DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

Reply to
Attention of:

07 DEC 2009

CEMP-SWD

MEMORANDUM FOR COMMANDER, Southwestern Division (CESWD-PD)

SUBJECT: Implementation Guidance for Section 5141 of the Water Resources Development Act of 2007 (WRDA 2007) – Dallas Floodway, Dallas, Texas.

1. The project for flood control, Trinity River and tributaries, Texas, authorized by section 2 of the Act entitled, "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 [59 Stat.18], is commonly referred to as the Dallas Floodway, Dallas, Texas project or the Dallas Floodway Levee System. Section 5141 of WRDA 2007 modifies the authorization for this project to direct the Secretary to review the reports prepared by the non-Federal interest for the Dallas Balanced Vision and Interior Drainage Plans and if the Secretary determines that the project described in these reports is technically sound and environmentally acceptable, the Secretary is authorized to construct the project at a total cost of $459,000,000, with an estimated Federal cost of $298,000,000 and an estimated non-Federal cost of $161,000,000. Further, section 5141 directs the Secretary to afford credit, in accordance with Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project for the costs of planning, design, and construction work carried out by the non-Federal interest prior to the date of the Project Partnership Agreement and to accept funds provided by non-Federal interest for use in carrying out planning, engineering, and design for the project. A copy of Section 5141 is enclosed.

2. Background.

a. The existing Dallas Floodway Levee System, authorized in 1945, extends along the Trinity River upstream from the AT&SF Railroad Bridge at Trinity River Mile 497.37, to the confluence of the West and Elm Forks at River Mile 505.50, thence upstream along the West Fork for approximately 2.2 miles and upstream along the Elm Fork approximately 4 miles. Of the 22.6 miles of levees within this reach, the East Levee is 11.7 miles in length and the West Levee is 10.9 miles in length. In addition to the levees, the floodway includes a modified river channel and structures, including seven pumping plants, five pressure conduits, and seven drainage structures.

b. As a result of floods in 1989 and 1990, the City of Dallas stated its interest in revitalizing a number of projects to restore and expand the level of protection along the Trinity River within the city limits.

(1) The Dallas Floodway Extension project, authorized by the Flood Control Act of 1965, was initiated in December 2001 with execution of a Project Cooperation Agreement to construct the Chain of Wetlands, the Cadillac Heights and Rochester Park Levees, and recreation features immediately downstream of the existing Dallas Floodway Levee System. Construction of this project is currently ongoing and is scheduled to be completed in 2014.

(2) A new cost shared feasibility study was initiated in May 1996 to address the feasibility of flood risk management improvements to increase the level of flood protection provided by the existing Federal project in the Dallas Floodway and Stemmons North Industrial Corridor levee system (i.e., the existing Dallas Floodway Levee System). In addition to increasing the level of flood protection, the study was also assessing the feasibility of including recreation and ecosystem restoration features within the floodway that are defined in the City of Dallas' Balanced Vision Plan (BVP). The feasibility study was suspended in November 2007 following the enactment of Section 5141 of WRDA 2007.

c. In December 2007, the ninth periodic inspection was conducted on the existing Dallas Floodway Levee System. The results published in the Periodic Inspection Report, dated 31 March 2009 (PIR #9), identified the Dallas Floodway Levee System as "Unacceptable". The PIR #9 identified many deficiencies which are the responsibility of the City of Dallas under its Operation, Maintenance, Repair, Rehabilitation, and Replacement (OMRR&R) obligation. On 29 June 2009, the City of Dallas received approval for their Maintenance Deficiency Correction Period (MDCP) plan, which provides a temporary extension to remain eligible for P.L. 84-99 rehabilitation assistance for one year from the date of the PIR #9. Any additional extension to remain eligible for future rehabilitation assistance would have to be requested by the City and approved by USACE, in accordance with the criteria defined in CECW-HS memorandum, dated 9 January 2009, subject: Temporary Extension of P.L. 84-99 Rehabilitation Eligibility for Non-Federal Sponsors Implementing System-wide Improvements. There were a number of deficiencies identified in the PIR #9 that require additional analysis to determine whether there are engineering or construction deficiencies with the existing Dallas Floodway Levee System that contributed to the deficiencies. Correction of engineering or construction deficiencies are not considered part of the City's OMRR&R responsibilities that must be completed as part of the MDCP plan and does not impact eligibility for P.L. 84-99 rehabilitation assistance.

d. The City of Dallas' comprehensive plan for future development on the Trinity River, entitled the Trinity River Corridor Project, includes flood risk management, recreation, ecosystem restoration, and transportation features. Ongoing studies related to the Trinity River Corridor Project involve coordination with multiple Federal (i.e., USACE, Federal Highways Administration, and Federal Emergency Management Agency), State (i.e., Texas Department of Transportation, Texas Historic Commission), and local agencies. Section 5141 of WRDA 2007 provides the opportunity to conduct a comprehensive, system-wide assessment of the City of Dallas' proposed plan to determine the technical and environmental feasibility for implementing

elements of the Trinity Corridor Project, while ensuring the integrity of the Dallas Floodway Levee System.

3. Section 5141 of WRDA 2007 provides a mechanism through which USACE can participate in investigations and analyses regarding remediation of the existing Dallas Floodway Levee System, as well as consideration of the need for replacement and reconstruction of features of the existing project and examination of changed conditions and possible engineering or construction deficiencies. It provides flexibility to undertake a comprehensive, system-wide analysis to evaluate alternatives, including levee remediation, the Balanced Vision Plan, the Interior Drainage Plan, and other proposed non-Federal modifications, including the Trinity Parkway. The results of these investigations and analyses will be used to make determinations on what work can or will be implemented pursuant to Section 5141.

a. The District will conduct a feasibility study (cost shared 50% Federal and 50% non-Federal) that will provide a comprehensive, system-wide analysis of all proposed development within the Dallas Floodway Project /Dallas Floodway Levee System area. Although this effort may be initiated using available funding appropriated for the Dallas Floodway Project by resuming the cost shared feasibility study suspended in 2007, an amendment to the existing feasibility cost sharing agreement (FCSA) to cover the expanded scope and cost of the study should be developed immediately. Additional funding to conduct the study will be budgeted under the Investigations Account in accordance with annual budget guidance. The feasibility study will be conducted in accordance with Engineering Regulation (ER) No. 1105-2-100, Planning Guidance Notebook; ER 1110-2-1150, Engineering and Design for Civil Works Projects; Chapter 12 of ER 405-1-12, Real Estate Handbook; ER 1110-2-1302, Civil Works Cost Engineering; and other pertinent regulations including Executive Order 11988 on Flood Plain Management. In addition, the feasibility study will be processed in accordance with report guidelines for projects authorized without a report in Appendix H of ER 1105-2-100 for approval by the Assistant Secretary of the Army for Civil Works (ASA(CW)). Implementation of features in the feasibility report as approved by the ASA(CW) will be cost shared in accordance with Section 103 of WRDA 1986, as amended.

b. The cost shared feasibility study to provide a comprehensive, system-wide analysis of all proposed development within the Dallas Floodway Project / Dallas Floodway Levee System area will include the following elements:

(1) Levee Remediation Plan. This element will address the levee structural integrity concerns and O&M deficiencies (that are the responsibility of the City of Dallas) identified in the PIR #9; and the identification of potential engineering, and/or construction deficiencies for the existing Dallas Floodway Levee System as defined in the original 1945 project authorization.

(2) Flood Damage Reduction Plan. This element will address potential levee reconstruction, raising of the existing Dallas Floodway Levee System, and removal of the AT&SF bridge piers to address current flood flows along the Trinity River.

(3) Balanced Vision Plan. This element will include review of the Balanced Vision Plan (BVP) ecosystem restoration and recreation features defined in the report prepared by the City of Dallas entitled *"The Balanced Vision Plan for the Trinity River Corridor, Dallas, Texas"*, dated December 2003 and amended in March 2004.

(4) Interior Drainage Plan. This element will include review of the Interior Drainage Plan (IDP) improvements to the existing Able, Baker, Charlie, Delta, Hampton, Trinity Portland, and Pavaho pump stations; restoration of sump capacity to provide protection against the one percent chance (100-year) event; and gravity and pressure storm sewers. These features are defined in the report prepared by the City of Dallas entitled *"The Interior Levee Drainage Study Phase-I Report, Dallas, Texas"*, dated September 2006.

(5) Local Features. This element will include review of certain alterations and modifications being proposed by non-Federal entities for approval under 33 U.S.C. 408. These features require a determination and approval by the USACE that the proposed alterations or modifications will meet USACE engineering and safety standards and will not have significant adverse affects on the functioning of the Dallas Floodway Levee System. The local features that may be reviewed as part of the feasibility study include the Trinity Parkway, Standing Wave, the Santa Fe Trestle Trail, the Pavaho Wetlands, the Interstate Highway (IH) -30 (Margaret McDermott) Bridge, the Sylvan Avenue Bridge, and the Pegasus Phase I (IH-35E).

c. Economic analyses and recommendation of the NED/NER plan are not required for the BVP and IDP; however, these elements will be formulated using sound judgment, prudent analytical approaches and Corps engineering standards. The feasibility report will describe the plan formulation criteria (goals and objectives) and the non-Federal sponsor's overall plans and will include a recommendation for features and elements to be constructed as part of the Modified Dallas Floodway Project. The Local Features will be evaluated in the comprehensive, system-wide analysis to ensure the proposed alterations and modifications will meet USACE engineering and safety standards, and will not have significant adverse affects on the functioning of the Dallas Floodway Levee System. Upon completion of this comprehensive analysis, non-Federal interests may submit for approval under Policy and Procedural Guidance for 33 U.S.C. 408 those Local Features which, as determined by the Corps, do not have significant adverse affects on the functioning of the Modified Dallas Floodway Project. Additional specific guidance regarding the Trinity Parkway is provided in this memorandum.

d. All work associated with the feasibility study will undergo district Quality Control (DQC), Agency Technical Review (ATR) and Independent External Peer Review (IEPR) throughout the study process to "ensure the quality and credibility of the Government's scientific information" in accordance with ER 1165-2-209 Civil Works Review Policy.

4. Levee Remediation Plan. As an initial step in the comprehensive analysis, the Levee Remediation Plan will be developed to identify and evaluate levee remediation alternatives by utilizing existing and additional geotechnical investigations and technical analyses to evaluate alternatives to identify technically sound and cost effective remediation measures needed to restore the existing Dallas Floodway Levee System. A variety of alternative measures will be evaluated for cost effectiveness analysis purposes. The evaluation will include:

a. A final breakdown of O&M-related deficiencies identified in the PIR #9 to be implemented by the city of Dallas, and which, for cost efficiencies, will be constructed as part of the Levee Remediation Plan. Remediation of O&M deficiencies identified in the PIR #9 may be included as part of the Levee Remediation Plan in order to identify the most cost efficient means to restore the integrity of the levees. Remediation plans implemented by non-Federal interests at 100% non-Federal expense must be technically sound and environmentally acceptable.

b. The identification of the recommended plan for remediation of levee deficiencies, including recommendations on engineering and/or construction deficiency corrections as defined in ER 1165-2-119, Modifications to Existing Projects related to the existing Dallas Floodway Levee System. This evaluation may also include an assessment of the systems ability to pass the 100-year flood event as well as an evaluation of alternatives for remediation of any identified deficiencies. The initial evaluation shall develop a stand alone remediation plan, assuming no other development within the existing Dallas Floodway Levee System.

c. Features of the proposed Trinity Parkway that may provide remediation for the levee deficiencies will be evaluated as an alternative for levee remediation to determine their cost effectiveness and their impact on the integrity and operation of the Dallas Floodway System. This analysis must also identify the most cost effective solution for levee remediation. Additional guidance for evaluation of the Trinity Parkway is found in paragraph 7.

d. In the formulation of the Flood Damage Reduction Plan components for the Modified Dallas Floodway project, the without project or base condition is the existing Dallas Floodway Levee System as it will be restored in accordance with the Levee Remediation Plan.

5. Flood Damage Reduction Plan. The Flood Damage Reduction Plan will be evaluated for economic justification in accordance with the Principles and Guidelines for Water and Related Land Resources, dated 10 March 1983, and other pertinent Corps regulations. If appropriate, the study should evaluate whether reconstruction of the existing Dallas Floodway Levee System as defined in CECW-PB memorandum, 16 August 2005, subject: Reconstruction of U.S. Army Corps of Engineers Structural Flood Damage Reduction Projects for which Non-Federal Interests are Responsible for Operation, Maintenance, Repair, Rehabilitation, and Replacement, is warranted. The formulation and evaluation of alternatives will also include examination of removal of the AT&SF railroad bridge piers, which cause a significant impediment to flood flows, and levee raises to increase the current level of protection.

6. Interior Drainage Plan (IDP). The IDP may be initiated by non-Federal entities at any time prior to completion of the Modified Dallas Floodway Project feasibility study if it is determined they have independent utility and do not adversely affect the functioning of the Modified Dallas Floodway Project. However, all features of the IDP will be evaluated in as part of the Modified Dallas Floodway Project feasibility study comprehensive analysis. Eligibility for in-kind contribution credit for such work is described in paragraph 9 of this guidance.

7. Trinity Parkway. A preliminary evaluation of the Trinity Parkway will be conducted to determine if any of the Federal Highway Administration (FHWA) alternatives within the Dallas Floodway are hydrologically, hydraulically, geotechnically, and structurally sound and compatible with proper system performance with the Levee Remediation Plan. The evaluation will include all features required for each FHWA alternative. This evaluation will be preliminary in nature as it will not provide the comprehensive evaluation required by the USACE prepared Programmatic Environmental Impact Statement Upper Trinity River Basin, Trinity River (June 2000) EIS . The purpose of this evaluation is to provide the FHWA information required for its determination of the preferred alignment for the Trinity Parkway. Careful examination of the FHWA proposals for the Trinity Parkway is critical to ensure the proposed modification does not adversely impact the functioning of the Dallas Floodway Levee System. Given the proximity of the proposed Parkway within the floodway and adjacent to a large urban area, all potential consequences to public safety must be thoroughly addressed.

a. Evaluation of multiple alternatives for the Levee Remediation Plan, Flood Damage Reduction Plan, and Comprehensive Analysis for the Modified Dallas Floodway Project will be required unless the FHWA identifies the preferred alternative for the Trinity Parkway. The initial evaluations for the Flood Damage Reduction Plan, IDP, BVP, and Local Features will include alternatives with a "No Trinity Parkway in the floodway" option, all Trinity Parkway alternatives that are not eliminated from consideration as part of the USACE Levee Remediation Plan analysis; the analysis for the FHWA's Limited Scope Supplement to the Supplemental

Draft Environmental Impact Statement (LSS-SDEIS), and consideration of the public involvement associated with this document. The final Flood Damage Reduction Plan and Comprehensive Analysis for the Dallas Floodway Project will be evaluated using the FHWA preferred alternative for the Trinity Parkway. If features of the Trinity Parkway are identified as the recommended alternative for levee remediation, this will be documented as part of the Selected Plan.

b. If it is determined that portions/features of the Trinity Parkway provide for remediation of the levee deficiencies and the entire Trinity Parkway is determined to be technically sound and environmentally acceptable with the levee remediation plan and flood damage reduction plan, implementation of the Trinity Parkway by FHWA will not require additional evaluation and approval under Policy and Procedural Guidance for 33 USC 408, but will be incorporated into the review and approval process for the USACE decision document and EIS, and will be included in the ROD for the Modified Dallas Floodway Project feasibility study.

c. If it is determined that portions/features of the Trinity Parkway do not provide for remediation of the levee deficiencies, the Trinity Parkway may be evaluated further as part of the analysis of the flood damage reduction project but may require additional evaluation in accordance with the Policy and Procedural Guidance for 33 USC 408. In no case may construction of the Trinity Parkway be approved prior to issuance of the ROD for the Modified Dallas Floodway Project feasibility study.

d. This guidance supersedes guidance contained in the CEMP-SWD memorandum, dated 19 December 2008, subject: Trinity Parkway, Dallas Floodway, Texas, Section 408 – Modifications and Alterations of Corps of Engineers Projects, Guidelines.

8. The actual scope, cost, and schedule for implementation of the feasibility study for the Modified Dallas Floodway Project will be documented in the Project Management Plan (PMP), and should document the interdependencies between Federal, State, and local agencies for conducting a comprehensive, system-wide analysis of the Modified Dallas Floodway Project. The feasibility study will include planning milestones such as a Feasibility Scoping Meeting (FSM) and Alternative Formulation Briefings (AFB). In addition to the FSM and AFB, In Progress Review (IPR) meetings, to include the full Corps vertical team and ASA(CW) participation, are required upon completion of the following activities:

a. Develop Levee Remediation Plan. This IPR checkpoint is required to review and affirm the scope of Levee Remediation Plan, to include the preliminary analysis of the technical viability of the Trinity Parkway alternatives and to assess if there are measures that may be initiated to remedy the 100-year deficiencies. Based on the outcome of this checkpoint meeting, non-Federal entities may initiate construction on features required to restore the one percent

chance occurrence (100 year) levee deficiencies subject to compliance with the National Environmental Policy Act (NEPA) and receiving appropriate Section 404/10 authorization and USACE final design approvals. Eligibility for in-kind contribution credit for such work is described in paragraph 9 of this guidance.

b. Completion of Comprehensive Analysis. This IPR check point must be held following the completion of the comprehensive, system-wide analysis of all features for the Modified Dallas Floodway Project which will assess all features with and without the Trinity Parkway in the floodway. This checkpoint is required before any work can be requested or initiated by FHWA or by non-Federal entities. Further, before any work is initiated by FHWA or the non-Federal interests, the appropriate NEPA analyses and documentation must be completed.

9. Section 5141(b)(1) directs the Secretary to afford credit, in accordance with Section 221 of the Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost for the Modified Dallas Floodway Project for the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of execution of the Project Partnership Agreement (PPA). The guidance and procedures contained in Engineering Circular (EC) No. 1165-2-208 should be used to determine eligibility of credit for such planning, design, and construction work proposed to be accomplished by non-Federal interests with the exception that the ASA(CW) on 10 June 2009 approved a one-time exception to the policy to allow execution of an In-Kind Memorandum of Understanding prior to completion of the feasibility study for non-Federal interest to conduct investigations for engineering (geotechnical, hydrologic, hydraulic, civil, structural, and cost estimate), real estate, and environmental impacts; and to design and construct levee remediation measures. The feasibility report will include the information necessary to support the required integral determination by the ASA(CW). See paragraph 6 of EC 1165-2-208 for details. Only planning, design, and construction work performed prior to execution of the PPA and determined to be integral to the recommended plan will be considered eligible for credit. Section 5141(b)(1) does not provide authority to afford credit for any planning, design, or construction work carried out by the non-Federal interest after the date of execution of the project partnership agreement. The actual value of the eligible work and credit afforded will be determined in accordance with the terms and conditions of the applicable cost sharing agreement (FCSA, Design Agreement, and PPA). The total amount of credit afforded for planning, design, and construction work undertaken by the non-Federal interest shall not exceed the non-Federal cash requirement for the project.

a. Credit for planning efforts performed by the non-Federal sponsor that are required for the feasibility study will be afforded in accordance with the terms and conditions of the FCSA. The determination of the work to be credited for the feasibility study will be made and documented in the Project Management Plan (PMP) for the feasibility study. The costs of the work for which credit is afforded toward the non-Federal sponsor's share under the FCSA will not be included in total project costs in the PPA.

b. To the extent that the credit that could be afforded for non-Federal planning efforts for the feasibility study exceeds the non-Federal sponsor's 50 percent share under the FCSA, the excess credit may be afforded toward the non-Federal share of costs under the Design Agreement. Further, to the extent that the credit that could be afforded for non-Federal planning and design exceeds the non-Federal sponsor's share under the Design Agreement, the excess credit may be afforded toward the non-Federal share of construction costs under the PPA. The costs of the work for which credit is afforded toward the non-Federal sponsor's share under the Design Agreement and the PPA will be included in total project costs.

10. Section 5141(b)(2) provides authority for the Secretary to accept funds provided by the non-Federal interest for use in carrying out planning, engineering, and design for the Dallas Floodway project. Credit for funds provided by the non-Federal interest to carry out such work will be applied toward any cash contribution required under the feasibility study and if there is remaining credit then under the design agreement and finally under the PPA. This provision provides for credit only and does not authorize reimbursement.

11. The costs of the recommended plan dealing with the Flood Damage Reduction Plan, the BVP, and the IDP (rehabilitation and new pump stations, outfall extensions and associated items) will be considered in determining the Section 902 of WRDA 1986 maximum cost limits. The costs of the Levee Remediation Plan and Local Features will be excluded from such determination.

12. In accordance with CEQ Guidelines and ER 200-2-2, Procedures for Implementing NEPA, the Secretary will prepare appropriate NEPA analysis and documentation for the Modified Dallas Floodway Project.

a. For the Modified Dallas Floodway Project, it is expected that an Environmental Impact Statement (EIS) will be prepared following the comprehensive analysis and will address all elements of the Modified Dallas Floodway Project. The EIS will consider reasonable alternatives that will include the options of "No Trinity Parkway in the floodway" and FHWA's preferred Trinity Parkway alignment if located in the floodway. The EIS will reference, as applicable, the FHWA's Trinity Parkway EIS and comply with the intent of the USACE prepared Programmatic Environmental Impact Statement Upper Trinity River Basin, Trinity River (June 2000) EIS. The Record of Decision (ROD) will be signed by the ASA(CW).

b. The USACE will serve as a cooperating agency with the FHWA in the preparation of the Trinity Parkway EIS in order to provide expertise in hydrology/hydraulics and flood protection measures. The USACE will coordinate the results of the comprehensive analysis for use by FHWA in selecting a preferred alternative for the Trinity Parkway. Should FHWA

choose to execute their ROD on the Trinity Parkway prior to USACE's ROD on the Modified Dallas Floodway Project and it recommends a Parkway alignment in the floodway, the USACE will be unable to make a determination regarding FHWA's decision until the Modified Dallas Floodway Project ROD is completed. The Trinity Parkway cannot be initiated until the ROD for the Modified Dallas Floodway Project feasibility study is executed by the ASA(CW).

c. Construction of levee remediation, IDP, or Local Features that are proposed to be accomplished by non-Federal entities in advance of the Modified Dallas Floodway Project ROD will require appropriate NEPA documentation, and cannot have a significant incremental impact on the environment. A determination must be made that these elements are not "connected, similar, or cumulative" (as defined in 40 CFR Part 1508.25) with respect to other elements of the Modified Dallas Floodway Project and can be implemented by non-Federal entities without harm/impact to the existing Dallas Floodway Levee System.

13. Given the complexity and sensitivity of this study, the Project Delivery Team should conduct vertical team checkpoint meetings throughout the study process to coordinate all phases of the comprehensive, system-wide analysis required for the Modified Dallas Floodway Project.

FOR THE COMMANDER:

Encl

STEVEN L. STOCKTON, P.E.
Director of Civil Works

PROJECT AUTHORIZATION AND REPORT LANGUAGE

There is an existing cost shared Investigations study within the Dallas Floodway, under the Upper Trinity River Basin, Texas Interim Feasibility Study (IFS), as authorized by the United States Senate Committee on Environment and Public Works Resolution dated April 22, 1988, as quoted below:

Resolved by the Committee on Environment and Public Works of the United States Senate, that the Board of Engineers for Rivers and Harbors is hereby requested to review the report of the Chief of Engineers on the Trinity River and Tributaries, Texas, House Document No. 276, Eighty-Ninth Congress, and other pertinent reports, with a view to determining the advisability of modifying the proposal for further studies contained therein, with particular reference to providing improvements in the interest of flood protection, environmental enhancement, water quality, recreation, and other allied purposes in the Upper Trinity River Basin with specific attention on the Dallas-Fort Worth Metroplex.

Section 5141 of the Water Resources Development Act of 2007 - *DALLAS FLOODWAY, DALLAS, TEXAS.*

(a) IN GENERAL.—The project for flood control, Trinity River and tributaries, Texas, authorized by section 2 of the Act entitled, ''An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved March 2, 1945 (59 Stat. 18), is modified to—

(1) direct the Secretary to review the Balanced Vision Plan for the Trinity River Corridor, Dallas, Texas, dated December 2003 and amended in March 2004, prepared by the non-Federal interest for the project;

(2) direct the Secretary to review the Interior Levee Drainage Study Phase-I report, Dallas, Texas, dated September 2006, prepared by the non-Federal interest; and

(3) if the Secretary determines that the project is technically sound and environmentally acceptable, authorize the Secretary to construct the project at a total cost of $459,000,000, with an estimated Federal cost of $298,000,000 and an estimated non-Federal cost of $161,000,000.

(b) CREDIT.—

(1) IN-KIND CONTRIBUTIONS.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(2) CASH CONTRIBUTIONS.—The Secretary shall accept funds provided by the non-Federal interest for use in carrying out planning, engineering, and design for the project. The Federal share of such planning, engineering, and design carried out with non-Federal contributions shall be credited against the non-Federal share of the cost of the project."