

AMENDMENT TO
PROJECT COOPERATION AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
CARTERET COUNTY, NORTH CAROLINA
FOR CONSTRUCTION OF THE
MOREHEAD CITY HARBOR, CARTERET COUNTY, NC, SECTION 933 PROJECT

2006-09-21
Amendment PCA
Morehead City
933

THIS AMENDMENT is entered into this 21 day of Sept, 2006, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer for the Wilmington District (hereinafter the "District Engineer"), and Carteret County, North Carolina, (hereinafter the "Non-Federal Sponsor") represented by the Chairman, Carteret County Board of Commissioners, North Carolina.

WITNESSETH, THAT:

WHEREAS, the Government and the Non-Federal Sponsor entered into a Project Cooperation Agreement (hereinafter "PCA") dated January 7, 2004 for implementation of the MOREHEAD CITY HARBOR, CARTERET COUNTY, NC, SECTION 933 project; and

WHEREAS, that PCA provided in part for dredging beach quality material from the Inner Harbor and Brandt Island for placement along the oceanfront of Pine Knoll Shores according to the Initial Phase Section 933 Plan described in that document; and

WHEREAS, since execution of the PCA, the Initial Phase Section 933 Plan was not accomplished due to the quality of dredged material not being as compatible with the native beach material as initially believed; and

WHEREAS, the Morehead City Harbor Entrance Channel (Range A and Cutoff) are dredged every year and the composition of the dredged material is believed to be high beach quality suitable for placement on the native beach of Pine Knoll Shores; and

WHEREAS, the Government and Non-Federal Sponsor desire to fulfill the intent of the PCA by substituting the Initial Phase Section 933 Project defined in Article I.A. of the PCA with a revised Section 933 Project that would place material dredged from the Morehead City Harbor Entrance Channel (Range A and Cutoff) on Pine Knoll Shores;

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

I. ARTICLE I.A. of the PCA deleted in its entirety and replaced by the following:

I.A. The term "Project" for the purposes of this Addendum shall mean the placement of material dredged from the Morehead City Harbor Entrance Channel along approximately 7 miles of beach located at Pine Knoll Shores and Indian Beach/Salter Path, Carteret County, North Carolina. The project is to be implemented in phases. The revised initial phase will place material dredged from the Entrance Channel (Range A and Cutoff) along the beachfront of Pine Knoll Shores. The second phase of the project involved placement of material dredged from the Entrance Channel (Range A and Cutoff) along the beachfront of Indian Beach and Salter Path during the period of January 2004 through March 2004. The total project dredging from both phases may vary up to approximately 4.4 million cubic yards, depending on funding and material quality, and would result in a design berm of approximately 30 feet, with variable construction template as generally described in the "Evaluation Report and Finding of No Significant Impact (FONSI), Morehead City Harbor Section 933, Carteret County, North Carolina", dated August 2003 and approved by the Assistant Secretary of the Army (Civil Works) on December 12, 2003, and supplemented by Addendum 2, dated August 2005, to this report and approved December 2, 2005.

- initial phase
- 2nd phase

II. ARTICLE I.L. of the PCA is amended to read as follows:

I.L. For the purposes of this agreement, the revised Initial Phase Section 933 Plan cost will be bid price for Bid Items 0005AA - Mobilization and Demobilization, Morehead City Harbor, Entrance Channel (Ranges A & B and Cutoff); 0005AB - Dredging with Beach Disposal, Morehead City Harbor, Entrance Channel (Ranges A & B and Cutoff) in Accordance with the Plans and Specifications for Section 933, with Beach Disposal; 0005AC - Beach Tilling; and 0005AD - Performance and Payment Bonds - as per Invitation for Bids No. W912PM-05-B-0012 for Maintenance Dredging Morehead City Harbor Ocean Bar and Wilmington Harbor Ocean Bar, NC, plus the price of any subsequent modifications to either of these bid items. The Second Phase Section 933 Plan cost will be the bid price for Bid Item 0004AA - Dredging, Morehead City Harbor, Entrance Channels (Range A and Cutoff); and Bid Item 0004AB - Performance and Payment Bonds - as per Invitation for Bids No. DACW54-03-B-0017 for Maintenance Dredging, Morehead City Harbor Entrance Channel (Range A and Cutoff), plus the price of any subsequent modifications to either of these bid items.

what were driving now

plus
vs
933
cost

Indian Beach contracted 04- done

III. ARTICLE V.I. of the PCA is amended to read as follows:

a. Until the Government furnishes the Non-Federal Sponsor with the results of the final accounting, the Government shall maintain current records of contributions provided by the parties and current projections of total project costs and costs due to betterments. At least quarterly during the period of construction, the Government shall provide the Non-Federal Sponsor with a report setting forth all contributions provided to date and the current projections of total project costs, the Non-Federal Sponsor's total cash contributions required in accordance with Articles II.B., II.D., and II.F. of the PCA, and of the non-Federal proportionate share. On the effective date of this Amendment to the PCA, total

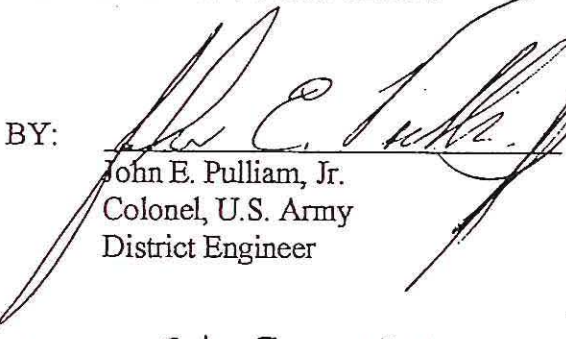
projects costs are projected to be \$10,500,000, and the Non-Federal Sponsor's cash contribution required under Article II.D. of the PCA is projected to be \$3,645,000. Such amounts are estimates subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and Non-Federal Sponsor.

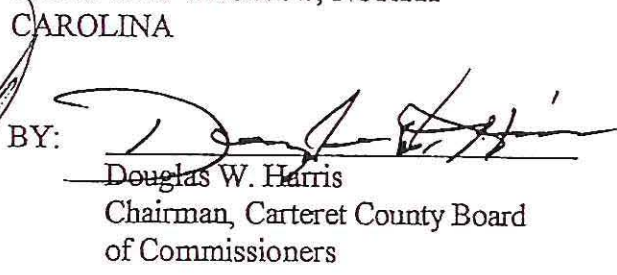
IV. Except as expressly provided herein, all provisions of the PCA dated January 7, 2004, remain in full force and effect.

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

DEPARTMENT OF THE ARMY

CARTERET COUNTY, NORTH CAROLINA

BY: 
 John E. Pulliam, Jr.
 Colonel, U.S. Army
 District Engineer

BY: 
 Douglas W. Harris
 Chairman, Carteret County Board
 of Commissioners

DATE: 21 Sep 06

DATE: 9-11-06

$10,500,000 \times .3921 = \$4,117,050.00$

They owe
 $\$2,204,601$
 $- 1,200,300$
 $\$504,301$

~~$2,204,601$~~
 ~~$2,200,300$~~
 ~~$\$600,000$~~

$\$2.8M$
 $\$2.42M$

10/2/06
 $1,644,000$
 $1,200,000$
 $\$2,844,000$

less what expected
 $\$2.84$

157,200
 15

CERTIFICATE OF AUTHORITY

I, C.R. Wheatly, III, do hereby certify that I am the principal legal officer of Carteret County, North Carolina, that Carteret County, North Carolina 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 Carteret County, North Carolina in connection with the Morehead City Harbor, Carteret County, NC, Section 933 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 Carteret County, North Carolina have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this
11th day of September 2006



C. R. Wheatly, III
Attorney
Carteret County