



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

JUL 28 2006

CECW-MVD

MEMORANDUM FOR COMMANDER, MISSISSIPPI VALLEY DIVISION (CEMVD-PD-N)

SUBJECT: Comite River Diversion Project, Louisiana, Amendment No.1 to the Project Cooperation Agreement

1. The enclosed Amendment No.1 to the project cooperation agreement is approved. Signature authority is delegated to the New Orleans District Commander.
2. You must ensure that the Amendment No.1 is signed by the sponsor as approved without deviation, not later than 21 calendar days after the date of this memorandum. The New Orleans District should prepare a minimum of four final Amendment No.1 originals. Upon execution, the district will retain two copies of the executed Amendment No.1. The remaining executed Amendment No.1's should be provided to the sponsor. An electronic copy of the executed Amendment No.1 should be forwarded to CECW-MVD (John Lucyshyn) not later than 14 days after final signature of the PCA.
3. If any deviations to the approved Amendment No.1 are required, prior to signature by the sponsor, the district will notify CEMVD and CECW-MVD of the reasons for the deviations and request approval of the deviations. Only after receipt of written approval from CECW-MVD, will the deviations be incorporated into the approved Amendment No.1.
4. If the 21-day suspense will not be met, prior to signature by the sponsor, the district will transmit a memorandum notifying CECW-MVD of the reasons for the slip or identifying changed conditions and the recommended course of action.
5. Any questions should be directed to Mr. John Lucyshyn at 202-761-4515.

FOR THE COMMANDER:

Encls
as

THOMAS W. WATERS, P.E.
Chief, MVD Regional Integration Team
Directorate of Civil Works

PROJECT COOPERATION AGREEMENT AMENDMENT NO. 1
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
AND
CITY OF BATON ROUGE AND PARISH OF EAST BATON ROUGE
AND
AMITE RIVER BASIN DRAINAGE AND WATER CONSERVATION DISTRICT
FOR THE
COMITE RIVER DIVERSION PROJECT,
AMITE RIVER AND TRIBUTARIES, LOUISIANA

THIS AMENDMENT is entered into this 18th day of August, 2006, by and between the DEPARTMENT OF THE ARMY (hereinafter the "Government"), represented by the U.S. Army Engineer, New Orleans District, the Louisiana Department of Transportation and Development (hereinafter "LA DOTD") represented by the Secretary of LA DOTD, the City of Baton Rouge and the Parish of East Baton Rouge (hereinafter "CITY-PARISH") represented by its Mayor-President, and the Board of Commissioners of the Amite River Basin Drainage and Water Conservation District (hereinafter "ARBC") represented by its President, (LA DOTD, the City-Parish and ARBC being collectively referred to hereinafter as the "Non-Federal Sponsors").

WITNESSETH, THAT:

WHEREAS, construction of the Comite River Diversion Project, Amite River and Tributaries, Louisiana at a location between the Comite River and the Mississippi River, north of the City of Baker, Louisiana, and south of the City of Zachary, Louisiana was authorized by section 101(11) of the Water Resources Development Act of 1992, Public Law 102-580, dated October 31, 1992 (WRDA 1992), as amended and reauthorized by Section 301(b)(5) of the Water Resources Development Act of 1996, Public Law 104-303 (WRDA 1996) dated October 12, 1996, and as amended by Section 371 of the Water Resources Development Act of 1999, Public Law 106-53 (WRDA 1999) dated August 17, 1999, with technical corrections to Section 371 of WRDA 1999 in Section 6 of Public Law 106-109 dated November 24, 1999; and

WHEREAS, Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended, and Section 371 of WRDA 1999 specifies the cost-sharing requirements applicable to the Project; and

WHEREAS, the Government and the Non-Federal Sponsors entered into a Project Cooperation Agreement on October 1, 2001 (hereinafter referred to as the "Agreement") for construction of the Project;

WHEREAS, LA DOTD proposes to accelerate its provision of funds to the Government in an amount not to exceed the current estimate of LA DOTD's required cash contribution for the Project, less any funds previously contributed, for the immediate use by the Government for construction of the Project;

WHEREAS, the parties agree that such acceptance shall not represent or give rise to an obligation of the United States, including any obligation to provide reimbursement of the funds LA DOTD elects to provide or any obligation to request future funds to match the amount LA DOTD elects to provide, and that such funds will be credited against LA DOTD's future cost share only if additional Federal funds are appropriated.

NOW, THEREFORE, the Government and the Non-Federal Sponsors agree that the Agreement is hereby amended in the following particulars but in no others:

1. ARTICLE II - OBLIGATIONS OF THE GOVERNMENT AND THE NON-FEDERAL SPONSORS

Article II is amended by adding the following paragraphs at the end thereof:

"O. LA DOTD may offer in writing to accelerate a portion or all of its required cash contribution pursuant to Article II.D. of this Agreement during the period of construction for immediate use by the Government. This offer shall be limited to an amount that does not exceed the most current estimate of the total of LA DOTD's required cash contribution pursuant to Article II.D. of this Agreement, as determined by the Government in coordination with LA DOTD, less any funds previously contributed by LA DOTD. Upon receipt of such offer or offers, the Government, subject to receiving such approvals and concurrences as customarily are required to accept such funds, may accept the funds, or such portion thereof as the Government determines to be necessary to meet the costs of construction of the Project. If the Government elects to accept such funds, it shall notify LA DOTD of such acceptance in a writing that sets forth any applicable terms and conditions. In the event of a conflict between this Agreement and any such writing, this Agreement shall control. Such funds shall be used by the Government for construction of the Project.

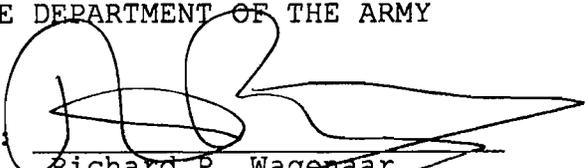
P. As Federal appropriations are made available to pay the Federal share of construction of the Project, the Government shall afford credit for funds provided during the period of

LA DOTD no later than 90 calendar days after the final accounting is complete, except that, if the final accounting results from termination pursuant to Article XIV.C. of this Agreement, the amount of excess contribution that was provided in accordance with Article II.O. of this Agreement and for which credit was not afforded pursuant to Article II.P. of this Agreement shall not be reimbursed. However, LA DOTD shall not be entitled to any refund of the 5 percent cash contribution required pursuant to Article II.D.1. of this Agreement. In the event existing funds are not available to refund the excess to the Non-Federal Sponsor, the Government shall seek such appropriations as are necessary to make the refund (not including the non-reimbursable amounts referenced in the first sentence of this paragraph)."

IN WITNESS WHEREOF, the parties hereto have executed this amendment to the Agreement, which shall become effective upon the date it is signed by the authorized representative of the Government.

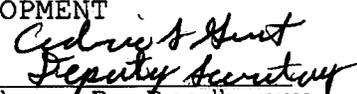
THE DEPARTMENT OF THE ARMY

BY:


Richard P. Wagenaar
Colonel, Corps of Engineers
District Engineer

LOUISIANA DEPARTMENT
OF TRANSPORTATION AND
DEVELOPMENT

For BY:


Johnny B. Bradberry
Secretary
Louisiana Department
of Transportation and
Development

DATE:

8-18-06

DATE:

8-16-06
RECOMMENDED FOR
Approval

BY:


Edmond J. Preau
Assistant Secretary
OFFICE OF PUBLIC
WORKS, HURRICANE
FLOOD PROTECTION AND
INTERMODAL
TRANSPORTATION

BOARD OF COMMISSIONERS
AMITE RIVER BASIN DRAINAGE
AND WATER CONSERVATION DISTRICT

THE CITY OF BATON ROUGE
AND PARISH OF
EAST BATON ROUGE

BY:

Don Thompson
Don Thompson
President

Date:

8-7-06

BY:

Melvin Kip Holden
Melvin "Kip" Holden
Mayor-President

Date:

8-8-06

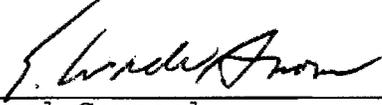
APPROVED

[Signature]
PARISH ATTORNEY'S OFFICE

CERTIFICATE OF AUTHORITY

I, E. Wade Shaws, do hereby certify that I am the principal legal officer of the City of Baton Rouge and Parish of East Baton Rouge, that the City of Baton Rouge and Parish of East Baton Rouge is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the City of Baton Rouge and Parish of East Baton Rouge in connection with the Comite River Diversion Project, Amite River and Tributaries, Louisiana, and to pay damages in accordance with the terms of this Agreement, if necessary, in the event of the failure to perform, as required by Section 221 of Public Law 91-611 (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Agreement on behalf of the City of Baton Rouge and Parish of East Baton Rouge have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this 7th day of August 2006.



General Counsel
City of Baton Rouge and Parish of East Baton Rouge