

**MODIFICATION NO. 2 TO THE  
AGREEMENT BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
BRAZOS RIVER HARBOR NAVIGATION DISTRICT  
OF BRAZORIA COUNTY, TEXAS FOR LOCAL COOPERATION ON THE  
FREEPORT HARBOR, TEXAS (1970 ACT) PROJECT  
NAVIGATION PROJECT**

THIS MODIFICATION, entered into this 19th day of July, 1991, ~~1990~~ by and between the DEPARTMENT OF THE ARMY (hereinafter referred to as the "Government"), represented by the Assistant Secretary of the Army (Civil Works) and the BRAZOS RIVER HARBOR NAVIGATION DISTRICT OF BRAZORIA COUNTY, TEXAS (hereinafter referred to as the "Local Sponsor"),

**WITNESSETH THAT:**

WHEREAS, by an agreement dated June 26, 1986, the Government and the Local Sponsor shall cooperate in the construction of the Freeport Harbor, Texas (1970 Act) Project (hereinafter referred to as the "Project"); and

WHEREAS, the Congress of the United States in the Water Resources Development Act of 1986 (Public Law 99-662), and the Water Resources Development Act of 1988 (Public Law 100-676), enacted into law changes in cost sharing applicable to the Project; and

WHEREAS, the Government and the Local Sponsor desire to amend the referenced agreement:

NOW, THEREFORE, the parties agree to amend the referenced agreement as follows:

1. ARTICLE II e., as modified by Modification No. 1, is further modified by deleting from the sixth line the following: "(other than utility relocations)"

2. ARTICLE II - OBLIGATIONS OF THE PARTIES, add a new Paragraph i., to read:

No Federal funds may be used to meet the local sponsor share of project costs under this Agreement unless the expenditure of such funds is expressly authorized by statute as verified in writing by the granting agency.

3. ARTICLE IV - VALUE OF LANDS AND FACILITIES, Paragraph b., as modified by Modification No. 1, delete in its entirety and replace with:

The costs of alterations or relocations of facilities and utilities incurred by the Local Sponsor that will be credited towards the additional 10 percent of total costs which the Local Sponsor must repay pursuant to Article II.e., of

this Agreement, as previously modified, shall be that portion of the actual costs determined as set forth below, and approved by the Government:

1. Highways: Only that portion of the cost as would be necessary to construct substitute highways to the design standard that the State of Texas would use in constructing a new highway under similar conditions of geography and traffic loads.

2. Facilities and Utilities: Actual relocation costs, less depreciation, less salvage value, plus the cost of removal, less the cost of betterments. With respect to betterments, new materials shall not be used in any alteration or relocation if materials of value and usability equal to those in the existing facility are available or can be obtained as salvage from the existing facility or otherwise, unless the provision of new material is more economical. If, despite the availability of used material, new material is used, where the use of such new material represents an additional cost, such cost will not be credited to the Local Sponsor's share.

4. ARTICLE IV - VALUE OF LANDS AND FACILITIES, Add new Paragraph c., page 8, to read:

Credit may be given for costs relating to alterations or relocations of utilities.

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

IN WITNESS WHEREOF, the parties hereto shall execute this Agreement, which shall then become effective upon the date it is signed by the Assistant Secretary of the Army (Civil Works).

THE DEPARTMENT OF THE ARMY

THE LOCAL SPONSOR

BY: 

BY: 

Brink P. Miller  
Colonel, Corps of Engineers  
District Engineer

F. J. Richers, Chairman  
Board of Navigation and Canal  
Commissioners  
Brazos River Harbor  
Navigation District  
Brazoria County, Texas

DATE: 19 July 1991

DATE: 7/11/91