

AMENDMENT NUMBER 2  
TO  
PROJECT COOPERATION AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
STATE OF RHODE ISLAND  
FOR CONSTRUCTION OF  
DREDGED OR EXCAVATED MATERIAL DISPOSAL FACILITIES  
AT  
THE PROVIDENCE RIVER AND HARBOR FEDERAL NAVIGATION PROJECT  
PROVIDENCE, RHODE ISLAND

This Amendment Number 2, entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the Department of the Army (hereinafter the "Government") represented by the District Engineer, New England District and the State of Rhode Island (hereinafter the "Non-Federal Sponsor"), represented by the Governor.

WITNESSETH, THAT:

WHEREAS, the Government and the Non-Federal Sponsor entered into a Project Cooperation Agreement dated November 26, 2002 for construction of dredged or excavated material disposal facilities at the Providence River and Harbor Federal Navigation Project, Providence, Rhode Island; and

WHEREAS, the Government and the Non-Federal Sponsor entered into an amendment, dated August 3, 2005, to the aforementioned Project Cooperation Agreement to modify cost sharing and include the capacity of the Confined Aquatic Disposal cells in the Providence River to allow for the disposal of dredged or excavated material from the Pawtuxet Cove Federal Navigation Project, Cranston and Warwick, Rhode Island; and

WHEREAS, the Government and the Non-Federal Sponsor desire to further amend the previously amended Project Cooperation Agreement (hereinafter the "Agreement") to modify cost sharing and allow for the disposal of dredged or excavated material from the Bullocks Point Cove Federal Navigation Project, East Providence and Barrington, Rhode Island in the Confined Aquatic Disposal cells in the Providence River.

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

1. The first WHEREAS clause on page one is amended by adding the following language after "section 110 of the Energy and Water Development Appropriations Act, 2004, Pub. L. No. 108-137, 117 Stat. 1834":

“; and construction, operation, and maintenance of the Bullocks Point Cove Federal Navigation Project in East Providence and Barrington, Rhode Island, was authorized by the River and Harbor Act of 1954,(House Doc. 242, 83<sup>rd</sup> Cong., 2<sup>nd</sup> Session), Pub. L. No. 83-780, Section 101, dated 3 September 1954”.

2. Article I.B. is amended by adding the following language at the end of the paragraph:

“The term “existing general navigation features” shall also mean an entrance channel eight feet deep, 75 feet wide from the Providence River to a point just upstream of the rubble-stone jetty, and an inner channel six feet deep, 75 feet wide from the eight foot entrance channel to a point opposite Haines Memorial Park-the total length of channels being approximately one mile; a south mooring basin, six feet deep encompassing an area of 8.3 acres on the west side of the cove just north of the jetty; an upstream turning basin, six feet deep and encompassing about 3 acres at the head of navigation; and the rebuilding of Bullocks Point to a height of nine feet with dredged material retained by a rubble-stone dike and jetty, as generally described in the Bullocks Point Cove, East Providence and Barrington, RI, Decision Document, dated November 2006, and approved by Chief, Program Support Division North Atlantic Division on December 4, 2006.”

3. Article I.D. is amended by striking said provision and substituting the following therefor:

D. The term "general navigation features" shall mean the Confined Aquatic Disposal (CAD) cells located in the upper Fox Point Reach of the Providence River. The CAD cells are comprised of 6 separate areas of varying dimensions: cell 1R (starter cell) - 300 feet by 300 feet, excavated to a depth of -76 feet Mean Lower Low Water (MLLW); cell 3R - 300 feet by 400 feet, excavated to a depth of -78 feet MLLW; cell 3AR - 1,000 feet by 1,100 feet, excavated to a depth of -85 feet MLLW; cell 4R - 300 feet by 500 feet, excavated to a depth of -68 feet MLLW; cell 5R - 300 feet by 850 feet, excavated to a depth of -75 feet MLLW; and sufficient capacity of combined cells 6R and 7R (also referred to as 6/7R) to accommodate 93,960 cubic yards of material from Pawtuxet Cove and an estimated 50,000 cubic yards of material from Bullocks Point Cove, which together comprises approximately 21.28% of the total capacity of the 1,300 feet by 450 feet by -97 feet below MLLW cell. The CAD cells will accommodate the dredged material from the Federal dredging area and material from non-Federal facilities that provide the appropriate funding to cover CAD excavation, all as generally described in the Addendum to the Bullocks Point Cove Decision Document approved by the District Support Team Leader, North Atlantic Division, U.S. Army Corps of Engineers, on July 18, 2008.

4. Article II.E. is amended by striking said provision and substituting the following therefor:

“E. The Government shall allocate total cost of construction of the general navigation features among the following: total cost of construction of the general navigation features required for disposal of dredged or excavated material associated with the construction, operation, and maintenance of the Providence River and Harbor portion of the existing

general navigation features; total cost of construction of the general navigation features required for disposal of dredged or excavated material associated with the construction, operation, and maintenance of the Pawtuxet Cove portion of the existing general navigation features; and total cost of construction of the general navigation features required for disposal of dredged or excavated material associated with the construction, operation, and maintenance of the Bullocks Point Cove portion of the existing general navigation features. The Non-Federal Sponsor shall contribute 25 percent of that portion of total cost of construction of the general navigation features allocated by the Government to disposal of dredged or excavated material associated with the construction, operation, and maintenance of the Providence River and Harbor portion of the existing general navigation features; 10 percent of that portion of total cost of construction of the general navigation features allocated by the Government to disposal of dredged or excavated material associated with the construction, operation, and maintenance of the Pawtuxet Cove portion of the existing general navigation features; and 10 percent of that portion of total cost of construction of the general navigation features allocated by the Government to disposal of dredged or excavated material associated with the construction, operation, and maintenance of the Bullocks Point Cove portion of the existing general navigation features.”

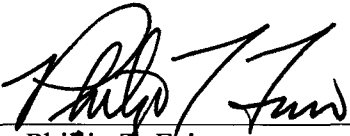
5. On the effective date of Amendment Number 2, the total cost of construction of the general navigation features is projected to be \$18,211,000, and the Non-Federal Sponsor’s contribution required under Article II.F. of this Agreement is projected to be \$4,420,000.

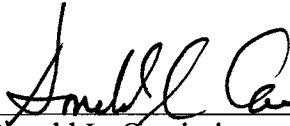
6. All other provisions of the Agreement shall remain in full force and effect unless duly modified or amended.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2, which shall become effective upon the date it is signed by the Department of the Army.

THE DEPARTMENT OF THE ARMY

THE STATE OF RHODE ISLAND

BY:   
Philip J. Feir  
Colonel, Corps of Engineers,  
District Engineer

BY:   
Donald L. Carcieri  
Governor

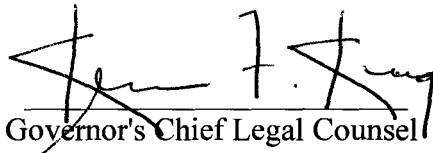
DATE: 16 Dec 08

DATE: 12/18/08

CERTIFICATE OF AUTHORITY

I, \_\_\_\_\_, do hereby certify that I am the Governor's Legal Counsel, that the State of Rhode Island 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 State of Rhode Island in connection with the Providence River and Harbor Federal navigation 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 (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Agreement on behalf of the Governor's Office have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this  
3<sup>rd</sup> day of December.

  
Governor's Chief Legal Counsel

## CERTIFICATION REGARDING LOBBYING

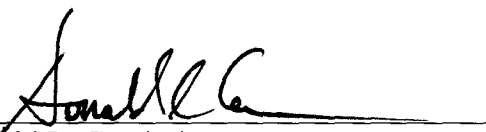
The undersigned certifies, to the best of his or her knowledge and belief that:

(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.

  
\_\_\_\_\_  
Donald L. Carcieri  
Governor  
State of Rhode Island

DATE: 12/8/08