

AMENDMENT NO. 1
TO THE
PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
AND
PUEBLO OF SANDIA
FOR
CONSTRUCTION
OF THE
MIDDLE RIO GRANDE RESTORATION, NEW MEXICO

THIS AMENDMENT NO. 1 is entered into this 10 day of Jan, 2014, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Albuquerque District (hereinafter the "District Engineer") and Middle Rio Grande Conservancy District (hereinafter the "MRGCD"), represented by the Chair of the Middle Rio Grande Conservancy District Board, and Pueblo of Sandia (hereinafter the "Pueblo"), represented by the Governor (MRGCD and the Pueblo when referred to collectively are referred to as the "Non-Federal Sponsors").

WITNESSETH, THAT:

WHEREAS, construction of the Middle Rio Grande Restoration, New Mexico for ecosystem restoration and recreation (hereinafter the "Authorized Project") in the middle reach of the Rio Grande, in the vicinity of the City of Albuquerque, New Mexico was authorized by Section 3118 of the Water Resources Development Act of 2007, Public Law 110-114, "Middle Rio Grande Restoration, New Mexico", as amended by Section 114 of the Energy and Water Development and Related Agencies Appropriations Act, 2009, Division C of the Omnibus Appropriations Act, 2009, Public Law 111-8;

WHEREAS, the Government and the Non-Federal Sponsors entered into a Project Partnership Agreement (hereinafter the "Agreement") for construction of the Authorized Project on July 20, 2011;

WHEREAS, the Government and the Non-Federal Sponsors desire and mutually agree to amend the Agreement by this Amendment No. 1, to eliminate the Oxbow Site 3A (a separable element of the Authorized Project);

WHEREAS, the remaining work currently ongoing under the Agreement is also a separable element of the Authorized Project;

WHEREAS, the Government and Non-Federal Sponsors have the full authority and capability to perform as hereinafter set forth and intend to cooperate in cost-sharing and financing of the *Project* in accordance with the terms of the Agreement; and

WHEREAS, the Government and the Non-Federal Sponsors, in connection with the Agreement and Amendment No. 1, desire to foster a partnering strategy and a working relationship between the Government and the Non-Federal Sponsors through a mutually developed formal strategy of commitment and communication embodied herein, which creates an environment where trust and teamwork prevent disputes, foster a cooperative bond between the Government and the Non-Federal Sponsors, and facilitate the successful implementation of the *Project*.

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

1. The first three whereas clauses are amended by striking them and replacing them with the following new whereas clauses:

“WHEREAS, construction of the Middle Rio Grande Restoration, New Mexico for ecosystem restoration and recreation (hereinafter the “Authorized Project”) in the middle reach of the Rio Grande, in the vicinity of the City of Albuquerque, New Mexico was authorized by Section 3118 of the Water Resources Development Act of 2007, Public Law 110-114, “Middle Rio Grande Restoration, New Mexico”, as amended by Section 114 of the Energy and Water Development and Related Agencies Appropriations Act, 2009, Division C of the Omnibus Appropriations Act, 2009, Public Law 111-8;

WHEREAS, the Government was authorized to perform *monitoring* and *adaptive management* (as defined in Article I.N. and Article I.O. of this Agreement, respectively) as part of the Authorized Project;

WHEREAS, the Government and the Non-Federal Sponsors desire to enter into a Project Partnership Agreement (hereinafter the “Agreement”) for construction of the Authorized Project features except those included in Oxbow Site 3A (hereinafter the “*Project*”, as defined in Article I.A. of this Agreement), and the responsibility of the Pueblo is limited to providing access to and use of certain lands that are owned by the Pueblo solely for the purpose of construction (including *monitoring* and *adaptive management*) and operation, maintenance, repair, rehabilitation, and replacement of certain *ecosystem restoration features* of the *Project*;

2. ARTICLE I- DEFINITIONS is amended as follows:

a. Paragraph A. is amended by striking the paragraph and replacing it with the following Paragraph A.:

“A. The term “*Project*” shall mean the ecosystem restoration features and the recreation features as generally described in the Middle Rio Grande Bosque, New Mexico, General Investigation Study, Final Feasibility Report, dated March 2011 and approved by the Assistant Secretary of the Army (Civil Works) on May 13, 2011, excepting those features included in Oxbow Site 3A”.

- b. Paragraph B. is amended by striking "916 acres" and replacing with "886 acres", striking "18 areas" and replacing with "17 areas".
- c. Paragraph C. is amended by striking "project area" and replacing with "*Project* area".
- d. Paragraph Q. is amended by striking "*Project*" and replacing with "Authorized Project".

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

- a. Paragraph D.1. is amended by striking the paragraph and replacing it with the following Paragraph D.1.:

"1. As of the effective date of Amendment No. 1 to this Agreement, \$24,984,000 of Federal funds have been provided by Congress for the Authorized Project of which \$23,384,000 is currently projected to be available for the *Project*. The Government makes no commitment to request Congress to provide additional Federal funds for the Authorized Project or the *Project*. Further, the Government's financial participation in the *Project* is limited to the Federal funds that the Government makes available to the *Project*."

- b. Paragraph D.3. is amended by striking "*adaptive management* of the *Project*" and replacing with "*adaptive management* of all elements of the Authorized Project".

- c. Paragraph G. is amended by striking the paragraph and replacing it with the following Paragraph G.

"G. MRGCD shall not use *Federal program funds* to meet any of its obligations for the *Project* under this Agreement unless the Federal agency providing the funds verifies in writing that such funds are authorized to carry out the *Project*."

4. ARTICLE V- METHOD OF PAYMENT is amended as follows:

- Paragraph A.1. is amended by striking the paragraph and replacing it with the following Paragraph A.1.:

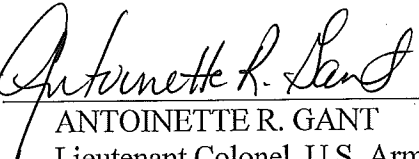
"1. As of the effective date of Amendment No. 1 to this Agreement, *total project costs* are projected to be \$23,209,000; *total ecosystem restoration costs* are projected to be \$21,390,200; *total recreation costs* are projected to be \$1,818,800; and the Government's total financial obligations for the additional work to be incurred and MRGCD's contribution of funds for such costs required by Article II.H. of this Agreement are projected to be \$0. These amounts are estimates subject to adjustment by the Government, after consultation with MRGCD, and are not to be construed as the total financial responsibilities of the Government and MRGCD."


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

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1, which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

MIDDLE RIO GRANDE CONSERVANCY
DISTRICT

BY 
ANTOINETTE R. GANT
Lieutenant Colonel, U.S. Army
Commander

BY 
DERRICK J. LENTE
Chair
Middle Rio Grande Conservancy
District Board

DATE: 10 Jun 2014

DATE: 6/9/14

PUEBLO OF SANDIA

BY 
STUART PAISANO
Governor

DATE: 6/2/14

CERTIFICATE OF AUTHORITY

I, David Mielke, do hereby certify that I am the principal legal advisor of the Pueblo of Sandia for this project, that the Pueblo of Sandia is a federally recognized Indian tribe with full authority and legal capability to perform its obligations under the terms of the Amendment No. 1. to the Agreement dated 20 July 2011 between the Department of the Army, the Middle Rio Grande Conservancy District, and the Pueblo of Sandia in connection with the Middle Rio Grande Restoration, New Mexico, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of the Agreement and Amendment No. 1 to the Agreement, as required by Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and that the person who has executed this Agreement on behalf of the Pueblo of Sandia has acted within his authority.

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

2nd day of June 2014.



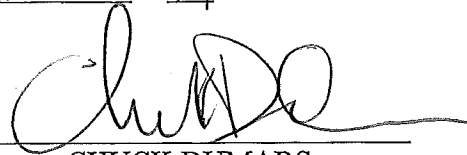
DAVID MIELKE

Legal Counsel,
Pueblo of Sandia

CERTIFICATE OF AUTHORITY

I, Chuck Dumars, do hereby certify that I am the principal legal officer of the Middle Rio Grande Conservancy District, that the Middle Rio Grande Conservancy District is a legally constituted public body with full authority and legal capability to perform the terms of the Amendment No. 1 to the Agreement dated 20 July 2011 between the Department of the Army, the Middle Rio Grande Conservancy District, and the Pueblo of Sandia in connection with the Middle Rio Grande Restoration, New Mexico, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of the Agreement and Amendment No. 1, as required by Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and that the persons who have executed this Agreement on behalf of the Middle Rio Grande Conservancy District have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this
9 day of June 2014.



CHUCK DUMARS
Legal Counsel,
Middle Rio Grande Conservancy District

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.



DERRICK J. LENTE
Chair
Middle Rio Grande Conservancy
District Board

DATE: 6/9/14

CERTIFICATION REGARDING LOBBYING

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

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(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.

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STUART PAISANO
Governor
Pueblo of Sandia

DATE: 6/2/14