

AMENDMENT NO. 1
OF THE
LOCAL COOPERATION AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE RED RIVER WATERWAY COMMISSION
OF THE STATE OF LOUISIANA
FOR THE PROJECT FOR MITIGATION OF
FISH AND WILDLIFE LOSSES,
RED RIVER WATERWAY, LOUISIANA
(Up to 5,000 Acres in Bossier Parish, Louisiana)

THIS AMENDMENT is entered into this 22nd day of October 1999, by and between the DEPARTMENT OF THE ARMY (hereinafter the "Government"), represented by the Assistant Secretary of the Army (Civil Works), and the RED RIVER WATERWAY COMMISSION OF THE STATE OF LOUISIANA (hereinafter the "State"), represented by its Chairman.

WITNESSETH, THAT:

WHEREAS, Public Law 90-483 authorized the construction of the Red River Waterway, Louisiana, Texas, Arkansas, and Oklahoma; and

WHEREAS, Section 601(a) of the Water Resources Development Act of 1986, Public Law 99-662, as amended, authorized the project for mitigation of fish and wildlife losses above river mile 104 (hereinafter referred to as the **Authorized Project [14,000 acres]**) for the Red River Waterway, Louisiana, project, in accordance with the report of the Chief of Engineers, dated December 28, 1984, and provided further that the land the Secretary of the Army may purchase for said Authorized Project may include all or such portion of any land adjacent to the Loggy Bayou Wildlife Management Area in Bossier Parish, Louisiana, which the Secretary determines is appropriate; and,

WHEREAS, the Energy and Water Development Appropriation Act, 1990, Public Law 101-101, enacted on September 29, 1989, appropriated \$2,465,000 and directed the Secretary of the Army to acquire up to 5,000 acres of land in Bossier Parish, Louisiana, in the vicinity of Stumpy Lake, Swan Lake, and the Loggy Bayou Wildlife Management Area as an element of the Authorized Project (hereinafter referred to as the **"Project" [5,000 acres]**, as defined in Article I.a. of the Local Cooperation Agreement [hereinafter the "Agreement"] entered into by the Government and the State on June 16, 1993); and,

WHEREAS, the Agreement provides for the acquisition and development of lands for fish and wildlife mitigation purposes as defined in Article I.a. of said Agreement; and,

WHEREAS, Section 301(b) of the Water Resources Development Act of 1996, Public Law 104-303, modified the Authorized Project [14,000 acres] to authorize the Secretary to carry out said project at a total cost of \$10,500,000 and to provide that Project lands that are purchased adjacent to the Loggy Bayou Wildlife Management Area may be located in Caddo or Red River Parish subject to the preparation of a report finding that such work is technically sound, environmentally acceptable, and economic, as applicable; and,

WHEREAS, the favorable report required by Section 301(b) of the Water Resources Development Act of 1996 was approved by the Assistant Secretary of the Army (Civil Works) on October 28, 1998; and,

WHEREAS, the Government and the State have identified the need to update the Agreement to incorporate certain provisions contained in the latest applicable model Project Cooperation Agreement, particularly the provisions which relate to maximum total project cost limits for the Authorized Project and historic preservation; and,

WHEREAS, the Government and the State desire to proceed with the acquisition and development of lands in Caddo and Red River Parishes for fish and wildlife mitigation purposes; and,

NOW, THEREFORE, the Government and the State agree to amend the Agreement as follows:

1. TITLE OF AGREEMENT

The last line in the title of the Agreement is renamed from "(Up to 5,000 Acres in Bossier Parish, Louisiana)" to "(Up to 5,000 Acres in Bossier, Caddo, and Red River Parishes, Louisiana)."

2. ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS

a. Delete paragraph a. and replace it with the following paragraph:

"a. The term "Project" shall mean the acquisition and development, for fish and wildlife mitigation purposes, of up to 5,000 acres of multigrade bottom-land hardwoods, pine-hardwoods, and mixed habitat (pastures, open lands, cropped lands, and fallow fields) in the following parishes: Bossier Parish, Louisiana, in Townships 15 and 16 North, Ranges 10 and 11 West, generally south of Lake Bistineau, west of the Loggy Bayou Wildlife Management Area, north of U.S. Highway 71, and east of Red Chute Bayou, generally as described in the Red River Mitigation Lands, Bossier Parish, Louisiana, Real Estate Design Memorandum (REDM) No. 46, dated July 1990 and approved February 27, 1991; Caddo Parish, Louisiana, in Townships 15 through 23 North, Ranges 11 through 15 West, generally between Highway 71, Black Bayou, and Twelvemile Bayou to the west and Red River to the east in the northern half of the parish and between Wallace Bayou to the west and Red River to the east in the southern half of the parish, generally as described in the Report to Congress, dated January 1998 and approved by the

Assistant Secretary of the Army (Civil Works) October 1998; Red River Parish, Louisiana, in Townships 11 through 14 North, Ranges 9 through 12 West, generally on both sides of the Red River from the Caddo/Bienville Parish line to the north to the Natchitoches Parish line to the south, generally bounded by Bayou Pierre to the west and Highway 71 to the east, generally as described in the above-referenced Report to Congress, approved October 1998."

b. In paragraph f, the first and last sentences, replace the words "Contracting Officer" with the words "District Engineer."

c. In paragraph g, replace the words "Contracting Officer" with the words "District Engineer".

d. In paragraph k, the first and last sentences, replace the words "Contracting Officer" with the words "District Engineer."

3. ARTICLE II - OBLIGATIONS OF THE PARTIES

In paragraph a, third sentence, replace the words "Contracting Officer" with the words "District Engineer."

4. ARTICLE V - ACQUISITION AND DEVELOPMENT PHASING AND MANAGEMENT

In paragraph b, replace the words "Contracting Officer" with the words "District Engineer"; and in paragraph c, replace both references to the "Contracting Officer" with the words "District Engineer."

5. ARTICLE VI - METHOD OF PAYMENT AND CREDIT

In paragraph c1, last line, replace the words "Contracting Officer" with the words "District Engineer".

6. ARTICLE XI - GOVERNMENT AUDIT

Insert the following at the end of this ARTICLE:

"Pursuant to 32 C.F.R. Section 33.26, the State is responsible for complying with the Single Audit Act of 1984, 31 U.S.C. Sections 7501-7507, as implemented by Office of Management and Budget (OMB) Circular No. A-133 and Department of Defense Directive 7600.10. Upon request of the State and to the extent permitted under applicable Federal laws and regulations, the Government shall provide to the State and independent auditors any information necessary to enable an audit of the State's activities under this Agreement. The costs of any non-Federal audits performed in accordance with this paragraph shall be allocated in accordance with the provisions of OMB Circulars A-87 and A-133, and such costs as are allocated to the Project shall be included in total project costs and cost shared in accordance with the provisions of this Agreement."

7. ARTICLE XVII - NOTICES

Change the Government's address from "U.S. Army Engineer District, Vicksburg, 2101 North Frontage Road, Vicksburg, Mississippi 39180-5191" to "U.S. Army Engineer District, Vicksburg, 4155 Clay Street, Vicksburg, Mississippi 39183-3435."

8. ARTICLE XIX - HAZARDOUS SUBSTANCES

In paragraph a, first sentence, replace the words "Contracting Officer" with the words "District Engineer."

9. NEW ARTICLES

Add new articles as follows, after existing ARTICLE XX - COOPERATION:

"ARTICLE XXI - SECTION 902 PROJECT COST LIMITS

The State has reviewed the provisions set forth in Section 902 of Public Law 99-662, as amended, and understands that Section 902 establishes the maximum amount of total project costs for the Authorized Project [14,000 acres], of which the Project [5,000 acres] is an element thereof. Notwithstanding any other provision of this Agreement, the Government shall not make a new Project financial obligation, make a Project expenditure, or afford credit toward total project costs for the value of any contribution provided by the State, if such obligation, expenditure, or credit would result in total project costs exceeding this maximum amount, unless otherwise authorized by law. On the effective date of this Agreement, this maximum amount is estimated to be \$12,600,000, as calculated in accordance with ER 1105-2-100 using October 1, 1999, price levels and allowances for projected future inflation. The Government shall adjust this maximum amount in accordance with Section 902.

ARTICLE XXII - HISTORIC PRESERVATION

a. The costs of identification, survey, and evaluation of historic properties shall be included in total project costs and cost shared in accordance with the provisions of this Agreement.

b. As specified in Section 7(a) of Public Law 93-291 (16 U.S.C. Section 469c(a)), the costs of mitigation and data recovery activities associated with historic preservation shall be borne entirely by the Government and shall not be included in total project costs, up to the statutory limit of 1 percent of the total amount authorized to be appropriated for the Project.


c. The Government shall not incur costs for mitigation and data recovery that exceed the statutory 1 percent limit specified in paragraph b of this Article unless and until the Assistant Secretary of the Army (Civil Works) has waived that limit in accordance with Section 208(3) of Public Law 96-515 (16 U.S.C. Section 469c-2(3)). Any costs of mitigation and data recovery that exceed the 1 percent limit shall not be included in total project costs but shall be cost shared between the State and the Government consistent with the minimum non-Federal cost-sharing

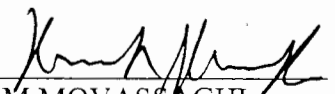
requirements for the underlying Project purpose, as follows: 6 percent borne by the State, and 94 percent borne by the Government."

10. All other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment, which shall become effective upon the date it is signed by the Assistant Secretary of the Army for Civil Works.

THE DEPARTMENT OF THE ARMY THE STATE OF LOUISIANA

BY: 
JOSEPH W. WESTPHAL
Assistant Secretary
Of the Army (Civil Works)

BY: 
KAM MOVASSAGHI
Chairman, Red River
Waterway Commission

DATE: 22 OCT 1999

DATE: 10-11-99

CERTIFICATE OF AUTHORITY

I, Henry B. Bruser, III, do hereby certify that I am the principal legal officer of the Red River Waterway Commission, that the Red River Waterway Commission 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 Red River Waterway Commission, including this Amendment No. 1, in connection with the 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 Red River Waterway Commission have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this 12th day of October, 1997.



Henry B. Bruser III
Legal Officer
Red River Waterway Commission

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.



KAM MOVASSAGHI
Chairman, Red River

Waterway Commission

DATE: 10-11-99