FEB	212	Fee	Fee	Note 1	Note 1
13	S-626 (PS- 1)	Seepage Pump Station, West Side of Seepage Canal, C-626	3	Fee	Fee	Note 1	Note 1
	EAA Storage Reservoir	A-2 Parcel and A-2 Expansion Area; Storage Reservoir and STA	17,980 Gross acres	Fee	Fee	\$33,749,663	\$27,132,705
	Temporary Access	Potential Temporary Access from SR 78 to A-2 FEB	40.00	Fee	Temporary Access Easement	\$0	\$150,000
	<b>TOTAL</b>		<b>19,272.25</b>			<b>\$33,828,464</b>	<b>\$27,855,701</b>

Note 1: Costs included in the Tentatively Selected Plan (TSP).

#### D.4.1.2 Real Estate Required

The A-2 parcel contains 13,825 acres and the proposed A-2 Expansion area contains 4,155 acres, for a total land area of approximately 17,980 acres.

All the land within the A-2 parcel was acquired by the SFWMD in fee using both Federal and State funds.

In the proposed A-2 Expansion area, the SFWMD currently owns 2,393 acres, which were purchased with both Federal and State funds. Approximately 1,263 acres are owned by the State of Florida and the SFWMD will enter into a Supplemental Agreement with the State to authorize use of the State-owned lands for the project. The practice of entering into Supplemental Agreements with the State is consistent with the terms of the CERP Master Agreement. The remaining 499 acres are held in private ownership by two different landowners (489 acres and 10 acres, respectively). The SFWMD will purchase the privately-owned lands through willing seller acquisitions with State funds. Details on land costs and crediting are provided in **Sections D.5** and **D.26**.

Several real estate actions were also taken to facilitate planning for the CEPP PACR. The SFWMD performed real estate actions generally including the pursuit of willing sellers, termination of leases on State lands, and land exchanges. The SFWMD maximized the use of previously acquired land already in public ownership and adjacent to existing infrastructure. The SFWMD will acquire the privately held lands from both of the private landowners of the western lands between the A-2 parcel and the Miami Canal.

All SFWMD leaseholders located within the EAA have been notified that their leases will be terminated in accordance with lease terms. The FDEP has been notified that State lands between the A-2 parcel and the Miami Canal will be needed for the project. As willing landowners are successfully identified through this planning process, the SFWMD will work to exchange State-owned lands for private lands, as long as they can be used effectively in conjunction with existing facilities.

## **D.5 ANALYSIS OF ESTATE REQUIRED FOR THE PROJECT AND NON-FEDERALLY OWNED LANDS ACQUIRED FOR THE CENTRAL AND SOUTHERN FLORIDA PROJECT**

The Programmatic Regulations for the CERP, Title 33 of the Code of Federal Regulations (CFR) Part 385.5, require the development of Six Program-Wide Guidance Memorandum. After completion of the Takings Analysis to determine the lands impacted by project operations, the July 2007 draft of the Six Program-Wide Guidance Memoranda in Section 1.10.3 provides that an analysis to determine the estates required for implementation of a project should be conducted using the following guidelines.

### **D.5.1 ESTATES REQUIRED FOR COMPREHENSIVE EVERGLADES RESTORATION PLAN PROJECTS**

For all lands determined to be required for the CERP projects, the interests required for implementation generally will be fee simple, based on assumptions that all or a significant portion of the rights in the land will be required for project purposes. Although fee acquisition should be the standard estate for CERP projects, lesser estates such as flowage or conservation easements should be considered, as appropriate, if the benefits of the project can still be achieved with the lesser estate. The CEPP PACR should provide the rationale for such lesser estates. To verify the appropriateness of fee simple acquisition or less than fee acquisition, the CEPP PACR must include the following analysis and the conclusions must be reflected in the appropriate report sections. The level of detail required for the analysis will vary depending on the project feature involved. Determine the rights that are required to construct and perform operation, maintenance, repair, rehabilitation, and replacement for the CEPP PACR project:

- Identify the affirmative rights on the land that are required to implement the project.
- In addition to affirmative rights that may be required, identify restrictions on use (restrictive covenants) by the fee owner that are required so as not to interfere with project purposes and outputs.
- Identify the length of time that the affirmative rights or restrictive covenants are needed for the project.
- Determine whether constructed project features may need to be modified over time due to uncertainties in science, formulation, or design (adaptive management).
- Determine whether project land, or portions thereof, will be open for public use (either active or passive uses).

Other factors to be considered:

- Comparison of the cost/value of specific types of easements to fee value.
- Assessment of potential for severance damages from fee acquisition.

- Determination of whether public owners have legal capability to convey fee.

Assess stewardship operation, maintenance, repair, rehabilitation, and replacement considerations regarding the risk and consequences of encroachment on project land by adjacent owners; the risk and consequences of violation of easement terms by fee owners; and monitoring and enforcement capabilities of sponsor.

- Assess negative perception by public of private benefits or gain due to landowner reservations where easements are selected.

## **D.5.2 A-2 PARCEL AND A-2 EXPANSION AREA**

The combined A-2 parcel and A-2 Expansion area would be operated essentially as a reservoir and STA; therefore, all the lands within the footprint would be required in fee. The project footprint of both the A-2 parcel and the A-2 Expansion area requires 17,980 acres.

### **D.5.2.1 A-2 Parcel**

The SFWMD owns fee to approximately 13,825 acres required for the A-2 parcel.

### **D.5.2.2 A-2 Expansion Area**

The SFWMD owns fee interest in 2,393 acres of the A-2 Expansion area. The SFWMD and the State will enter into a Supplemental Agreement wherein the State will authorize the use of the State-owned lands for project purposes prior to construction. The remaining 499 acres in the A-2 Expansion area is owned by two private landowners; one parcel is approximately 10 acres and the other is approximately 489 acres. The private lands will be acquired prior to construction.

As set forth in Article IV.D.1. of the Master Agreement for the CERP, if the lands are acquired by the SFWMD prior to execution of the Project Partnership Agreement (PPA), the SFWMD will receive credit for the fair market value as of the date the SFWMD provides the Government with authorization for entry thereto for construction and if the lands are acquired after execution of the PPA; the SFWMD will receive the fair market value of such real property interests at the time the interests are acquired.

## **D.5.3 ANALYSIS OF ESTATES OWNED BY THE SFWMD IN CANALS PREVIOUSLY ACQUIRED AND PROVIDED FOR THE C&SF PROJECT**

The SFWMD owns fee or a perpetual canal easement interest to the portion of the Miami Canal required for the TSP. The easement interests owned by the SFWMD and provided for the original C&SF Project have been determined in a legal analysis to be sufficient for project purposes. The SFWMD will not receive credit for these lands for the CEPP PACR as these lands have been previously acquired for the C&SF Project. More details on land costs and crediting are provided in **Section D.26**.

It is recommended that the estates previously acquired by the SFWMD and provided for the original C&SF Project be approved for the project.

## D.6 AGRICULTURAL LEASES AND RESERVATIONS

### D.6.1 SFWMD LEASES AND RESERVATIONS

When the Talisman Exchange deeds were executed in March 1999, they contained certain reservations in favor of the Grantors. Each reservation provides that the reservation continues through March 31, 2005 and thereafter annually until the Reservation is terminated by District because the Property is needed for a Project as determined by the District and the U.S. Army Corps of Engineers (USACE). The reservations, if not so terminated, expire on March 31, 2014, provided, however, that if the lands are determined by the District and USACE to be not needed for a Project, such surplus property (and all other property subject to the reservation) shall continue to be made available for farming by the reservation holder through the earlier of March 31, 2019, or the date an exchange of such lands is consummated between the District and the reservation holder.

Talisman Sugar Company assigned its reserved rights to New Hope Sugar Company. Okeelanta Corporation and New Hope Sugar have both executed leases with the SFWMD with similar termination dates and provisions.

Of the approximately 13,825 acres owned by the SFWMD and required for the TSP from the A-2 parcel, approximately 8,789 acres are being farmed by New Hope Sugar Company and approximately 5,000 acres are being farmed by Okeelanta Corporation.

Of the approximately 4,155 acres required for the A-2 Expansion area, 2,383 acres are owned by the SFWMD; of these, approximately 754 acres are being farmed by New Hope Sugar Company and approximately 1,629 acres are being farmed by Okeelanta Corporation. The 489 acres owned by the Seventh Day Baptist Memorial Fund is leased to The Nature Conservancy and farmed by New Hope Sugar Company as a sublessee. The 10 acres owned by Susan Goggin is farmed by Okeelanta Corporation.

### D.6.2 STATE OF FLORIDA LEASE

The approximately 1,263 acres owned by the State within the A-2 Expansion area are being farmed by New Hope Sugar Company. The State will provide a perpetual easement to the SFWMD or will provide fee to the SFWMD through a Supplemental Agreement as set forth in the CERP Master Agreement. The State of Florida through the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida has amended the original lease of Sections 24 and 36, Township 46 South, Range 35 East to New Hope South Sugar Company, revising the date of the lease to begin February 1, 2016, with the term ending on January 31, 2046. The current lease contains revised termination provisions, as follows:

*Paragraph 2 of Lease Number 3433 is hereby revised, replaced and superseded by the following:*

2. *SPECIAL TERMINATION PROVISION: Subject to the requirements and limitations set forth in this subparagraph and in subparagraphs (A), (B), (C), (D) and (E) below, LESSOR, in its sole discretion, and in addition to LESSOR's other termination rights in this lease, shall have the right to terminate this lease at any time during the Lease Term as to any portion or all of the premises to be used for a Project, as defined in the next sentence, to be constructed either on any portion or all of the premises. However, only such portion of the lease as is actually and reasonably required for a Project shall be terminated. The term "Project" for purposes of all of Paragraph 2*

*means a governmental project approved by the LESSOR and all other governmental entities with jurisdiction, that is needed for Everglades restoration, and for which, prior to the First Notice, as defined in (A) below, (i) all applicable permit(s) required for construction have been obtained, and (ii) funding covering no less than 25% of the costs for construction on the premises for the Project (excluding soft costs) has been approved and included in the approved budget of the governmental entity implementing the Project. Such approved Project funding shall include the reimbursement to LESSEE of any unamortized capital improvement costs and other costs for which LESSEE shall be entitled as provided in (E) below. Notwithstanding the foregoing, this special termination right may not be exercised if any other governmentally-owned lands are suitable for the Project, as reasonably determined by LESSOR.*

*(A) In order for a termination to be effective under this special termination condition, LESSOR shall provide written notice of its intention to terminate the lease with respect to any portion of the premises, at least three (3) years prior to the May 1st on which LESSOR intends that such termination be effective (the "First Notice"), and then again at least one (1) year prior to the May 1st on which LESSOR intends such termination to be effective (the "Second Notice") , whereupon this lease shall terminate as to such portion(s) of the premises so noticed on the May 1st which is at least three (3) calendar years following the First Notice; it being understood that if LESSOR provides a First Notice but does not subsequently send a Second Notice at least one year prior to the May 1st termination date specified in the First Notice, then no termination shall occur with respect to such portion of the premises until LESSOR provides a Second Notice at least one (1) year prior to the May 1st on which such termination will be effective and confirming the lands (or portion thereof) designated in the First Notice to be terminated from this lease. In no case shall a First Notice be issued unless all applicable permit(s) required for construction have been previously obtained and funding covering no less than 25% of the costs for construction on the premises for the Project (excluding soft costs) has been approved and included in the approved budget of the governmental entity implementing the Project.*

*(B) In the event of any such special termination by LESSOR, LESSEE shall be permitted to continue to farm on a field by field basis until such time as the LESSEE 's operations are incompatible with Project implementation as reasonably determined by LESSOR and LESSEE shall be deemed to have a non-exclusive right of access, utility service and drainage until the final date of possession ("Termination Date") over and across paved or unpaved roadways or pathways, utility/drainage areas and lines within the portions of the premises so terminated by LESSOR as reasonably necessary, with LESSOR 's right to relocate, for LESSEE to continue to have access, utilities and drainage for the remaining portion of the premises that is then still subject to the terms of this lease and LESSOR and its tenants, if any, shall be deemed to have the right of access, utility service and drainage, over and across paved or unpaved roadways or pathways, utility/drainage areas and lines within the remaining portion of the Premises subject to this lease as reasonably necessary, with LESSEE's right to relocate, for LESSOR and its tenants to continue to have access, utilities and drainage for the portions of the premises so terminated by LESSOR.*

*(C) In the event of the issuance of a First Notice by LESSOR, and within three (3) months after same, the premises or portion of the premises to be terminated shall be reappraised in light of the issuance of the First Notice and a new Base Rental established taking into consideration: (i) the relative uncertainty associated with the possible disruption of a planting cycle resulting from*

*LESSOR's right to stop the LESSEE's farming operations; (ii) the relative disruption associated with the construction or commencement of operations of the Project; and (iii) the impracticability of making improvements or conducting maintenance because of LESSOR's right to stop LESSEE's farming operations.*

*(D) In the event of termination of the lease or portion of the lease under the terms of this special termination provision, and subject to the availability of governmentally-owned land, the LESSOR shall make available for lease to LESSEE, acre for acre, another lease of property in the Everglades Agricultural Area suitable for the same farming operations undertaken on the premises. The Base Rental for said alternative lease property shall be determined using the same appraisal procedures established in paragraph 7 of this lease. In the event such governmentally-owned land is not available, then such lease property shall be made available as soon as LESSOR takes possession of suitable property. The replacement lease shall commence as soon as available during the thirty (30)-year term of the lease and shall be for a term that, when added to the actual term of the lease that was terminated, equals thirty (30) years.*

*(E) In the event of termination of the lease or portion of the lease under the terms of this special termination provision, LESSEE shall be entitled to receipt of any unamortized capital improvement costs. In addition, in the event of termination of a portion of the lease, LESSEE shall be entitled to costs of modifications to utilities, access, irrigation or drainage ways that must be altered as a result of the Project in order to continue to farm the rest of the premises. All payments due LESSEE pursuant to this subparagraph (E) shall be made on the Termination Date.*

## **D.7 EXISTING FEDERAL PROJECTS**

The Miami Canal (L-25, L-24, and L-23) is part of the original C&SF Project. The right-of-way for the Miami Canal between Lake Okeechobee and the CEPP PACR TPS project area varies in width from 300 to 500 feet; all improvements within the Miami Canal will be conducted within the existing right-of-way owned in fee or perpetual easement by the SFWMD. The interest and estates held by SFWMD are sufficient for the CEPP Project purposes as set forth in **Section D.11**. Because these lands were acquired and provided for the prior Federal Project (C&SF), the SFWMD will not receive credit for these lands for the CEPP Project in accordance with the CERP Master Agreement Article IV. A., which states:

*... However, no amount shall be included in project construction costs, no credit shall be afforded, and no reimbursement shall be provided for the value of any lands, easements, rights-of-way, or relocations that have been provided previously as an item of cooperation for another Federal project.*

More details on land costs and crediting are provided in **Section D.26**.

## **D.8 FEDERALLY OWNED LANDS**

There are no Federally owned lands in the CEPP PACR TSP project area.

## **D.9 PROPOSED STANDARD ESTATES**

### **D.9.1 FEE**

The fee simple title to (the land described in Schedule A), subject, however, to existing easements for public roads and highways, public utilities, railroads, and pipelines.

While it is anticipated that only fee title will be required for the A-2 parcel and fee or perpetual channel easement for the canal, the following standard estates may be identified as required during the preconstruction, engineering, and design (PED) phase of the Project.

### **D.9.2 TEMPORARY ACCESS ROAD EASEMENT**

A temporary and assignable easement and right-of-way in, on, over, and across (the land described in Schedule A) for a period not to exceed (PERIOD TO BE DETERMINED) for the location, construction, operation, maintenance, alteration, replacement, and use of (an) access road(s) and appurtenances thereto; together with the right to trim, cut, fell, and remove therefrom all trees, underbrush, obstructions, and other vegetation, structures, or obstacles within the limits of the right-of-way (reserving, however, to the owners, their heirs and assigns, the right to cross over or under the right-of-way as access to their adjoining land at the locations indicated in Schedule B); subject, however, to existing easements for public roads and highways, public utilities, railroads, and pipelines.

### **D.9.3 CHANNEL IMPROVEMENT EASEMENT**

A perpetual and assignable right and easement to construct, operate, and maintain channel improvement works on, over, and across (the land described in Schedule A) for the purposes as authorized by the Act of Congress approved (FUTURE WRDA TO BE ENTERED), including the right to clear, cut, fell, remove, and dispose of any and all timber, trees, underbrush, buildings, improvements, and/or other obstructions therefrom; to excavate by dredging, cutting away, and removing any or all of said land and to place thereon dredge or spoil material; and for such other purposes as may be required in connection with said work of improvement; reserving, however, to the owners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads, and pipelines.

### **D.9.4 TEMPORARY WORK AREA EASEMENT**

A temporary easement and right-of-way in, on, over, and across (the land described in Schedule A), for a period not to exceed (PERIOD TO BE DETERMINED), beginning with the date possession of the land is granted to the South Florida Water Management District, for use by the South Florida Water Management District and the United States of America, their representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil, and waste material thereon) (move, store, and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the Central Everglades Planning Project), together with the right to trim, cut, fell, and remove therefrom all trees, underbrush,

obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads, and pipelines.

#### **D.9.5 BORROW AREA EASEMENT**

A temporary easement and right-of-way in, on, over, and across (the land described in Schedule A), for a period not to exceed (PERIOD TO BE DETERMINED), beginning with the date possession of the land is granted to the South Florida Water Management District, for use by the South Florida Water Management District and the United States of America, their representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil, and waste material thereon) (move, store, and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the Central Everglades Planning Project), together with the right to trim, cut, fell, and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads, and pipelines

#### **D.10 UNIFORM RELOCATION ASSISTANCE ACT, P.L. 91-646**

The appropriate relocation benefits were included as part of the Talisman Exchange/Acquisition Agreement for the land in the A-2 parcel and, therefore, these costs were not costed separately. Under P.L. 91-646, as amended, there are no additional residential relocations and no business relocations associated with the implementation of the CEPP PARC TSP.

#### **D.11 NAVIGATIONAL SERVITUDE AND OTHER LANDS**

The navigational servitude is not applicable to the CEPP PACR TSP.

#### **D.12 ACCESS TO PROJECT AREAS**

Adequate access to most of the Project is available as set forth below. The only area where additional access may be required is to the A-2 parcel and A-2 Expansion area. This would be provided across other SFWMD lands, and a temporary access easement has been valued in **Table D-2**.

**A-2 RESERVOIR AND A-2 STA**—Access to this area is from U.S. 27 utilizing the A-1 FEB access road that connects the northeast corner of the A-1 FEB to the recreation area by culverts. There is an existing east-west road—the Central Agricultural Road—that could provide direct access to the A-2 parcel and A-2 Expansion area footprint, but this is projected to be degraded for the A-1 FEB project. If new haul roads are needed, they will have to divert from the nearest public road and will be limerock displacing the underlying peat materials.

**CONVEYANCE**—Access to this project area is primarily from U.S. 27 along the existing L-5 northern access road westward to existing S-8, L-4, and Miami Canal. Access to L-6 is from U.S. 27 along the existing S-7



complex and L-6 areas. Due to the remote nature of the Miami Canal, site access limitations could be a significant consideration for CEPP construction.

### **D.13 BORROW AND DISPOSAL SITES**

A-2 RESERVOIR AND A-2 STA–Cut and fill quantities will be completed during the PED phase to balance the design as much as possible. If enough material is not available on-site to provide suitable levee construction material, material will be brought from an approved commercial source for construction of the remainder of the levees.

CONVEYANCE–Cut and fill quantities will be completed during the PED phase to balance the design as much as possible. Material from the construction of canal modifications will be hauled to a certified landfill or utilized in construction of the A-2 Reservoir or A-2 STA.

It is the intent of the SFWMD to utilize all suitable materials for the project works, as described in **Appendix A Section A.5.1.4**. The reference to off-site borrow as a source to obtain material is standard and not anticipated to be enacted. Therefore, in line with the costing assumption of sufficient materials to construct features, there were no off-site borrow sources identified. They will not be identified in the CEPP PACR. The disposal of unsuitable material off-site was desired as there are limited areas within the project footprint to store unsuitable material due to the footprint of the A-2 areas of TSP features and recreation facilities. This was the agreed upon solution from ecological and construction communities.

### **D.14 TEMPORARY WORK AREAS**

Lands within the TSP footprint will be used for temporary work areas and for borrow material, as required. The estates, fee and perpetual easements, owned by the SFWMD provide sufficient interest to allow for temporary work areas and borrow areas. Use of these lands as temporary work areas and borrow areas are consistent with the rights owned by the SFWMD.

### **D.15 INDUCED FLOODING**

On December 11, 2000, the Water Resources Development Act of 2000 (WRDA 2000) was signed into law by the President of the United States (P.L. No. 106-541, of the 106th Congress). Section 601(h)(5) contains a Savings Clause that provides protection for existing legal sources of water that will be eliminated or transferred due to project implementation and no significant and adverse reduction in the level of service for flood protection that was in existence on the date of enactment and in accordance with applicable law.

The Programmatic Regulations for the Everglades (33 CFR §§ 385.5 and 385.35-37) require a Programmatic Guidance Memorandum describing procedures for evaluating project effects on existing legal sources of water, and a determination of the pre-CERP baseline conditions, and procedures for evaluating project effects on “levels of service for flood protection ... in accordance with applicable law” existing on the date of enactment of WRDA 2000.

To ensure the levels of service of flood protection will not be diminished by the CEPP PACR, preliminary hydrologic and hydraulic analysis was performed using surface water and groundwater modeling. The results of the preliminary analysis indicate that the TSP is not expected to result in increases in stages in

canal systems or increases in flooding of adjacent private lands; however, additional analysis will be undertaken during detailed design work to further identify features and operations necessary to ensure that the level of service of flood protection in areas adjacent to the TSP site is maintained.

## **D.16 MINERAL AND TIMBER ACTIVITIES**

There are no known present or anticipated mineral or subsurface mineral extraction activities within the land required for the CEPP PACR that may affect construction, operation, or maintenance. There are currently no timber-harvesting activities. Since the basis for the construction of the CEPP PACR is to restore the ecosystem within the CEPP Project Area, such activities will be restricted or prohibited. Under Florida Statutes (F.S.) 704.105, most of the rights of entry to conduct mining operations or remove any outstanding mineral interests have been extinguished. For those mineral interests that have not been extinguished by the F.S. set forth below, the REP will address the potential that no State or Federal regulatory permits would be issued to permit the mining. There are no outstanding rights reserved to remove timber from easement lands owned by SFWMD or the State.

## **D.17 NON-FEDERAL AUTHORITY TO PARTICIPATE IN THE PROJECT**

The SFWMD was created by virtue of F.S., Chapter 373, Section 373.069 to further the State policy of flood damage prevention, preserve natural resources of the State, including fish and wildlife, and to assist in maintaining the navigability of rivers and harbors. (There are other enumerated purposes but they are not directly applicable to this Project.) The SFWMD is specifically empowered to

*Cooperate with the United States in the manner provided by Congress for flood control, reclamation, conservation, and allied purposes in protecting the inhabitants, the land, and other property within the district from the effects of a surplus or a deficiency of water when the same may be beneficial to the public health, welfare, safety, and utility. (Section 373.103)*

To carry out the above purposes, the SFWMD is empowered to:

*...hold, control, and acquire by donation, lease, or purchase, or to condemn any land, public or private, needed for rights-of-way or other purposes, and may remove any building or other obstruction necessary for the construction, maintenance, and operation of the works; and to hold and have full control over the works and rights-of-way of the district.*

The term “works of the district: is defined by Section 373.019 to be:

*...those projects and works, including, but not limited to, structures, impoundments, wells, and other water courses, together with the appurtenant facilities and accompanying lands, which have been officially adopted by the governing board of the district as works of the district.*

Section 373.139 specifically empowers the SFWMD:

*...to acquire fee title to real property and easements therein by purchase, gift, devise, lease, eminent domain, or otherwise for flood control, water storage, water management, and preservation of wetlands, streams and lakes, except that eminent domain powers which may be used only for acquiring real property for flood control and water storage.*

The SFWMD has authority to act as the local sponsor for the CERP Project pursuant to F.S. Section 373.1501.

## **D.18 ZONING ORDINANCES**

Preliminary investigation indicates that no enactments of zoning ordinances are proposed in lieu of, or to facilitate, acquisition in connection with the CEPP PACR.

## **D.19 ACQUISITION SEQUENCING**

Based upon the project implementation and sequencing information contained in Section 6.0 of the Project Implementation Report for the Federally authorized CEPP, all construction activities for the CEPP PACR will be on lands owned by the SFWMD and/or previously acquired for the C&SF Project. A specific land acquisition schedule is premature. Lands will be certified or recertified in the following sequence:

1. Portions of Miami Canal right-of-way located between Lake Okeechobee and the CEPP PACR TSP project area.
2. The SFWMD will be required to provide the lands for the A-2 parcel and A-2 Expansion area. The SFWMD already owns all of the lands required for construction on the A-2 parcel and part of the A-2 Expansion area, except for approximately 1,263 acres owned by the State of Florida and approximately 499 acres privately owned; and the SFWMD will obtain and certify this remaining interest.

## **D.20 FACILITY AND UTILITY RELOCATIONS**

The utilities or facilities identified in this section are located within lands owned by the SFWMD. The SFWMD has issued permits that require removal or relocation at the cost of the permittee. In the Real Estate MCACES (Micro-Computer Aided Cost Estimating System) Cost Estimate, non-Federal administrative costs for termination of permits and termination of leases were estimated for the CEPP PACR.

Preliminary Attorney's Opinions of Compensability have been completed and used for the purpose of completing this section. Final Attorney's Opinions of Compensability will be completed as required by Engineering Regulation 405-1-12, Chapter 12, Paragraph 12-22 prior to completion of the PPA or 100% design of the project.

A-2 RESERVOIR AND A-2 STA –Utility Relocations-Florida Power and Light lines will have to be relocated or abandoned from the center of the detention area. This property is owned in fee by the SFWMD, and Florida Power and Light has an SFWMD permit for the powerline.

CONVEYANCE–There do not appear to be any utility relocations required in this area. Utility impacts, including potential relocations, will also need further assessment during the project design phase.

“ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS REPORT THAT AN ITEM IS A UTILITY OR FACILITY RELOCATION TO BE PERFORMED BY THE NON-FEDERAL SPONSOR AS PART OF ITS LERRD RESPONSIBILITIES IS PRELIMINARY ONLY. THE GOVERNMENT WILL MAKE A FINAL DETERMINATION OF THE RELOCATIONS NECESSARY FOR THE CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE

PROJECT AFTER FURTHER ANALYSIS AND COMPLETION AND APPROVAL OF FINAL ATTORNEY'S OPINIONS OF COMPENSABILITY FOR EACH OF THE IMPACTED UTILITIES AND FACILITIES."

## **D.21 HAZARDOUS TOXIC OR RADIOLOGICAL WASTE**

The A-2 parcel contains 13,825 acres and the proposed A-2 Expansion area contains 4,155 acres.

### **D.21.1 A-2 PARCEL**

A-2 is a 13,825-acre parcel of land. The land is presently dry, and it is proposed to be inundated with water. SFWMD completed a draft Summary Environmental Report for the CEPP A-2 FEB dated August 21, 2012. The Summary Environmental Report documents that all known point sources on the property have been addressed. The Florida Department of Environmental Protection (FDEP) has issued Site Rehabilitation Completion Orders for all known point sources within the project boundary. A copy of this report is included in **Annex F**.

To address the lack of sampling results for the cultivated areas of the A-2 parcel, the SFWMD conducted limited soil sampling in the winter/spring of 2013. With the agreement of the U.S. Fish and Wildlife Service (USFWS), the sampling density was set at 10% of the 50-acre grids rather than the typical 30 to 50% typically specified per the Protocol for Assessment, Remediation, and Post-Remediation Monitoring for Environmental Contamination on Everglades Restoration Projects (the ERP Protocol), dated March 14, 2008. A copy of this protocol is provided in **Annex F**. SFWMD analyzed 30 composite samples from the 13,825-acre site for pesticides, herbicides, total organic carbon, and metals following a stratified random approach. The laboratory results indicate that some of the site soils have residual arsenic, atrazine, barium, cadmium, chromium, copper, dieldrin, mercury, metribuzin, phorate, selenium, and 2,4-D. The USFWS and FDEP have preliminarily determined that the residual agricultural chemicals found on the A-2 lands do not present a risk to protected resources. Based on the results of the 2013 soil testing, the USFWS and FDEP are recommending that, during the initial operations of the CEPP FEB, the SFWMD conduct testing of water quality for several contaminants (atrazine, chromium, copper, dieldrin, mercury, metribuzin, phorate, selenium, and 2,4-D) as well as testing of periphyton and apple snails for copper. The FDEP also recommended the development of a soil management plan to address the fate of arsenic-impacted soils during construction as well as the same start-up operations sampling program as provided by the USFWS. The FDEP and USFWS both recommended that agrochemical best management practices be instituted during the continued cultivation of the lands.

The A-2 lands were utilized for agricultural production post-assessment activities for several years. Currently, an Exit Assessment is being performed to determine the presence of any new potential sources of hazardous toxic or radiological waste (HTRW) since the completion of the previous Phase II Environmental Site Assessment (ESA) and to verify the concentration of contaminants in the cultivated areas at selected locations. The results of these audits will be provided to the FDEP and USFWS for their review, comment, and concurrence regarding the need for remedial actions. The assessment of the Project in relation to the CERP Residual Agricultural policy is included in **Appendix C.2.2**. Remediation of HTRW contamination is the responsibility of the SFWMD, the non-Federal sponsor, and is not a creditable cost to the project.

### **D.21.2 A-2 EXPANSION AREA**

The A-2 Expansion area is approximately 4,155 acres, and the property is currently being leased for active sugar cane production. Approximately 2,393 acres of the land is owned by the SFWMD, 1,263 acres is owned by the State of Florida (TIF), and 499 acres is privately owned. To date, limited environmental assessments have been conducted in the A-2 Expansion area. Based on the historical use for sugarcane farming, several “point source” areas, including pump stations, chemical storage, and mix and load areas, staging areas, and burn areas, may be present. The farming fields would be considered a “regional source” area. Due to the limited information about the A-2 Expansion area, additional assessments are required by the SFWMD’s protocols. The SFWMD currently is conducting additional assessments, including a regulatory environmental database search and site inspections. Upon completion of the database review and the inspections, a scope of work for intrusive investigations will be formulated and submitted to the FDEP and USFWS for review and concurrence.

### **D.22 PROJECT SUPPORT**

There is no known or anticipated opposition to the project by landowners in the project area or any known or anticipated landowner concern-related issues that could impact the acquisition process.

### **D.23 FEDERAL AGRICULTURE IMPROVEMENT AND REFORM ACT OF 1996 (FARM BILL)**

On April 4, 1996, Congress enacted the Federal Agriculture Improvement and Reform Act of 1996 (P.L. 104-127, 110 Stat. 1022). The provisions of Section 390 of the Farm Bill gave the Secretary of Interior broad discretion in the expenditure of the initial \$200 million and more limited discretion in the expenditure of the additional \$100 million to be generated by the sale of excess or surplus Federal property. The Secretary of Interior could expend all the funds without assistance or could provide the funds to the USACE, the State of Florida, or the SFWMD on such terms and conditions as were determined to be necessary.

On October 3, 1996, a Framework Agreement (Agreement) was executed by the United States Department of Interior (DOI), the United States Department of the Army (Army), the State of Florida, FDEP, and the SFWMD. The Agreement was developed to provide a framework and procedures for the Secretary of Interior to provide Section 390 funds to the other parties for Everglades ecosystem restoration for the acquisition of real property or the construction of features that were intended to become part of existing or future Army projects. The Agreement specifically recognizes that Section 390 provided “the Secretary of the Interior with discretion to determine the use of Section 390 funds for restoration purposes and with the responsibility to ensure that Section 390 funds are used for restoration purposes.” Article I states that “except as otherwise provided by law or agreed to by the Secretary of Interior, all Section 390 funds expended will be matched by non-Federal funds on a dollar-for-dollar basis.” This Article also states:

*Section 390 funds disbursed for the acquisition of real property or the construction of features shall count as Federal funds for cost sharing purposes for Army projects. Funds provided by the non-*

*Federal parties to match Federal funds provided under Section 390 will be treated as non-Federal funds for cost-sharing purposes for Army projects.*

*The value of real estate acquired pursuant to this Article shall be the acquisition cost of such real property for credit purposes under applicable cost-sharing principles.*

## **D.24 LAND VALUATION AND CREDITING**

### **D.24.1 LAND VALUATION AND CREDITING GUIDANCE**

#### **D.24.1.1 CECW-SAD Memorandum dated July 30, 2009; SUBJECT: CERP Land Valuation and Crediting**

In accordance with the Corps of Engineers Civil Works-South Atlantic Division memorandum dated July 30, 2009, signed by the Director of Civil Works, USACE, the current guidance for CERP land valuation and crediting as set forth in the referenced memorandum is as follows:

1. Background. The CERP land valuation and crediting policy previously approved by the Assistant Secretary of the Army (Civil Works) (ASA(CW)) is based on actual costs. The SFWMD requested application of the national USACE land crediting principles to future CERP projects and the ASA(CW) has agreed to SFWMD's request. The purpose of this memorandum is to provide general guidance on several additional issues as outlined in Paragraph 2 as well as to provide guidance on an issue related to credit for incidental acquisition costs as outlined in Paragraph 3.
2. Land Valuation Issues for Lands Acquired Pre-PPA.
  - a. Consistent with long-standing USACE practice and as supported by the unique land credit provision for CERP contained in Section 601 (e)(5)(A) of WRDA 2000, tracts acquired by the SFWMD that are acquired and provided in furtherance of a CERP project should be valued and credited as individual tracts regardless of whether the acquisition was prior to or after execution of the PPA for that project. This general principle would not apply if the SFWMD acquired contiguous tracts required for a CERP project but acquired them prior to execution of the PPA for a reason and use other than for implementing the CERP project. A determination that a tract was acquired "in furtherance of a CERP project" should be supported by documentation existing at the time of acquisition.
  - b. The unique statutory land credit provision for CERP projects is clear on the non-Federal sponsor being afforded credit for the value of lands, or interests in lands, that it provides in accordance with a PIR "regardless of the date of acquisition" (see Section 601 (e)(5)(A) of WRDA 2000). To effectuate the clear intent of Congress reflected in this credit provision, land use restrictions imposed in furtherance of a CERP project after acquisition of a tract by the SFWMD should not be considered in valuing that tract for crediting purposes.
  - c. For the same reasons as expressed in Subparagraph 2.b, demolition of improvements after a tract was acquired in furtherance of a CERP project should not change the approach to value from that applicable at the time of acquisition. Accordingly, the tract should be valued for crediting purposes as it was improved when acquired by the SFWMD. To accomplish this result, the contributory value of the improvements, as of the date of the SFWMD's acquisition, should be added to the market value of the land on the date it was provided for the project as appraised in accordance with its highest and best use on the date of acquisition.

3. Incidental Costs. The SFWMD has requested that it be afforded credit for the costs incurred by other non-Federal governmental entities incidental to acquisition of project lands by such entities. The wording of Section 601 (e)(5)(A) is clear on credit being afforded only for “incidental costs for land acquired by a non-Federal sponsor.” Credit may be afforded for traditional incidental acquisition costs that are incurred by the SFWMD (e.g., appraisal costs, mapping costs, or relocation assistance benefits) as well as costs actually incurred by the SFWMD in obtaining the required real property rights from other non-Federal governmental entities. However, for the SFWMD to be eligible for credit for incidental acquisition costs, the SFWMD must have, in fact, incurred those costs.

**D.24.1.2 CERP Master Agreement between the Department of the Army and the South Florida Water Management District for Cooperation in Constructing and Operating, Maintaining, Repairing, Replacing and Rehabilitating Authorized Projects under the Comprehensive Everglades Restoration Plan, dated August 13, 2009**

In accordance with the terms and conditions of Article IV, Paragraph A, no credit shall be afforded for those lands or real estate interests provided by the SFWMD as an item of local cooperation for another Federal project.

**D.24.2 TALISMAN EXCHANGE—SFWMD LANDS**

In March 1999, DOI; the SFWMD; The Nature Conservancy; United States Sugar Corporation; Okeelanta Corporation; South Florida Industries, Inc.; Florida Crystals Corporation; Sugar Cane Growers Cooperative of Florida; Talisman Sugar Company; and the St. Joe Paper Company executed an Exchange and Purchase and Sale Agreement for the purpose of effecting transactions in which landowners in the EAA would sell lands to, or exchange lands with, other such landowners and the SFWMD so that the SFWMD would own contiguous parcels of land in the southern portion of the EAA for the purposes of Everglades restoration. The end result of the purchase and exchange was that the SFWMD obtained over 45,000 acres of land in the southern EAA. The DOI provided \$99,434,312 in Federal Farm Bill funds for the acquisition of these lands, and the SFWMD provided \$12,939,906. As part of the Talisman Exchange transaction, part of the SFWMD funds totaling \$9,756,881.31 was contributed to buy out the farming reservation held by the St. Joe Paper Company. As per the terms of the Cooperation Agreement between the SFWMD and DOI, the SFWMD elected to apply program income revenue towards the repayment of its contribution. The SFWMD has received and applied program income revenue towards its contribution and land management costs, which has or will cover all of the \$9,756,881.31. The SFWMD will continue to provide financial reports to DOI until program income revenue is no longer received for the grant lands. As part of the Talisman Exchange, DOI had the properties appraised, reviewed and approved the appraisals, and was instrumental in negotiating and executing the Exchange and Purchase and Sale Agreement. Because DOI funds were expended for the purchase of the lands required for the majority of the A-2 parcel and A-2 Expansion area, USACE will accept the land costs paid by both DOI and the SFWMD, and these will be credited to either the Federal Government or the SFWMD without review and approval of appraisals or other documentation. Pursuant to both Section 601 (E)(3) of WRDA 2000, the Framework Agreement, and Article II., paragraph M.2, the DOI funds will be credited to the Federal share of the Project. As set forth in the Framework Agreement, the credit is the actual acquisition costs of the lands required for the Project.

In total, lands needed for the project that are located between the Miami and North New River canals equal 34,537 acres. The CEPP footprint has been enlarged to include the A-2 Expansion area, which contains an additional 4,155 acres of land. Thus, the current total land area of the A-1 FEB, A-2 parcel, and A-2 Expansion area is approximately 34,537 acres, with most having been acquired in the Talisman Exchange/Acquisition. The project footprint of the A-2 parcel and structures requires approximately 13,825 acres, which were acquired in the Talisman Exchange. The A-2 Expansion area requires approximately 4,155 acres in lands west of the A-2 parcel, a portion of which was acquired in the Talisman Exchange.

DOI contributed approximately \$30,053,282 for the acquisition of the lands in the A-2 parcel and approximately \$3,696,382 for the acquisition of the SFWMD-owned lands in the A-2 Expansion area required for the CEPP PACR. Additionally, DOI contributed approximately \$163,750 for a leasehold buyout. These amounts will be credited to the Federal share of the project cost. The SFWMD contribution toward the acquisition of lands in the A-2 parcel and A-2 Expansion area totals approximately \$9,402,005. These amounts will be credited to the non-Federal share of the project cost. The SFWMD holds fee title to these lands.

### **D.24.3 OTHER SFWMD LANDS REQUIRED FOR A-2 PARCEL AND A-2 EXPANSION AREA**

The SFWMD acquired approximately 9.85 acres within the A-2 parcel and 783 acres within the A-2 Expansion area with State funds. These lands were valued at \$5,009,990. Prior to construction, the SFWMD will acquire approximately 499 acres within the A-2 Expansion area from two private landowners with State funds. In accordance with Article IV, paragraph D.1.a of the Master Agreement, the credit for lands acquired prior to execution of the PPA will be the fair market value of such real property interests as of the date the non-Federal sponsor provides the Government with authorization for entry thereto for construction.

### **D.24.4 STATE OF FLORIDA LANDS**

The State of Florida owns fee to approximately 1,263 acres in the A-2 Expansion area. These lands will be acquired by the SFWMD from the State prior to construction either through direct acquisition from the State or by Supplemental Agreement with the State. If the lands are acquired prior to the execution of the PPA, the credit will be the fair market value as of the date the non-Federal sponsor provides the Government with authorization for entry thereto for construction. As set forth in Article IV.D.1 of the Master Agreement for the CERP, if these lands are acquired after execution of the PPA, the SFWMD will receive the fair market value of such real property interests at the time the interests are acquired.

## **D.25 BASELINE COST ESTIMATES AND MCACES COST ESTIMATES**

Real estate cost estimates are based on the actual SFWMD acquisition costs and administrative costs provided by SFWMD and the estimated value of the State lands. A Baseline Cost Estimate for Real Estate costs is included in the **CEPP PACR Appendix B, Cost Engineering** along with the current MCACES cost estimate.



### D.25.1 ADMINISTRATIVE COSTS

Non-Federal Administrative costs in the estimated amount of \$350,000 for utility relocations are accounted for in **Tables D-2 and D-3** for the following: (1) costs associated with termination of SFWMD permits for Florida Power and Light and Quest Communications located where the L-29 is being removed; (2) costs associated with termination of a permit for the abandonment of the Florida Power and Light lines from the center of the A-2 parcel; and (3) costs associated with coordination with DOI on the termination of the easement to Florida Power and Light for the removal and relocation of the power line during removal of Old Tamiami Trail.

Future Non-Federal Administrative costs in the estimated amount of \$980,000 are accounted for in **Tables D-2 and D-3** for the following: (1) \$200,000 for project planning purposes; (2) \$320,000 for future acquisitions; (3) \$370,000 for future appraisals; (4) \$70,000 for temporary permits/licenses/rights-of-entry; and (5) \$20,000 for damage claims.

Future Federal Administrative costs in the estimated amount of \$500,000 are accounted for in **Tables D-2 and D-3** for the following: (1) \$310,000 for project planning purposes; (2) \$30,000 for review of future acquisitions; (3) \$65,000 for review of future appraisals; (4) \$15,000 for review of temporary permits/licenses/rights-of-entry; (5) \$35,000 for review of the PPA; and (6) \$45,000 for review and coordination of utility relocations.

In the acquisition of the Talisman property, DOI contributed \$163,750 toward SFWMD administrative expenses, which will be credited to the Federal Government. The SFWMD expended \$501,061 in State funds on administrative costs associated with the acquisition of the Talisman lands, which will be credited to the non-Federal (SFWMD) sponsor.

### D.25.2 RISK REGISTER

The risk register is a tool the USACE uses as a means to identify, discuss, and document issues early in the process. A risk register was developed by the study team to identify significant risks attributed to the shortened study period and to project success. In addition, a Cost and Schedule Risk Analysis was conducted specific to the project costs and schedule that is separate from the study risk register and results in contingency values that are applied to the project costs to set a total project cost. The risk analysis process for this study is intended to determine the probability of various cost outcomes and quantify the required contingency needed in the cost estimate to achieve the desired level of cost confidence. The risk register for this study is included in the **CEPP PACR Cost Engineering Appendix, Appendix B**.

## D.26 PROJECT MAPS

**Figure D-3** is the SFWMD land acquisition map for the TSP.

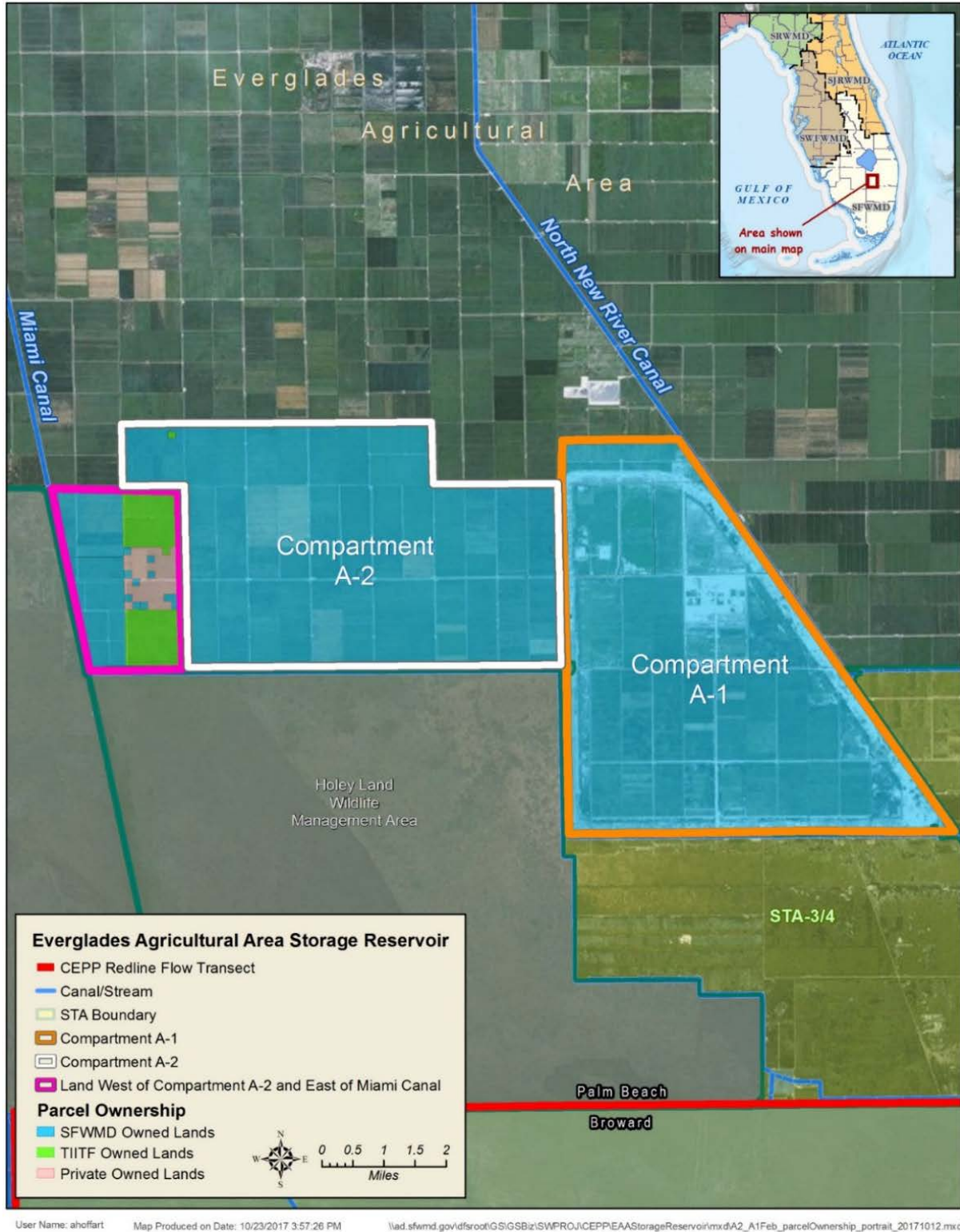


Figure D-3. SFWMD TSP Ownership Map

**EXHIBIT C**  
CERP CENTRAL EVERGLADES PLANNING PROJECT  
ASSESSMENT OF NON-FEDERAL SPONSOR'S  
REAL ESTATE ACQUISITION CAPABILITY

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? **YES**
- a. Does the sponsor have the power of eminent domain for this project? **No**
- b. Does the sponsor have "quick-take" authority for this project? **No**
- c. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? **NO**
- d. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? **YES**, Lands owned by the State of Florida will be provided by Supplemental Agreement in conformity with the terms of Article III-Lands, Easements, Rights-of-Way, Relocations and Compliance with P.L. 91-646, as amended, of the Master Agreement between the Department of the Army and South Florida Water Management District for Cooperation in Constructing and Operating, Maintaining, Repairing, Replacing and Rehabilitating Authorized Projects under the Comprehensive Everglades Restoration Plan, entered into on August 13, 2009.

II. Human Resources Requirements:

- a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects, including P.L. 91-646, as amended? **NO**
- b. If the answer to II.a is "yes," has a reasonable plan been developed to provide such training? **N/A**
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? **YES**
- d. Is the sponsor's projected in-house staffing level sufficient considering its other work load, if any, and the project schedule? **YES**
- e. Can the sponsor obtain contractor support, if required, in a timely fashion? **YES**
- f. Will the sponsor likely request USACE assistance in acquiring real estate? **NO**

III. Other Project Variables:

- a. Will the sponsor's staff be located within reasonable proximity to the project site? **YES**

- b. Has the sponsor approved the project/real estate schedule/milestones? YES

IV. Overall Assessment:

- a. Has the sponsor performed satisfactorily on other USACE projects? YES
- b. With regard to this project, the sponsor is anticipated to be: highly capable/fully capable/moderately capable/marginally capable/insufficiently capable. **HIGHLY CAPABLE**

V. Coordination:

- a. Has this assessment been coordinated with the sponsor? YES
- b. Does the sponsor concur with this assessment? YES

Prepared by: