

PROJECT COOPERATION AGREEMENT AMENDMENT NO. 1
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
CITY OF VICKSBURG, MISSISSIPPI, AND
THE WARREN COUNTY PORT COMMISSION
FOR CONSTRUCTION
OF THE
YAZOO DIVERSION CANAL, WARREN COUNTY, MISSISSIPPI, PROJECT

THIS AMENDMENT is entered into this _____ day of _____, _____, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Vicksburg District, and the City of Vicksburg, Mississippi, represented by the Mayor, and the Warren County Port Commission represented by the President (hereinafter collectively referred to as the "Non-Federal Sponsors").

WITNESSETH, THAT:

WHEREAS, the Government and the Non-Federal Sponsors entered into a Project Cooperation Agreement on July 6, 2005 (hereinafter referred to as the "Agreement") for construction of the Yazoo Diversion Canal, Warren County, Mississippi, Project (hereinafter "Project");

WHEREAS, Section 101 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2211), specifies the cost-sharing requirements applicable to the Project;

WHEREAS, the Non-Federal Sponsors consider it to be in their own interest to expedite the construction of the Project by voluntarily contributing, in addition to the Non-Federal Sponsors' required share, funds in the amount of \$615,000, with no credit for or reimbursement of those funds; and

WHEREAS, the Secretary of the Army is authorized, pursuant to 33 U.S.C. 560, to accept contributed funds to be expended in connection with Federally appropriated funds for any authorized work of public improvement of rivers and harbors whenever such work and expenditure may be considered by the Chief of Engineers as advantageous to the interests of navigation.

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 I.D., last sentence, is modified to read as follows:

"The term does not include the value of any lands, easements, rights-of-way, or relocations; any costs incurred by the Non-Federal Sponsors in accomplishing removals other than

incidental costs; any financial obligations for operation and maintenance of the general navigation features; any costs allocated by the Government to a preexisting Federal or non-Federal navigation project in accordance with Article II.C. of this Agreement; any costs of additional work under Article II.M.2. of this Agreement; any costs of dispute resolution under Article VII of this Agreement; any costs of aids to navigation; the funds provided by the Non-Federal Sponsor in accordance with Article II.O. of this Agreement; or the Non-Federal Sponsors' costs of negotiating this Agreement."

2. Article II is amended by adding the following paragraph at the end thereof:

"II.O. The Non-Federal Sponsors shall contribute \$615,000, with no credit or reimbursement, for construction of the *Project*."

3 Article VI.B. is amended by adding "II.O." after "II.E." in the first sentence.

4. Article VI.B. is also amended by adding the following paragraph at the end thereof:

"VI.B.4. The Non-Federal Sponsors shall provide the funds required by Article II.O. prior to the award of the contract for construction of the *Project*."

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 District Engineer.

THE DEPARTMENT OF THE ARMY

THE CITY OF VICKSBURG, MISSISSIPPI

BY: _____
ANTHONY C. VESAY
Colonel, Corps of Engineers
District Engineer

BY: _____
LAURENCE LEYENS
Mayor, City of Vicksburg

DATE: _____

DATE: _____

THE WARREN COUNTY PORT COMMISSION

BY: _____
JOHNNY MOSS
President, Warren County
Port Commission

DATE: _____

CERTIFICATE OF AUTHORITY

I, Nancy Thomas, do hereby certify that I am the principal legal officer of the City of Vicksburg, that the City of Vicksburg 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 Vicksburg in connection with the Yazoo Diversion Canal, Warren County, Mississippi, Project 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, as amended (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Agreement on behalf of the City of Vicksburg have acted within their statutory authority.

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

NANCY THOMAS
City Attorney

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 Section 1352, Title 31, U.S. Code. 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.

LAURENCE LEYENS
Mayor, City of Vicksburg

DATE: _____

CERTIFICATE OF AUTHORITY

I, Mack Varner, do hereby certify that I am the principal legal officer of the Warren County Port Commission, that the Warren County Port Commission 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 Warren County Port Commission in connection with the Yazoo Diversion Canal, Warren County, Mississippi, Project 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, as amended (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Agreement on behalf of the Warren County Port Commission have acted within their statutory authority.

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

MACK VARNER
Attorney for Warren County Port Commission

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 Section 1352, Title 31, U.S. Code. 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.

JOHNNY MOSS
President, Warren County Port Commission

DATE: _____

CERTIFICATION OF LEGAL REVIEW

Amendment No. 1 to the Project Cooperation Agreement for Yazoo Diversion Canal, Warren County, Mississippi, has been fully reviewed by the Office of Counsel, USAED, Vicksburg, and is legally sufficient.

Henry H. Black
District Counsel
Vicksburg District, Corps of Engineers

DATE: _____