

AMENDMENT NUMBER 3
TO THE
PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE ARKANSAS NATURAL RESOURCES COMMISSION
FOR CONSTRUCTION OF THE
BAYOU METO BASIN ELEMENT
GRAND PRAIRIE REGION AND BAYOU METO BASIN, ARKANSAS PROJECT

Amendment Number 3 is entered into this 29 day of January 2025, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander for Memphis District and the Arkansas Department of Agriculture (hereinafter the "Non-Federal Sponsor"), represented by its Secretary (formerly the Arkansas Natural Resources Commission, represented by its Executive Director).

WITNESSETH, THAT:

WHEREAS, construction of the Grand Prairie Region and Bayou Meto Basin, Arkansas Project was authorized by Section 204 of the Flood Control Act of 1950, Public Law 81-516, deauthorized by Section 1001(b) of the Water Resources Development Act of 1986, Public Law 99-662, and re-authorized by Section 363(a) of the Water Resources Development Act of 1996, Public Law 104-303;

WHEREAS, on May 24, 2010, the Government and the Non-Federal Sponsor entered into a Project Partnership Agreement, (hereinafter the "Agreement") for construction of the Bayou Meto Basin Element, a separable element of the Grand Prairie Region and Bayou Meto Basin project (hereinafter the "Project", as defined in Article I.A. of the Agreement);

WHEREAS, on December 28, 2012, the Agreement was amended to allow the Non-Federal Sponsor to receive credit towards its required contribution of funds for the value of certain *in-kind contributions* determined by the Government to be integral to the *Project* on December 7, 2011;

WHEREAS, on October 23, 2015, the Agreement was further amended to allow the Non-Federal Sponsor to accelerate all or a portion of its required contribution of funds for the *Project* for the immediate use by the Government; and

WHEREAS, the Non-Federal Sponsor desires to further amend the Agreement to allow credit towards its required contribution of funds for the value of any additional *in-kind contributions* it performs after the effective date of Amendment Number 3 to this Agreement if the Government determines such work to be integral to the *Project*.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree to further amend the Agreement as follows:

1. In the Agreement title replace "THE ARKANSAS NATURAL RESOURCES COMMISSION" with "THE ARKANSAS DEPARTMENT OF AGRICULTURE".
2. The opening paragraph is amended by striking "Arkansas Natural Resources Commission (hereinafter the "Non-Federal Sponsor"), represented by its Executive Director" and replacing it with "Arkansas Department of Agriculture (hereinafter the "Non-Federal Sponsor"), represented by its Secretary".
3. Insert after the eleventh WHEREAS clause the following:

"WHEREAS, in addition to the *in-kind contributions* that were determined by the Government to be integral to the *Project* on December 7, 2011, the Non-Federal Sponsor may provide or perform additional *in-kind contributions* after the effective date of Amendment Number 3 to the Agreement that the Government determines to be integral to the *Project* (hereinafter collectively the "*in-kind contributions*", as redefined in Article I.T. by Amendment Number 3 to this Agreement) and the value of such contributions are eligible for credit toward the non-Federal share of the costs of the *Project* in accordance with the provisions of the Agreement, as amended;"

4. ARTICLE I - DEFINITIONS is amended as follows:

- a. The second sentence in Article I.E. is amended by striking "Article II.D.5. and Article II.E.5." and replacing it with "Article II.C.6., Article II.D.5., and Article II.E.5".

- b. Replace Article I.T. in its entirety with the following:

"T. The term "*in-kind contributions*" shall mean the design and construction of the initial *in-kind contributions* consisting of distribution pipelines for the Agricultural Water Supply component, and improvements to the Bayou Meto Wildlife Management Area for the Waterfowl Management component that were performed after the effective date of Amendment No. 1 to this Agreement and that were determined to be integral to the *Project* on December 7, 2011 and any additional *in-kind contributions* that will be performed by the Non-Federal Sponsor after the effective date of Amendment No. 3 to the Agreement that are identified as being integral to the *Project* by the Division Commander for Mississippi Valley Division (hereinafter the "Division Commander"). To be integral to the *Project*, the material or service must be part of the work that the Government would otherwise have undertaken for design and construction of the *Project*. The additional *in-kind contributions* also include any initial investigations performed by the Non-Federal Sponsor to identify the existence and extent of any hazardous substances that may exist in, on, or under lands, easements, and rights-of-way required for the *Project*; however, it does not include hazardous substance cleanup and response."

5. ARTICLE II - OBLIGATIONS OF THE GOVERNMENT AND THE NON-FEDERAL SPONSOR is amended as follows:

a. Article II.A. is amended by striking the last sentence and replacing it with the following: “The Non- Federal Sponsor expeditiously shall perform or provide the *in-kind contributions* in accordance with applicable Federal, State, and local laws, regulations, and policies.”

b. Article II.A.5. is amended by replacing “\$699,588,000” with “\$863,000,000”.

c. Replace the first sentence of Article II.A.8. with “As of the effective date of Amendment No. 3 to this Agreement, \$126,470,000 of Federal funds have been made available for the *Project*.”.

d. Replace Article II.C.3. in its entirety with the following:

“3. The Non-Federal Sponsor shall provide an additional contribution of funds as determined below:

a. If the Government projects at any time that the collective value of the Non-Federal Sponsor’s contributions listed in the next sentence will be less than 25 percent of *total flood damage reduction costs*, the Government shall determine the amount of funds that would be necessary to meet 25 percent of *total flood damage reduction costs* prior to the Government affording credit for the *in-kind contributions* pursuant to paragraph C.6. of this Article. To determine such amount, the Government shall subtract from an amount equal to 25 percent of *total flood damage reduction costs* the collective value of the following that are determined by the Government to be attributable to the *flood damage reduction features*: (a) the value of the Non-Federal Sponsor’s contributions under paragraph C.1. of this Article; (b) the value of the cash contribution provided by a non-Federal interest pursuant to the terms of the Design Agreement determined by the Government to be attributable to the *flood damage reduction features* that exceeds the 5 percent amount required by paragraph C.1. of this Article and the value of the non-cash contributions provided by a non-Federal interest pursuant to the terms of the Design Agreement determined by the Government to be attributable to the *flood damage reduction features*; (c) the value of the Non-Federal Sponsor’s contributions under paragraph C.2. of this Article as determined by the Government in accordance with Article IV of this Agreement to be attributable to the *flood damage reduction features*; (d) the value of the Non-Federal Sponsor’s contributions under Article V, Article X, and Article XIV.A. of this Agreement determined by the Government to be attributable to the *flood damage reduction features*; and (e) the value of the Non-Federal Sponsor’s contributions under paragraph D.1. of this Article as determined in accordance with Article IV of this Agreement that exceeds 50 percent of the *total waterfowl management costs* and for which credit was not afforded toward the Non-Federal Sponsor’s share of *total agricultural water supply costs* in accordance with paragraph E.2. of this Article all as determined by the Government.

b. The Non-Federal Sponsor shall provide a contribution of funds in the amount determined by this paragraph in accordance with Article VI.B. of this Agreement. To determine such required contribution of funds, the Government shall reduce the amount determined in accordance with paragraph C.3.a. of this Article by the amount of

credit the Government projects will be afforded for the *in-kind contributions* pursuant to paragraph C.6. of this Article.”

e. The first sentence of Article II.C.4. is amended by inserting the phrase “and as limited by paragraph R of this Article” after “availability of funds” and before “, shall refund or reimburse”.

f. The first sentence of Article II.C.4. is further amended by inserting “b.” after “C.3.” and before “of this Article”.

g. The first sentence of Article II.C.4. is further amended by inserting “; and (e) the amount of credit afforded for the *in-kind contributions* pursuant to paragraph C.6. of this Article” after “Article XIV.A. of this Agreement”.

h. Article II.C. is amended by adding the following paragraphs 5 and 6:

“5. The Government shall determine, in accordance with the conditions and limitations of this paragraph, the amount of the costs for *in-kind contributions* for the *flood damage reduction features* that may be eligible for credit.

a. The Non-Federal Sponsor’s in a timely manner shall provide the Government with *Non-Federal Sponsor’s credit request(s)* and any other documents required by the Government to enable the Government to determine the costs of *in-kind contributions* that may be eligible for credit.

b. The Non-Federal Sponsor’s costs for *in-kind contributions* that may be eligible for credit pursuant to this Agreement shall be subject to an audit in accordance with Article X.C. of this Agreement to determine the reasonableness, allocability, and allowability of such costs.

c. The Non-Federal Sponsor’s costs for *in-kind contributions* that may be eligible for credit pursuant to this Agreement are not subject to interest charges, nor are they subject to adjustment to reflect changes in price levels between the time the *in-kind contributions* were or are completed and the time the credit is afforded.

d. None of the costs for *in-kind contributions* paid by the Non-Federal Sponsor using *Federal program funds* are eligible for credit pursuant to this Agreement unless the Federal agency providing the funds verifies in writing that the funds are authorized to be used to carry out the *Project*.

e. Costs for *in-kind contributions* that are in excess of the Government’s estimate of the costs for the Government to have performed such work or materials are not eligible for credit pursuant to this Agreement.

f. Costs for *betterments*, the provision of lands, easements, rights-of-way, *relocations*, or the construction of improvements required on lands, easements, and rights-of-way

to enable the disposal of dredged or excavated material are not eligible for credit as *in-kind contributions*.

g. In the performance of the construction portion of *the in-kind contributions*, the Non Federal Sponsor must comply with applicable Federal labor laws covering Non Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)). The Government may determine that costs for the construction portion of the *in-kind contributions*, in whole or in part, are not eligible for credit pursuant to this Agreement, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

h. Costs for *in-kind contributions* are not eligible for credit pursuant to this Agreement unless the Government determines through a review or on-site inspection, as applicable, performed by the Government that the work was accomplished in a satisfactory manner and in accordance with the applicable permits and the plans and specifications approved by the Government and the provisions of this Agreement.

i. No costs for any additional *in-kind contributions* allocated by the Government to the *flood damage reduction features* that were performed prior to the effective date of Amendment Number 3 to the Agreement, or prior to compliance with all applicable environmental laws and regulations covering such work, including, but not limited to NEPA and Section 401 of the Federal Water Pollution Control Act (33 U.S.C. §1251-1387, 200b) are eligible for credit pursuant to this Agreement.

j. *In-kind contributions* that were obtained at no cost to the Non-Federal Sponsor are not eligible for credit pursuant to this Agreement.

6. The Government, in accordance with this paragraph, shall afford credit toward the amount of funds determined in accordance with paragraph C.3.a. of this Article for the costs of the *in-kind contributions* determined in accordance with paragraph C.5. of this Article that are allocated by the Government to the *flood damage reduction features*. However, the maximum amount of credit afforded shall not exceed the lesser of the following amounts as determined by the Government: (a) the amount of funds determined in accordance with paragraph C.3.a. of this Article; or (b) the costs of the *in-kind contributions* determined in accordance with paragraph C.5. of this Article.”

i. Replace Article II.D.4.i. in its entirety with the following:

“i. No costs for any initial *in-kind contributions* allocated by the Government to the *waterfowl management features* that were performed prior to the effective date of Amendment No. 1 to the Agreement, for any additional *in-kind contributions* allocated by the Government to the *waterfowl management features* that were performed prior to the effective date of Amendment No. 3 to the Agreement, or any *in-kind contributions* performed prior to compliance with all applicable environmental laws and regulations covering such work,

including, but not limited to NEPA and Section 401 of the Federal Water Pollution Control Act (33 U.S.C. §1251-1387, 200b) are eligible for credit pursuant to this Agreement.”

j. Replace Article II.E.4.i. in its entirety with the following:

“i. No costs for any initial *in-kind contributions* allocated by the Government to the *agricultural water supply features* that were performed prior to the effective date of Amendment Number 1 to the Agreement, for any additional *in-kind contributions* performed prior to the effective date of Amendment Number 3 to the Agreement, or for any *in-kind contributions* allocated by the Government to the *agricultural water supply features* that were performed prior to compliance with all applicable environmental laws and regulations covering such work, including, but not limited to NEPA and Section 401 of the Federal Water Pollution Control Act (33 U.S.C. §1251-1387, 200b) are eligible for credit pursuant to this Agreement.”

k. Article II.R. is amended by striking “paragraph D.5. and paragraph E.5.” and replacing it with “paragraphs C.6., D.5., and E.5.”.

6. ARTICLE VI - METHOD OF PAYMENT is amended as follows:

a. Article VI.A. is amended by inserting “Article II.C.6.,” before “Article II.D.5. and Article II.E.5.” and after “*in-kind contributions* pursuant to”.

b. Replace Article VI.A.1. in its entirety with the following:

“1. As of the effective date of Amendment Number 3 to this Agreement, *total project costs* are projected to be \$863,000,000, with the Government’s share of such costs projected to be \$560,934,750 and the Non-Federal Sponsor’s share of such costs projected to be \$302,065,250. *Total flood damage reduction costs* are projected to be \$90,131,000, with the Government’s share of such costs projected to be \$67,598,250 and the Non-Federal Sponsor’s share of such costs projected to be \$22,532,750, which includes the 5 percent contribution of funds projected to be \$4,506,550, creditable lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material projected to be \$3,118,000, creditable *in-kind contributions* projected to be \$0, and the additional amount of funds required to meet the minimum 25 percent cost share projected to be \$14,908,200. *Total waterfowl management costs* are projected to be \$60,189,000, with the Government’s share of such costs projected to be \$30,094,500 and the Non-Federal Sponsor’s share of such costs projected to be \$30,094,500, which includes creditable lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material projected to be \$10,800,000, creditable *in-kind contributions* projected to be \$6,425,000, and the funds required to meet its 50 percent cost share projected to be \$12,869,500. *Total agricultural water supply costs* are projected to be \$712,680,000, with the Government’s share of such costs projected to be \$463,242,000 and the Non-Federal Sponsor’s share of such costs projected to be \$249,438,000, which includes creditable lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material projected to be \$88,575,000, creditable *in-kind contributions* projected to

be \$108,681,400, other creditable contributions projected to be \$2,181,600, and the funds required to meet its 35 percent cost share projected to be \$50,000,000. The *non-Federal proportionate share* for the *Project* is projected to be 26 percent. The Government's total financial obligations for the additional work to be incurred and the Non-Federal Sponsor's contribution of funds for such costs required by Article II.J. of this Agreement are projected to be \$0. These amounts and percentage are estimates subject to adjustment by the Government, after consultation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor."

c. Article VI.A.2. is amended by striking "Article II.C.3." and replacing it with "Article II.C.3.b."

d. Article VI.B. is amended by striking "Article II.C.3." and replacing it with "Article II.C.3.b."

e. Article VI.B.3. is amended by inserting "Article II.C.6." before "Article II.D.5. and Article II.E.5." and after "the in-kind contributions pursuant to".

7. The second sentence of Article XIII.D. is amended by striking "Article II.C.3." and replacing it with "Article II.C.3.b."

8. Article XV is amended by striking "Executive Director", "Arkansas Natural Resources Commission", "101 East Capitol, Suite 350", and "72201" and replacing them with "Secretary", "Arkansas Department of Agriculture", "1 Natural Resources Drive", and "77205", respectively.

9. All other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed Amendment Number 3, which shall become effective upon the date it is signed by the District Commander for Memphis District.

THE DEPARTMENT OF THE ARMY

BY: 

BRIAN D. SAWSER
Colonel, U.S. Army
District Commander

THE ARKANSAS DEPARTMENT OF AGRICULTURE

BY: 

WES WARD
Secretary
Arkansas Department of Agriculture

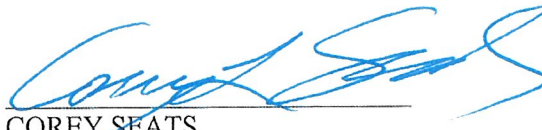
DATE: 1/29/25

DATE: 1/29/25

CERTIFICATE OF AUTHORITY

I, Corey Seab, do hereby certify that I am the principal legal officer for the Arkansas Department of Agriculture, that the Arkansas Department of Agriculture is a legally constituted public body with full authority and legal capability to perform the terms of the Amendment Number 3 between the Department of the Army and the Arkansas Department of Agriculture in connection with the Grand Prairie Region And Bayou Metro Basing, Arkansas Project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Amendment as required by Section 221 of Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and that the person who executed this Amendment on behalf of the Arkansas Department of Agriculture acted within his statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this 28th day of January 2025.



COREY SEATS
General Counsel
Arkansas Department of Agriculture

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Wes Ward


Wes Ward
Secretary of Agriculture
Arkansas Department of Agriculture

DATE: 1/29/25

**NON-FEDERAL SPONSOR'S
SELF-CERTIFICATION OF FINANCIAL CAPABILITY
FOR AGREEMENTS**

I, Inoussa Zaki, do hereby certify that I am the Chief Financial Officer of the Arkansas Department of Agriculture (the "Non-Federal Sponsor"); that I am aware of the financial obligations of the Non-Federal Sponsor for the Grand Prairie Region Element and the Bayou Meto Basin Arkansas Element of the Grand Prairie Region and Bayou Meto Basin Arkansas Project; and that the Non-Federal Sponsor has the financial capability to satisfy the Non-Federal Sponsor's obligations under the Grand Prairie Region Element and Bayou Meto Basin Element of the Grand Prairie Region and Bayou Meto Basin, Arkansas Project.

IN WITNESS WHEREOF, I have made and executed this certification.

BY: 
TITLE: Chief Financial Officer
DATE: February 15, 2023

Bayou Meto Basin, Arkansas Project
 PCA Amendment No 3
 Environment – Waterfowl Management
 Cost Shared NFS 50%: FED 50%
 Funds Allocation Table
 03-15-2023

FY	TPC	LERRDs	NFS PCT/ WIK	CONSTRUCTION (FED + NFS)	% (YTD Construction/Total Construction)	NFS Cash	NFS Construction WIK	Federal Construction	NFS Total	FED Total
Prior to 2023	\$10,490,183	\$0	\$0	\$10,490,183	21	\$6,220,583	\$0	\$4,269,600	\$6,220,583	\$4,269,600
2023	\$0	\$0	\$0	\$0	21	\$0	\$0	\$0	\$0	\$0
2024	\$7,181,000	\$756,000	\$0	\$6,425,000	34	\$0	\$2,425,000	\$4,000,000	\$3,181,000	\$4,000,000
2025	\$7,181,000	\$0	\$0	\$7,181,000	49	\$0	\$4,000,000	\$3,181,000	\$4,000,000	\$3,181,000
26 - 40	\$35,336,817	\$10,044,000	\$0	\$25,292,817	100	\$6,648,917	\$0	\$18,643,900	\$16,692,917	\$18,643,900
FULLY FUNDED TOTAL	\$60,189,000	\$10,800,000	\$0	\$49,389,000	100	\$12,869,500	\$6,425,000	\$30,094,500	\$30,094,500	\$30,094,500

Percentage Construction = Year to date construction cost / Total estimated construction cost

Prior to 2023 – includes planning and prior years construction costs.

Bayou Meto Basin, Arkansas Project
PCA Amendment No 3
Agricultural Water Supply
Cost Shared 35% NFS: 65% FED
Funds Allocation Table
03-15-2023

FY	TPC	LERRDs	NFS PCT/On Farm/ WIK	CONSTRUCTION (FED + NFS)	% (YTD Construction / Total Construction)	NFS Cash	NFS Construction WIK	Federal Construction	NFS Total	FED Total
Prior to 2023	\$135,873,735	\$2,838,631	\$2,181,601	\$335,410,864	11	\$37,574,823	\$0	\$297,836,041	\$42,595,055	\$297,836,041
2023	\$39,715,000	\$5,000,000	\$0	\$34,715,000	27	\$9,700,000	\$11,015,000	\$14,000,000	\$25,715,000	\$14,000,000
2024	\$32,000,000	\$4,000,000	\$0	\$28,000,000	44	\$2,000,000	\$7,000,000	\$19,000,000	\$13,000,000	\$19,000,000
2025	\$32,916,000	\$6,000,000	\$0	\$26,916,000	62	\$0	\$7,916,000	\$19,000,000	\$13,916,000	\$19,000,000
26 - 40	\$472,175,265	\$70,736,369	\$0	\$196,881,535	87	\$725,177	\$82,750,399	\$113,405,959	\$154,211,945	\$113,405,959
FULLY FUNDED TOTAL	\$712,680,000	\$88,575,000	\$2,181,601	\$621,923,399	100	\$50,000,000	\$108,681,399	\$463,242,000	\$249,438,000	\$463,242,000

Bayou Meto Basin, Arkansas Project
 PCA Amendment No 3
 Flood Risk Management
 Cost Shared 25% NFS: 75% FED
 Funds Allocation Table
 03-15-2023

FY	TPC	LERRDs	NFS PCT/WIK	CONSTRUCTION (FED + NFS)	% (YTD Construction/Total Construction)	NFS Cash	NFS Construction WIK	Federal Construction	NFS Total	FED Total
Prior to 2023	\$17,032,193	\$0	\$0	\$17,032,193	20	\$2,108,369	\$0	\$14,923,824	\$2,108,369	\$14,923,824
2023	\$3,500,000	\$1,500,000	\$0	\$2,000,000	21	\$2,000,000	\$0	\$0	\$3,500,000	\$0
2024	\$756,000	\$756,000	\$0	\$0	21	\$0	\$0	\$0	\$756,000	\$0
2025	\$0	\$0	\$0	\$0	21	\$0	\$0	\$0	\$0	\$0
26 - 40	\$68,842,807	\$862,000	\$0	\$67,980,807	99	\$15,306,381	\$0	\$52,674,426	\$16,168,381	\$52,674,426
FULLY FUNDED TOTAL	\$90,131,000	\$3,118,000	\$0	\$87,013,000	100	\$19,414,750	\$0	\$67,598,250	\$22,532,750	\$67,598,250