

APPENDIX F
ADDITIONAL DOCUMENTATION

DRAFT

MOBILE HARBOR, MOBILE, ALABAMA
Integrated General Reevaluation Report
With Supplemental Environmental Impact Statement

AMENDMENT NO. 2
TO
DESIGN AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
ALABAMA STATE PORT AUTHORITY
FOR DESIGN OF THE
MOBILE HARBOR CHANNEL WIDENING
LIMITED REEVALUATION REPORT

This Amendment No. 2 is entered into this 9th day of NOVEMBER, 2015, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Mobile District (hereinafter the "District Engineer") and the Alabama State Port Authority (hereinafter the "Non-Federal Sponsor"), represented by its Director.

WITNESSETH, THAT:

WHEREAS, on August 14, 2012, the Government and the Non-Federal Sponsor entered into an agreement for preparation of a Limited Reevaluation Report for the Mobile Harbor Channel Widening Project (hereinafter the "Agreement");

WHEREAS, on May 2, 2014, the Government and the Non-Federal Sponsor entered into Amendment No. 1 to the Agreement to include evaluation of an additional segment of the channel to obtain the most benefit from widening; and

WHEREAS, Section 110 of the Consolidated and Further Continuing Appropriations Act, 2015 requires the limited reevaluation report initiated in fiscal year 2012 for the Mobile Harbor, Alabama navigation project to include evaluation of the full depth of the project as authorized under Section 201 of the Water Resources Development Act of 1986, Public Law 99-662, at the same non-Federal cost share as in the design agreement executed on August 14, 2012.

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

1. The following is added after the fourth WHEREAS clause:

"WHEREAS, Section 110 of the Consolidated and Further Continuing Appropriations Act, 2015 requires the limited reevaluation report initiated in fiscal year 2012 for the Mobile Harbor, Alabama navigation project to include evaluation of the full depth of the project as authorized under Section 201 of the Water Resources Development Act of 1986, Public Law 99-662, at the same non-Federal cost share as in the design agreement executed on August 14, 2012;"

2. Article I.A. is amended by striking the current paragraph and replacing it with the following:

“The term “*Project*” shall mean preparation of a Limited Reevaluation Report (LRR) for widening and deepening of the Mobile Harbor Navigation Channel up to the authorized widths and depths, as generally described in the Report of the Chief of Engineers, dated November, 18, 1981.”

3. Article IV.A.1. is amended by striking the current paragraph and replacing it with the following:

“As of the effective date of this Agreement, *total design costs* are projected to be \$7,800,000; the Non-Federal Sponsor’s contribution of funds required by Article II.B.1. of this Agreement is projected to be \$1,870,000; the *non-Federal proportionate share* is projected to be 25 percent; and the Government’s total financial obligations to be incurred for additional work and the Non-Federal Sponsor’s contribution of funds for such costs required by Article II.E. 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.”

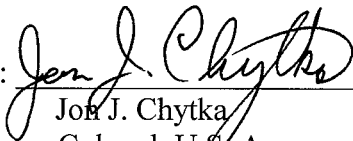
4. All other terms and conditions of the Agreement, as amended, remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this amendment, which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

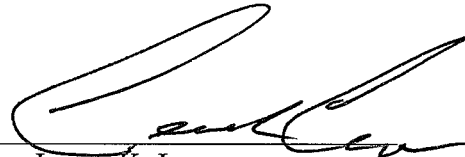
THE ALABAMA STATE PORT AUTHORITY

BY:



Jon J. Chytka
Colonel, U.S. Army
District Engineer

BY:



James K. Lyons
Director

DATE:

9 NOVEMBER, 2015

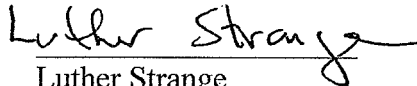
DATE:

OCTOBER 30, 2015

CERTIFICATE OF AUTHORITY

I, Luther Strange, do hereby certify that I am the principal legal officer of the Alabama State Port Authority, that the Alabama State Port Authority is a legally constituted public body with full authority and legal capability to perform the terms of this Amendment No. 2 to the Design Agreement Between the Department of the Army and the Alabama State Port Authority for preparation of the Mobile Harbor Channel Widening Limited Reevaluation Report and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Amendment No. 2 and that the persons who have executed this Amendment No. 2 on behalf of the Alabama State Port Authority have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this
_____ day of _____ 2015.



Luther Strange
Attorney General
State of Alabama

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.


James K. Lyons

Director

Alabama State Port Authority

DATE: OCTOBER 30, 2015



June 12, 2014

Colonel Jon J. Chytka
Commanding Officer
US Army Corps of Engineers, Mobile District
P.O. Box 2288
Mobile, AL 36628-0001

Dear Colonel Chytka:

The Alabama State Port Authority serves as the non-federal sponsor of the Mobile Harbor and plays a key role in planning, design, construction and initial maintenance of federally authorized harbor and navigation improvement projects supporting the twelfth largest seaport in the United States. Currently, the Alabama State Port Authority and the Mobile District's staff are nearing completion of a Limited Reevaluation Report to widen a five mile segment of the Mobile Harbor, as authorized by the Water Resources Development Act of 1986. This vitally important project was identified and pursued to reduce navigation hazards and improve vessel transit efficiency in response to an increase in wide-bodied and Post-Panamax sized traffic in our port. The channel widening improvement project currently includes a preliminary draft Environmental Assessment, as required by the National Environmental Policy Act, an engineering and design program, and the development of construction specifications at an estimated cost of \$15 million and a preliminary 4:1 Cost Benefit Ratio.

In response to the Corps' and the Port Authority's collaboration on the Mobile Channel widening improvement program to mitigate critical safety and efficiency challenges today, a very few citizens have called for an expanded and more costly environmental review of the widening project. The Port Authority has considered carefully these requests, and while the state cannot justify beyond regulatory requirement the resources and the significantly higher cost for additional study and potential legal challenges to the proposed 5- mile widening project, the Port Authority does see merit in beginning any necessary studies to expand the scope of improvements to take the Mobile Harbor to its authorized and economically justified widths and depths, which would trigger environmental studies.

The Port Authority also carefully factored market pressures and customer long range needs for improved infrastructure at the Port of Mobile in consideration of this proposed improvement. In recent years maritime industry analysts, shippers, carriers and seaports have grappled with much needed harbor improvements and escalating costs to support the U.S. economy and jobs growth, forecasted increases to U.S. foreign trade, and significant market demands for increased vessel capacity and size. According to the Organization of Economic Cooperation and Development (OECD), the pre-recession U.S. trade to GDP ratio (sum of imports and exports relative to U.S. GDP) topped 28%. Since the recession, the World Bank predicts this

Colonel Jon J. Chytka Letter
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ratio will reach 35% by 2020. The U.S. Maritime Administration reports the total volume of U.S. trade through the nation's seaports will grow from 1.42 billion tons in 2008 to 2.37 billion tons by 2038.

Seaborne trade already accounts for 90% of the global freight movements by volume and 78% of U.S. imports and exports move through the nation's deeper seaports, including the Port of Mobile. Trade growth has already stimulated public and private investments in U.S. manufacturing, more efficient and larger ocean carriage, landside seaport infrastructure and equipment, inland rail and highway capacity and an expanded Panama Canal – all geared toward securing our economic competitiveness through economies of scale that can only be delivered by larger ships.

One key gap in U.S. investment is notably deeper and wider seaport channels and harbors capable of handling these larger ocean going ships. Currently, the Port of Mobile's competitors are pursuing deepening projects to meet shipper requirements, and the passage of the Water Resources Reform and Redevelopment Act of 2014 clearly looks to implement reforms and funding priorities to achieve these much needed investments in the nation's leading seaports.

It is the Port Authority's charter and fiduciary responsibility to provide efficient and cost effective seaport infrastructure for its manufacturing, mining and agribusiness markets. The Port Authority cannot idly delay next steps in deference to cost concerns, while our neighboring seaports pursue deeper and wider channels. For our port's shippers and manufacturers, the reduced competitiveness and jobs losses due to higher transportation fees to reach better equipped seaports well outweigh the costs to pursue authorized and necessary widths and depths at the Port of Mobile.

The Alabama State Port Authority, as the non-federal sponsor to the federal project, is prepared to meet its obligations under law to achieve the necessary improvements, and requests the US Army Corps of Engineers initiate the necessary studies to achieve justified improvements.

Please feel free to work with my staff to move these improvements forward.

Sincerely,



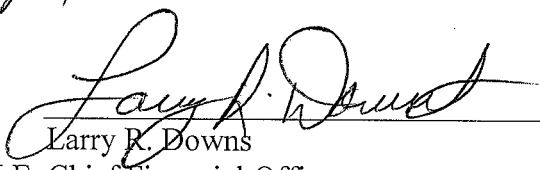
James K. Lyons
Director and Chief Executive Officer

C: Pete Taylor, Deputy District Engineer for Programs & Project Management, USACE, Mobile District
William W. Fuller, Chief of Operations, USACE Mobile District

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

I, Larry M. Downs, do hereby certify that I am the Chief Financial Officer of the Alabama State Port Authority (the "Non-Federal Sponsor"); that I am aware of the financial obligations of the Non-Federal Sponsor for the Mobile Harbor Channel Widening; and that the Non-Federal Sponsor will have the financial capability to satisfy the Non-Federal Sponsor's obligations for that project. I understand that the Government's acceptance of this self-certification shall not be construed as obligating either the Government or the Non-Federal Sponsor to implement a project.

IN WITNESS WHEREOF, I have made and executed this certification this 14th day of April, 2014.

BY: 
Larry R. Downs

TITLE: Chief Financial Officer

DATE: 4/14/2014