AGREEMENT
between
THE UNITED STATES ARMY CORPS OF ENGINEERS, VICKSBURG DISTRICT
and
ENTERY INCORPORATED
for the
PROVISION OF FUNDING TO EXPEDITE REVIEWS OF UTILITY AND GENERATION PROJECTS

THIS AGREEMENT is entered into by and between the Entergy, Inc. (hereinafter "Entergy"), a power generation, transmission and distribution utility, and the United States Army Corps of Engineers, Vicksburg District (hereinafter "Corps"), collectively referred to as the "Parties".

WHEREAS, Section 214 of the Water Resources Development Act of 2000, as amended and codified at 33 U.S.C. Section 2352 ("Section 214") allows the Secretary of the Army ("Secretary") to accept and expend funds contributed by a non-federal public entity to expedite the evaluation of a permit of that entity related to a project or activity for a public purpose under the jurisdiction of the Department of the Army ("DA"), as long as the acceptance and use of funds will not substantively or procedurally impact impartial decision-making with respect to permits, and imposes certain limitations on and requirements applicable to the use of such authority;

WHEREAS, the Secretary has delegated the responsibility of carrying out Section 214 to the United States Army Corps of Engineers Chief of Engineers and his delegated representatives;

WHEREAS, the United States Army Corps of Engineers Chief of Engineers, by memorandum dated April 18, 2018, has authorized the United States Army Corps of Engineers District and Division Engineers to accept and expend funds contributed by non-federal entities under Section 214, subject to certain limitations including the publishing of public notice;

WHEREAS, the authority to accept and expend funds under Section 214, increases the flexibility for non-federal public entities to contribute funds to expedite the evaluation and processing of permit applications;

WHEREAS, the Corps shall ensure that expediting the evaluation of a permit application through the use of funds accepted and expended under Section 214 does not adversely affect the timeline for evaluation of permit applications of other entities that have not contributed funds under this section;

WHEREAS, it is acknowledged and understood that the Corps' review of DA permit applications will be completely impartial and in accordance with all applicable Federal laws and regulations and will be performed using the same procedures for decisions that would otherwise be required for the evaluation of permit applications for similar projects or activities not carried out using funds authorized under this section;

WHEREAS, the Corps issued an initial Public Notice dated September 13, 2019, advising the public of its intent to accept and expend funds contributed by Entergy for the expedited review and processing of permit applications;

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WHEREAS, Entergy authorized entering into this agreement by approval at its meeting of the Capital Projects Management Team on December 5, 2019 to provide funds to the Corps to expedite the agency's performance of its duties related to the review process for Entergy's projects;

WHEREAS, the Corps currently reviews aspects of certain Entergy projects in the course of processing permit applications and related materials under Section 404 of the Federal Clean Water Act (33 U.S.C. Section 1344), Section 10 of the Federal Rivers and Harbors Act of 1899 (33 U.S.C. Section 403), and Section 103 of the Federal Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. Section 1413);

WHEREAS, the Parties have determined that it would be mutually beneficial for Entergy to provide to the Corps advance funding to achieve expedited review of permit applications for Entergy projects;

WHEREAS, the Corps is willing to provide expedited review of permit applications for Entergy projects following receipt of funding from Entergy as more fully described in this Agreement;

WHEREAS, the Parties estimate that an amount of Fifty Thousand Dollars ($50,000) would be sufficient to fund expedited reviews of Entergy project applications for DA permits and other activities required under this Agreement for one 12-month period; and

WHEREAS, the Vicksburg District Engineer has determined that acceptance and expenditure of funds received from Entergy under the terms of this Agreement will comply with WRDA 2000 Section 214, as amended, and is not contrary to the general public interest.

NOW, THEREFORE, for the purpose of establishing a mutual framework governing the respective responsibilities of the Parties for the acceptance and expenditure of funds contributed by Entergy to expedite review of DA permit applications for Entergy projects under the Corps' jurisdiction, Entergy and the Corps agree as follows:

ARTICLE I. PERSONNEL

1.1 Entergy Personnel

1.1.1 Entergy will designate an employee as the Entergy Point of Contact ("Entergy POC") for implementation of this Agreement. The Entergy POC will work directly with the Corps Point of Contact ("Corps POC") on prioritizing project reviews, as well as receipt and tracking of expenditure of funds, non-project-specific efforts designed to expedite reviews for project applications, and overall management and interagency coordination.

1.1.2 The Entergy POC may designate an alternate to perform any required functions in his or her absence. The Corps POC will be notified of the alternate Entergy POC, if one is designated.

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1.1.3 The Entergy POC and any other pertinent Entergy personnel shall meet with the Corps POC on an annual basis, at a minimum, to discuss implementation of this Agreement.

1.2 Corps Personnel

1.2.1 The Corps will designate an employee as the Corps POC for implementation of this Agreement. The Corps POC will provide deliverables and work directly with the Entergy POC on coordinating and/or conducting expedited permit reviews, receipt and tracking of expenditure of funds, non-project-specific efforts designed to expedite reviews for projects, and overall management and interagency cooperation.

1.2.2 The Corps will assign one or more highly-qualified and proficient Regulatory Project Manager(s) or Regulatory Specialist(s) (referred to herein as the "Regulatory Reviewer(s)") in the Vicksburg District to provide expedited reviews of Entergy permit applications and participate in any related activities that will facilitate expedited reviews of Entergy permit applications. The number of Regulatory Reviewers will be sufficient to meet the commitments made in this Agreement.

1.2.3 The Corps POC may designate an alternate to perform any required functions in his or her absence. The Entergy POC will be notified of the alternate Corps POC, if one is designated.

1.2.4 The Corps POC may serve as a Corps Regulatory Reviewer.

1.2.5 The Corps POC shall coordinate with the Corps Regulatory Reviewer(s) as needed to achieve expedited reviews in compliance with this Agreement.

1.2.6 The Corps POC and any other pertinent Corps personnel shall meet with the Entergy POC on an annual basis, at a minimum (teleconference is acceptable). The Corps POC and the Entergy POC may also meet at such times as jointly determined to be needed, typically on a monthly basis, to discuss the status of pending projects and implementation of this Agreement.

ARTICLE II. FUNDING

2.1 Nothing in this Agreement requires Entergy, or obligates Entergy in any way, to provide any funds whatsoever. The Corps is not entitled to rely on the receipt of any funding under this Agreement and will not expedite project reviews until funding is received. Entergy, in its sole discretion, will determine whether to provide funding and the amount of funding provided under this Agreement.

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2.2 Entergy may provide the Corps with funds to pay for costs associated with performing expedited reviews of Entergy projects and other activities required under this Agreement. Funds must be obligated to USACE prior to a request for action under this agreement.

2.3 The Vicksburg District will establish a separate account to track receipt and expenditure of the funds associated with its review of permit applications for Entergy Projects. Vicksburg District Regulatory Reviewers, and the Corps POC, will charge their time against this account when they do work to expedite review of permit applications for Entergy projects.

2.4 Funds contributed by Entergy hereunder will be expended primarily for permit evaluation by Regulatory Reviewers performing expedited processing activities for Entergy projects, or for management of this Section 214 agreement by the Corps POC. However, this Agreement does not preclude use of the funding to provide for necessary time, travel and lodging costs of Corps staff and other expertise necessary to address Entergy project-related issues that may arise, such as cultural resources issues. Such activities will include, but not be limited to, the following: application review meetings, jurisdictional determinations, jurisdictional delineation verifications, functional or condition assessment verification, consultant meetings, agency meetings, public scoping meetings, and meetings with Entergy in regard to their projects. Entergy Section 214 project funds will not be expended for review of Regulatory Reviewer's work by supervisors or by other persons or elements of the Vicksburg District in the decision-making chain of command. Enforcement or compliance activities will not be paid for from the funds contributed hereunder, nor will such funds be used for paying the costs of public hearings and distribution of public notices.

2.5 The Corps, in expending Entergy-provided funds under this Agreement, will comply with all procurement-related laws and policies that would apply to the Corps expenditure of its own funds.

2.6 In the event the Corps does not utilize the entire amount paid by Entergy in a year, the unused funds shall carry over for use in the following year or be returned if the agreement is terminated pursuant to the provisions of Article VII.

2.7 No expedited requests for processing will be completed by the Corps until funds are received by the Corps, i.e., no funding in arrears is allowed.

2.8 Section 214 funds may not be used to continue activities for Entergy should a lapse in appropriations result in a shutdown furlough for the Corps.

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2.9 Entergy shall not use funds provided by another federal agency (or any non-Federal contribution made to match funds provided by another federal agency) to meet any of its obligations under this Agreement, unless Entergy submits to the Corps a written confirmation from the federal agency that the use of the funds to expedite the permit application process is acceptable.

ARTICLE III. EXPEDITED PERMIT REVIEWS

3.1 Entergy represents and agrees that all permit applications and permissions requested pursuant to this Agreement will be submitted to the Corps in the name of the Entergy and that the proponent of any permit and permission requests is Entergy.

3.2 The Corps shall, to the maximum extent practicable, complete review of Entergy permit applications, requests for letters of permission, regional general permits, nationwide permit pre-construction notifications and other submittals in less time than is customary for the completion of such reviews.

3.3 The Corps shall endeavor to review permit applications, requests for letters of permission, regional general permits, nationwide permit pre-construction notifications and other submittals in accordance with the requested completion dates presented by Entergy, to the extent practicable. The Corps POC will inform the Entergy POC if adhering to a requested priority order would prevent the Corps from meeting any Entergy-requested completion date.

3.4 To the extent it will not interfere with the Corps' ability to comply with the performance measures set forth in Article VI, the Corps shall:

3.4.1 Provide Entergy with any requested project development guidance on permitting requirements regarding what is needed for permit review, including, but not limited to, stream and wetlands assessments and delineations, scopes of analyses, jurisdictional determinations, mitigation banks and mitigation plans;

3.4.2 Respond promptly to any urgent matters identified by Entergy;

3.4.3 Attend all meetings, trainings, conferences, and field visits that both parties deem appropriate;

3.4.4 Work collaboratively with Entergy to develop a dynamic process improvement plan and programmatic approaches to streamline permit reviews, such as the development of regional general permits, where applicable; and

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3.4.5 Streamline the permitting process, after consultation with Entergy, by providing training to Entergy and Entergy contractor personnel for the purpose of developing consistent understanding of Corps policies, regulations, and procedures, as well as permit application requirements.

ARTICLE IV. IMPARTIAL DECISION-MAKING

The Corps will use the following procedures for the purpose of ensuring that Entergy's provision of funds will not impact impartial Corps decision-making with respect to Entergy projects:

4.1 All final decisions on projects for which the Corps uses Entergy -provided Section 214 funding must be reviewed and approved in writing by at least one level above the normal decision-maker. For purposes of this agreement, the decision-maker is the person that has been delegated signature authority. For example, if the decision-maker would be the Corps Team Leader, then the reviewer would be the Branch Chief. If the decision maker is the District Engineer (District Commander), the final decision must be reviewed and approved in writing by the Division Engineer (Division Commander). It is understood and agreed by the parties that use of the funds accepted by the Corps pursuant to this Agreement will not impact Government decision-making with respect to Entergy projects and applications.

4.2 All final decisions on projects for which the Corps uses Entergy-provided Section 214 funding must be made available on the Corps webpage. The information will be posted in a clearly identifiable area indicating that the Corps used Entergy-provided funding for the review of the projects.

4.3 The Corps will not eliminate any procedures or decision criteria that would otherwise be required for the type of project and permit application under consideration.

4.4 The Corps must comply with all applicable laws and regulations.

4.5 Entergy-provided Section 214 funds will only be expended to expedite the final decision or other submittal according to the terms and conditions of this Agreement. Funds will not be expended for the required review and approval of the decision-maker's decision. If the Corps uses an outside contractor to develop decision documents, such decision documents must be drafts only and must be reviewed and adopted by Corps regulatory program employees before the permit decision is made.

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ARTICLE V. REPORTING

5.1 The Corps will track submission and status of all standard permit applications, requests for letters of permission, nationwide permit pre-construction notifications, and other submittals, and compile such information into a quarterly status report for Entergy.

5.2 The Corps will compile a Quarterly Report for Entergy, which will include expenditures by action type, as well as funds expended for travel, training, and vehicle use. The Parties shall assess the expedited process outlined in this Agreement to confirm that reviews performed after Agreement execution were completed in less time than was customary for those performed prior to Agreement execution, to the extent practicable under the provisions of this Agreement.

5.3 Prior to preparing the first quarterly report under this Agreement, the Corps will work with Entergy to develop and finalize a template to make all quarterly submissions consistent and that will, at a minimum, show expenditures by permit application/project, including all travel expenditures and travel purpose summaries. Reports are due within 30 calendar days after the end of each calendar quarter, to the extent practicable by Corps based on data availability and workload.

5.4 Entergy will issue an annual satisfaction letter to the Corps, discussing Entergy's assessment of the success of this Agreement, based on the data provided for the first three quarters of the Fiscal Year. The letter will be submitted to the Corps by October 15 of each year that the agreement remains in place, for inclusion in the Corps annual report to Headquarters.

5.5 The Corps will provide Entergy an annual report with accounting details for the Corps fiscal year (FY) which ends on the 30th of September. This report will be provided by November 15, following the end of the Corps FY, to the extent practicable by Corps, based on data availability and workload.

ARTICLE VI. PERFORMANCE MEASURES

6.1 This Article VI will apply to all Entergy submittals made after Entergy's initial payment of funds under Article II.

6.2 The Corps will strive to adhere to the following review timelines, to the extent practicable:

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6.2.1 The Corps will acknowledge receipt of all hard copy or electronic correspondence from Entergy (excluding standard permit applications, requests for letters of permission, regional general permit applications, and nationwide permit pre-construction notifications) within 5 working days of receipt.

6.2.2 The Corps will assign each standard permit application, request for letter of permission, regional general permit (if applicable), and nationwide permit pre-construction notification a permit number within 10 working days of receipt.

6.2.3 Within 15 calendar days of receipt of an Entergy standard permit application, request for letter of permission, or pre-construction notification, the Corps will determine whether the application is complete or if additional information is needed, and notify Entergy of its determination.

6.2.4 For each standard permit application, permit modification, and request for letter of permission, the Corps will, to the extent possible, complete its review and issue a decision within 180 calendar days, on average, following receipt of a complete application or request. Exceptions include complex or controversial activities, ESA delays, Section 106 delays, extended comment periods, plan modifications, and delays associated with 204 or 408 approval, redesigning of proposed projects or jurisdictional boundaries, delays in providing requested materials to the Corps, or constraints related to the overall Corps workload.

6.2.5 For each nationwide permit pre-construction notification, the Corps will, to the extent possible, complete its review and issue a decision in fewer than 45 calendar days, on average, of receiving a complete pre-construction notification. Exceptions include complex or controversial activities, ESA delays, Section 106 delays, extended comment periods, plan modifications, and delays associated with 204 or 408 approval.

6.2.6 Corps will provide Entergy with updates regarding the status of the permit review, in the quarterly status update.

6.2.7 If, with respect to any project, Entergy requests completion sooner than any of the proposed timelines specified in this Article VI, the Corps will attempt to prioritize the action, to meet the requested deadline. However, the Corps cannot guarantee a requested decision deadline.

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6.3 If, at any time, there are insufficient Entergy-provided Section 214 funds in the designated account to cover the cost of performing expedited review of a permit application under this Agreement, the Corps shall notify Entergy, and the application will be processed on a non-expedited basis until such time that Entergy replenishes the account with an amount of funds as determined by the Corps to be sufficient to cover the costs of the expedited review.

6.4 Any remaining funds not applied to an expedited review shall carry over in accordance with Article II.

ARTICLE VII. TERM AND TERMINATION

7.1 This Agreement shall remain in force until June 30, 2024, or until one of the Parties chooses to terminate its participation and provides the other Party with 60 days written notice of termination, whichever occurs first.

7.2 In the event of termination, the Corps will return any unused funds within 30 days. Upon return of the unused funds, any application in processing as of the effective date of the termination will no longer be required to meet the expedited processing timelines set forth in this Agreement. Unused funds shall be returned to Entergy by either check or electronic funds transfer. Entergy shall remain responsible for all costs properly incurred by the Corps under this Agreement prior to the effective date of termination and for the costs of closing out or transferring any on-going contracts.

ARTICLE VIII. DISPUTE RESOLUTION

8.1 The parties agree that, in the event of a dispute between the parties regarding the implementation of this Agreement, Entergy and the Corps shall use their best efforts to resolve that dispute in an informal fashion through consultation and communication or other forms of non-binding alternative dispute resolution mutually acceptable to the parties. A dispute relating to a final decision by the Corps on an Entergy permit application or other submittal shall not be subject to resolution by such means.

ARTICLE IX. MISCELLANEOUS

9.1 This Agreement may be modified or amended only by written, mutual agreement of the Parties.

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9.2 If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions will remain in full force and unaffected to the fullest extent permitted by law.

9.3 This Agreement is the entire agreement between the Parties concerning the provision of funding to expedite permitting-related reviews of projects, and supersedes all prior written or verbal statements, understandings, commitments, or promises.

9.4 This Agreement is entered into for the sole benefit of Entergy and the Corps. Nothing in this Agreement shall be construed as giving any benefits, rights, remedies, or claims to any other entity, including, without limitation, the public in general.

9.6 This Agreement may be executed in multiple counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively one agreement.

9.7 This Agreement and all documents and action pursuant to it shall be governed by the applicable statutes, regulations, directives, policies and procedures of the United States.

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

U.S. DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
VICKSBURG DISTRICT

Robert A. Hilliard
Colonel, U.S. Army
Commanding

Date: 30 June 2020

ENTERGY, INCORPORATED

John Amato
Supervisor, Environmental Transmission
Entergy Services, LLC

Date: 6-25-2020