

AMENDMENT NUMBER 1 TO THE
PROJECT COOPERATION AGREEMENT

BETWEEN

THE DEPARTMENT OF THE ARMY

AND

THE VICTORIA COUNTY NAVIGATION DISTRICT

AND

THE WEST SIDE CALHOUN COUNTY NAVIGATION DISTRICT

FOR ENLARGEMENT OF THE

CHANNEL TO VICTORIA, TEXAS

THIS AMENDMENT is entered into this 16th day of DECEMBER, 1997, by and among the DEPARTMENT OF THE ARMY (hereinafter the "Government"), represented by the Acting Assistant Secretary of the Army (Civil Works), and the Victoria County Navigation District and the West Side Calhoun County Navigation District (hereinafter "VCND" and "WSCCND" respectively, or "Local Sponsors" where referred to collectively), represented by their respective Board Chairmen,

WITNESSETH, THAT:

WHEREAS, by the Project Cooperation Agreement between the Department of the Army and the Victoria County Navigation District and the West Side Calhoun County Navigation District for enlargement of the Channel to Victoria, Texas, dated November 17, 1994 (hereinafter the "Original Agreement"), the Government and the Local Sponsors shall cooperate in the enlargement of the Channel to Victoria, Texas (hereinafter referred to as the "Project");

WHEREAS, Section 201 of the Water Resources Development Act of 1996, Public Law 104-303, amends the Water Resources Development Act of 1986, Public Law 99-662, to provide a new cost-sharing formula for navigation projects for harbors or inland harbors, or any separable element thereof, on which a contract for physical construction of a dredged material disposal facility has not been awarded before October 12, 1996;

WHEREAS, Section 201(f) of the Water Resources Development Act of 1996, Public Law 104-303, provides for the amendment of project cooperation agreements executed on or before October 12, 1996 in order to reflect the new cost-sharing formula, if requested by the non-Federal interest;

WHEREAS, a contract for physical construction of a dredged material disposal facility to be used for the Project will be awarded after October 12, 1996, thus making the Original Agreement eligible for amendment under Section 201(f) of the Water Resources Development Act of 1996, Public Law 104-303;

WHEREAS, the Local Sponsors have requested amendment of the Original Agreement to reflect the new cost sharing formula;

NOW, THEREFORE, the parties agree to amend the Original Agreement as follows:

1. Article I.a is amended to read:

“a. The term “Project” shall mean the general navigation features and all lands, easements, rights-of-way, and relocations that the Government, in accordance with Article III of this Agreement, determines to be necessary for the construction, operation, and maintenance of the general navigation features.”

2. In Article I.b., the phrase “including all new dredged material disposal facilities as defined in paragraph d. of this Article,” is inserted following the word “Texas.”

3. In Article I.c., the language immediately following the phrase “hazardous substances as identified in Article XVII.a. of this Agreement,” is amended to read:

“and the costs of construction of new dredged material disposal facilities as defined in paragraph d. of this Article, but shall not include the value of lands, easements, rights-of-way, old dredged material disposal facilities as defined in paragraph d. of this Article, relocations performed by or on behalf of the Local Sponsors, non-Federal dredging of public or private channels and berthing areas, and aids to navigation.”

4. Article I.d. is amended to read:

“d. The term “dredged material disposal facilities” shall mean the improvements necessary on lands, easements, or rights-of-way to enable the proper disposal of dredged or excavated material associated with the construction, operation, or maintenance of the general navigation features. Such improvements may include but are not necessarily limited to, retaining dikes, wasteweirs, bulkheads, embankments, monitoring features, stilling basins, or de-watering pumps or pipes.

(1) The term “old dredged material disposal facilities” shall mean dredged material disposal facilities for which a contract for construction has been awarded on or before October 12, 1996. The term “old dredged material disposal facilities” shall not include any improvement to old dredged material disposal facilities for which a contract for construction of the improvement is awarded after October 12, 1996.

(2) The term "new dredged material disposal facilities" shall mean dredged material disposal facilities for which a contract for construction has been awarded after October 12, 1996. The term "new dredged material disposal facilities" shall include any improvement to old dredged material disposal facilities for which a contract for construction of the improvement is awarded after October 12, 1996."

5. Article I.f. is deleted, and paragraphs subsequent to it in Article I. are renumbered Articles I.f, I.g., I.h., I.i., and I.j., respectively. The resulting new Article I.f. is then amended to read as follows:

"f. The term "period of construction" shall mean the time from the advertisement of the first construction contract to the time the District Engineer certifies in writing to the Local Sponsors that construction of the general navigation features of the Project is complete, except for dredged material disposal facilities which may be necessary for project operation and maintenance after such notice. The District Engineer shall furnish to the Local Sponsors copies of the Government's Written Notice of Acceptance of Completed Work furnished to contractor(s) for all contracts for the general navigation features of the Project."

6. In Article II.a., each of two occurrences of the phrase "Contracting Officer" is replaced with the phrase "District Engineer."

7. Article II.b. is amended to read:

"b. The Government shall pay 100 percent of the costs to operate and maintain the general navigation features of the Project, provided, however, that the costs of constructing, operating and maintaining dredged material disposal facilities required for operation and maintenance of the Project shall be paid as follows:

(1) The Local Sponsors shall pay the costs of construction, operation and maintenance of any old dredged material disposal facilities;

(2) The Local Sponsors shall share, in accordance with paragraphs e. and f. of this Article, the costs of construction but not operation or maintenance of any new dredged material disposal facilities."

8. Article II.d. is amended to read:

"d. The Local Sponsors shall provide to the Government all lands, easements, and rights-of-way, including suitable old dredged material disposal facilities and those lands, easements, and rights of way necessary for new dredged material disposal areas, and perform, or ensure performance of, all relocations determined by the Government to be necessary for construction, operation, or maintenance of the Project."

9. In Article III.a., the second sentence is amended to read:

“Thereafter, the Local Sponsors shall furnish all lands, easements, and rights-of-way, including suitable old dredged material disposal facilities and those lands, easements, and rights of way necessary for new dredged material disposal facilities, as may be determined by the Government in that description, or in any subsequent description coordinated with the Local Sponsors, to be necessary for the construction, operation, and maintenance of the Project, and shall furnish to the Government evidence supporting the Local Sponsors' legal authority to grant rights-of-entry to such lands.”

10. Article III.b. is amended to read:

“b. The Local Sponsors shall provide, or pay to the Government the cost of providing, all old dredged material disposal facilities required for the construction, operation, and maintenance of the Project in its entirety.”

11. In Article IV.a., the language immediately preceding the word “procedures” is amended to read:

“a. The Local Sponsors shall not receive any credit for lands, easements, and rights-of-way, including those necessary for new dredged material disposal facilities and for old dredged material disposal facilities, previously provided as an item of cooperation for another Federal project. The value of the lands, easements, and rights-of-way, including lands, easements, and rights-of-way necessary for new dredged material disposal facilities and old dredged material disposal facilities, that will be credited toward the additional 10 percent of total costs the Local Sponsors must repay pursuant to Article II.f. of this Agreement shall be determined in accordance with the following”

12. In Article V.b., the phrase “Contracting Officer” is replaced with “District Engineer.”

13. In Article VI.a., the second and third sentences are amended as follows:

“The total cost of construction of the general navigation features is currently estimated to be \$28,456,000, and the Local Sponsors' share is currently estimated to be \$3,544,000. In order to meet its share of the said total cost, the Local Sponsors must provide a cash contribution currently estimated to be \$2,714,000.”

14. In Article VIII.a., the last sentence is deleted.

15. Article VIII.b. is amended to read:

“b. The Government shall pay 100 percent of the costs to operate and maintain the general navigation features of the Project, provided, however, that the costs of constructing, operating and maintaining dredged material disposal facilities required for operation and maintenance of the Project shall be paid as follows:

(1) The Local Sponsors shall pay the costs of construction, operation and maintenance of any old dredged material disposal facilities;

(2) The Local Sponsors shall share in accordance with Articles II.e. and II.f. of this Agreement the costs of construction but not operation or maintenance of any new dredged material disposal facilities.

16. In Article XVII.a, the phrase "Contracting Officer" is replaced with "District Engineer", the phrase "42 UCS 9501-9675" is replaced with "42 USC 9601-9675", and the phrase "Section 103(a)" is replaced with "Section 101(a)".

17. In Article XVII.e., the phrase "required disposal facilities" is replaced by the phrase "old dredged material disposal facilities."

18. In Article XVIII.a., the address for the West Side Calhoun County Navigation District is amended to read "P.O. Box 12, Long Mott, Texas, 77972."

19. All other provisions of the Original 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 Government.

THE DEPARTMENT OF THE ARMY

VICTORIA COUNTY NAVIGATION DISTRICT

BY: Eric R. Potts
Eric R. Potts
Colonel, Corps of Engineers
District Engineer

BY: Knute L. Dietze
Knute L. Dietze, Chairman

DATE: 16 DEC 1997

DATE: 12/11/97

WEST SIDE CALHOUN COUNTY NAVIGATION DISTRICT

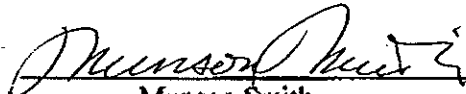
BY: Walter Pilgram, Jr.
Walter Pilgram, Jr.
Chairman

DATE: 12/11/97

CERTIFICATE OF AUTHORITY

I, Munson Smith, do hereby certify that I am the principal legal officer of the Victoria County Navigation District and the West Side Calhoun County Navigation District, that the Victoria County Navigation District and the West Side Calhoun County Navigation District are legally constituted public bodies with full authority and legal capability to perform the terms of Amendment Number 1 to the Project Cooperation Agreement between the Department of the Army and the Victoria County Navigation District and the West Side Calhoun County Navigation District in connection with the Project, and to pay damages, if necessary, in the event of the failure to perform, in accordance with Section 221 of Public Law 91-611, and that the persons who have executed this Agreement on behalf of the Victoria County Navigation District and the West Side Calhoun County Navigation District have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this 11th day of DECEMBER 1997.


Munson Smith
Legal Counsel

CERTIFICATION REGARDING LOBBYING

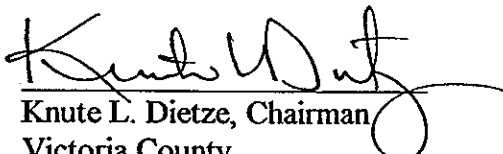
The undersigned certifies, to the best of his or her knowledge and belief that:

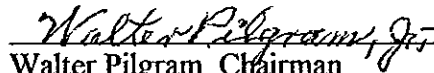
(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection 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.


Knute L. Dietze, Chairman
Victoria County
Navigation District


Walter Pilgram, Chairman
West Side Calhoun County
Navigation District

DATE: 12/11/97

DATE: 12/11/97

CERTIFICATION OF LEGAL REVIEW

The Amendment Number 1 to the Project Cooperation Agreement for Channel to Victoria has been fully reviewed by the Office of Counsel, USAED, Galveston.

Thomas H Moore 12/16/97

Thomas H. Moore
District Counsel

PROJECT COOPERATION AGREEMENT

BETWEEN

THE DEPARTMENT OF THE ARMY

AND

THE VICTORIA COUNTY NAVIGATION DISTRICT

AND

THE WEST SIDE CALHOUN COUNTY NAVIGATION DISTRICT

FOR ENLARGEMENT OF THE

THE CHANNEL TO VICTORIA, TEXAS

THIS AGREEMENT is entered into this 17th day of November, 1994, by and among the DEPARTMENT OF THE ARMY (hereinafter the "Government"), acting by and through the Assistant Secretary of the Army (Civil Works), and the Victoria County Navigation District and the West Side Calhoun County Navigation District (hereinafter "VCND" and "WSCND" respectively, or "Local Sponsors" where referred to collectively), acting by and through their respective Board Chairman,

WITNESSETH, THAT:

WHEREAS, construction of the Channel to Victoria in South-Central Texas within Calhoun and Victoria Counties, was authorized by the Rivers and Harbors Act of 1945, Public Law 79-14, as modified by Public Law 82-527, and Public Law 83-780 (hereinafter the "Channel to Victoria");

WHEREAS, the modification of the Channel to Victoria was authorized by Section 3 (15) of the Water Resources Development Act of 1988, Public Law 100-676, as amended (hereinafter the "Project" and defined in Article I.a. of this Agreement);

WHEREAS, the Government and the Local Sponsors desire to enter into a Project Cooperation Agreement for construction of the Project;

WHEREAS, Section 101 of the Water Resources Development Act of 1986, Public Law 99-662, as amended, specifies the cost-sharing requirements applicable to the Project;

WHEREAS, Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended, provides that the construction of any water resources project by the Secretary of the Army shall not be commenced until each non-Federal interest has entered into a

written agreement to furnish its required cooperation for the project;

WHEREAS, the Government and Local Sponsors have the legal authority and capability to perform as hereinafter set forth and intend to cooperate in cost-sharing and financing of the construction of the Project in accordance with the terms of this Agreement.

NOW, THEREFORE, the Government and the Local Sponsors agree as follows:

ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS

For purposes of this Agreement:

a. The term "Project" shall mean the general navigation features and all lands, easements, rights-of-way, relocations, and suitable borrow and dredged or excavated material disposal areas that the Government, in accordance with Article III of this Agreement, determines to be necessary for the construction, operation, and maintenance of the general navigation features.

b. The term "general navigation features" shall mean the enlargement of the 34.9 mile long channel to 12 feet by 125 feet, extending from the GIWW in San Antonio Bay to and including the Turning Basin located 7 miles south of the city of Victoria, Texas, but excluding entirely the channel to Seadrift, as generally described in the Channel to Victoria, Channel Enlargement, Design Memorandum No. 1, dated September 1991, and approved by the Southwestern Division Commander on October 31, 1991.

c. The term "total cost of construction of the general navigation features" shall mean all costs incurred by the Local Sponsors and the Government directly related to construction of the general navigation features. Such costs shall include, but not necessarily be limited to: all continuing planning and engineering costs incurred after October 1, 1985; all advanced engineering and design costs; all preconstruction engineering and design costs; engineering and design costs during construction; actual construction costs, including the costs of relocations not performed by or on behalf of the Local Sponsors; supervision and administration costs; the costs of contract dispute settlements or awards; the cost of alterations to the Missouri Pacific Railroad (MPRR) bridge pier protection system as identified in Article II.a. of this Agreement; the cost of alterations to the State Highway 35 bridge pier protection system; and the cost of investigations to identify the existence of hazardous substances as identified in Article XVII.a. of this Agreement, but shall not include the value of lands, easements, rights-of-way, dredged material disposal areas, relocations performed by or on behalf of

the Local Sponsors, non-Federal dredging of public or private channels and berthing areas, and aids to navigation.

d. The term "dredged material disposal areas" shall mean suitable lands, as determined by the Government, for the deposit of all dredged material from the Project, including maintenance of the channel as initially constructed, all additional new construction, and all subsequent operation and maintenance of the Project in its entirety. All said dredged material disposal areas shall include all necessary retaining works, as set out in Article III.b. of this Agreement.

e. The term "District Engineer" shall mean the Commander of the U.S. Army Engineer District, Galveston, Texas or his designee.

f. The term "Contracting Officer" shall mean a representative of the Government with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings.

g. The term "period of construction" shall mean the time from the advertisement of the first construction contract to the time the District Engineer certifies in writing to the Local Sponsors that construction of the general navigation features of the Project is complete. The Contracting Officer shall furnish to the Local Sponsors copies of the Government's Written Notice of Acceptance of Completed Work furnished to contractor(s) for all contracts for the general navigation features of the Project.

h. The term "highway" shall mean any highway, thoroughfare, roadway, street, or other public road or way.

i. The term "relocations" shall mean the preparation of plans and specifications for, and the accomplishment of, all alterations, modifications, lowering or raising in place, and/or new construction related to, but not limited to, existing: railroads (excluding existing railroad bridges and approaches thereto), highways (excluding existing highway bridges and approaches thereto), and other bridges, buildings, pipelines, public utilities (such as municipal water and sanitary sewer lines, telephone lines, and storm drains), aerial utilities, cemeteries, and other facilities, structures, and improvements determined by the Government to be necessary for the construction, operation, and maintenance of the Project.

j. The term "fiscal year" shall mean one fiscal year of the Government. The Government fiscal year begins on October 1 and ends on September 30.

k. The term "functional portion of the Project" shall mean a completed portion of the Project as determined by the District Engineer in writing to be suitable for operation in advance of

completion of the entire Project. To be suitable for operation, the District Engineer must determine that the completed portion of the Project can function independently and for a useful purpose, although the balance of the Project is not complete.

1. The term "betterment" shall mean the design and construction of a Project feature accomplished on behalf of, or at the request of, the Local Sponsors in accordance with standards that exceed the standards that the Government would otherwise apply for accomplishing the design and construction of the Project.

ARTICLE II - OBLIGATIONS OF THE GOVERNMENT AND LOCAL SPONSORS

a. The Government, subject to receiving funds appropriated by the Congress of the United States and using funds provided by the Local Sponsors, shall expeditiously construct the general navigation features of the Project (including relocation of existing railroad bridges, existing highway bridges, and approaches thereto, EXCEPT FOR the MPRR bridge at mile 29.2, which shall be the responsibility of the Local Sponsors, as specifically provided in H. Document 288, 87th Cong., 2nd Sess. [Oct. 23, 1962]) applying those procedures usually followed or applied in Federal projects, pursuant to Federal laws, regulations, and policies. The Local Sponsors shall be afforded the opportunity to review and comment on all contracts, including relevant plans and specifications, prior to the issuance of invitations for bids. Before initial construction of the Project can proceed, the Local Sponsors must concur in writing with issuance of the invitation for bids for the first construction contract. To the extent possible, the Local Sponsors thereafter also will be afforded the opportunity to review and comment on all modifications and change orders prior to the issuance to the contractor of a Notice to Proceed. In those cases where providing notice to the Local Sponsors of the required contract modifications or change orders is not possible prior to issuance of Notice to Proceed, such notification will be provided after the fact at the earliest date possible. The Contracting Officer will, in good faith, consider the comments of the Local Sponsors, but award of contracts, modifications or change orders, and performance of all work on the Project (whether the work is performed under contract or by Government personnel), shall be exclusively within the control of the Contracting Officer.

b. The Government shall operate and maintain the general navigation features of the Project.

c. The Local Sponsors shall provide and maintain, at its own expense, all Project features other than those for general navigation, including ensuring dredged depths in berthing areas and local access channels serving the general navigation features, commensurate with those in related general navigation features.

d. The Local Sponsors shall provide to the Government all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform, or ensure performance of, all relocations determined by the Government to be necessary for construction, operation, or maintenance of the Project.

e. The Local Sponsors shall provide, during the period of construction, a cash contribution equal to 10 percent of the total cost of construction of the general navigation features.

f. As further specified in Article VI of this Agreement, the Local Sponsors shall repay, with interest determined in accordance with Section 106 of the Water Resources Development Act of 1986, over a period not to exceed 30 years following completion of the period of construction, an additional 0 to 10 percent of the total cost of construction of the general navigation features assigned to commercial navigation, depending on the value of the credit, as calculated under Article IV of this Agreement, of items provided pursuant to Article II.d. of this Agreement. If the credit allowed for such items is less than 10 percent of the total cost of construction of the general navigation features, the Local Sponsors shall repay a percentage of said total cost equal to the difference between 10 percent of said total cost and the percentage of said total cost represented by the value of such items. If the credit allowed for such items is equal to or greater than 10 percent of said total cost, the Local Sponsors shall not be required to repay any additional percentage of said total cost.

g. The Local Sponsors may request the Government to acquire lands, easements, or rights-of-way, or perform relocations on behalf of the Local Sponsors. Such services as the Government may elect to provide shall be performed in accordance with terms or conditions of separate agreements and all such work shall be paid for by the Local Sponsors in advance of the Government incurring any financial obligation, therefore, in accordance with Article VI of this Agreement.

h. The Local Sponsors may request the Government to accomplish betterments. The Local Sponsors will be solely responsible for any increase in costs resulting from the betterments, and all such increased costs will be paid in advance by the Local Sponsors in advance of the Government incurring any financial obligation, therefore, in accordance with Article VI of this Agreement.

i. No Federal funds may be used to meet the Local Sponsors' share of total cost of construction of the general navigation features under this Agreement unless the expenditure of such funds is expressly authorized by statute as verified in writing by the Federal granting agency.

ARTICLE III - LANDS, RELOCATIONS, AND PUBLIC LAW 91-646

a. The Government shall provide, in coordination with the Local Sponsors, a written description of the anticipated real estate requirements for the Project. Thereafter, the Local Sponsors shall furnish all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, as may be determined by the Government in that description, or in any subsequent description coordinated with the Local Sponsors, to be necessary for the construction, operation, and maintenance of the Project, and shall furnish to the Government evidence supporting the Local Sponsors' legal authority to grant rights-of-entry to such lands. The necessary lands, easements, and rights-of-way for the Project may be provided incrementally for each construction contract. All lands, easements, and rights-of-way determined by the Government to be necessary for work to be performed under a construction contract must be furnished prior to the advertisement of that construction contract.

b. The Local Sponsors shall provide, or pay to the Government the cost of providing, all retaining dikes, wasteweirs, bulkheads, and embankments, including all monitoring features and stilling basins, that may be required at any borrow and dredged or excavated material disposal areas required for the construction, operation, and maintenance of the Project in its entirety.

c. The Government will provide, in coordination with the Local Sponsors, a written description of the anticipated relocation requirements for the project. Thereafter, the Local Sponsors shall accomplish or arrange for accomplishment at no cost to the Government of all relocations determined by the Government in that description, or any subsequent description coordinated with the Local Sponsors, to be necessary for the construction, operation, and maintenance of the general navigation features of the Project. The necessary relocations may be provided incrementally for each construction contract. All relocations determined by the Government to be necessary for work to be performed under a construction contract must be furnished prior to advertisement of that construction contract. All engineering and design work accomplished by the Local Sponsor shall be subject to review and approval by the Government prior to construction.

d. The Local Sponsors shall comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way, and performing relocations for construction, operation, and maintenance, of the Project, and

shall inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

ARTICLE IV - VALUE OF LANDS AND RELOCATIONS

a. The Local Sponsors shall not receive any credit for lands, easements, and rights-of-way, including borrow and dredged or excavated material disposal areas, previously provided as an item of cooperation for another Federal project. The value of the lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, that will be credited toward the additional 10 percent of total costs the Local Sponsors must repay pursuant to Article II.f. of this Agreement shall be determined in accordance with the following procedures:

1. If the lands, easements, or rights-of-way are owned by the Local Sponsors as of the date the first construction contract for the Project is awarded, the credit shall be the fair market value of the interest at the time of such award or in exceptional circumstances, upon request of the Local Sponsors and in the sole discretion of the Assistant Secretary of the Army (Civil Works), the actual purchase price paid by the Local Sponsors. The fair market value, if used, shall be determined by an appraisal, to be obtained by the Local Sponsors, that has been prepared by a qualified appraiser who is acceptable to both the Local Sponsors and the Government. The appraisal shall be reviewed and approved by the Local Sponsors and the Government.

2. If the lands, easements, or rights-of-way are acquired by the Local Sponsors after the date of award of the first construction contract for the Project, the credit shall be the fair market value of the interest at the time such interest is acquired. The fair market value shall be determined as specified in Article IV.a.1. of this Agreement. If the Local Sponsors pay an amount in excess of the approved appraised fair market value, the Local Sponsors may be entitled to a credit for the actual purchase price paid provided that the purchase price is approved by the Government in writing.

3. If the Local Sponsors acquire more lands, easements, or rights-of-way than the Government determines are necessary for construction, operation, and maintenance of the Project, then only the value of such portions of those acquisitions as have been determined by the Government to be necessary for the construction, operation, and maintenance of the Project shall be included in total project costs and credited towards the Local Sponsors' share.

4. Credit for lands, easements, and rights-of-way acquired through eminent domain proceedings occurring after the date of this Agreement will be based on court awards for the real property interests taken, or on stipulated settlements or

portions of stipulated settlements that have received written Government approval. The fair market value for the purposes of filing an eminent domain proceeding in court shall be based on an appraisal prepared and approved as specified in Article IV.a.1. of this Agreement.

5. Credit for lands, easements, or rights-of-way acquired by the Local Sponsors within a five-year period preceding the date of this Agreement, or at any time after this Agreement is signed, will also include the reasonable documented incidental costs of acquiring the interest, e.g., closing and title costs, appraisal costs, survey costs, attorney's fees, plat maps, and mapping costs, as well as the actual amounts expended for payment of any Public Law 91-646 relocation assistance benefits provided in accordance with the obligations under this Agreement.

b. The value of relocations incurred by the Local Sponsors that will be credited toward the additional 10 percent of the total cost of the general navigation features that the Local Sponsors must repay pursuant to Article II.f. of this Agreement 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. Utilities and Facilities, Structures and Improvements (including railroads): Actual relocation costs, less depreciation, less salvage value, plus the cost of removal, less the increased cost of 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 toward the Local Sponsors' share.

ARTICLE V - CONSTRUCTION PHASING AND MANAGEMENT

a. To provide for consistent and effective communication, the Local Sponsors and the Government shall, prior to the advertisement of the first construction contract, appoint representatives to coordinate on all facets of Project development, including Project design, scheduling, plans, specifications, real estate requirements, award of contracts, contract modifications and change orders, contract costs, claims and other related matters.

b. These representatives shall generally oversee the Project construction and shall be identified as the Project Coordination Team. They shall meet regularly during the period of construction and will be informed of all changes in total project costs. The Project Coordination Team shall make recommendations concerning construction as it deems are warranted to the Contracting Officer, including suggestions to avoid potential sources of dispute.

c. The District Engineer shall, in good faith, consider the recommendations of the Project Coordination Team on all matters relating to construction and anticipated requirements for operation, maintenance, repair, replacement, and rehabilitation of the Project. The District Engineer, having the legal authority and responsibility for construction of the Project, has discretion to accept, reject, or modify the recommendations of such representatives.

ARTICLE VI - METHOD OF PAYMENT

a. The Local Sponsors shall provide, during the period of construction, the percentages of the total cost of construction of the general navigation features specified in Article II.e. of this Agreement. The total cost of construction of the general navigation features is currently estimated to be \$32,560,000, and the Local Sponsors' share is currently estimated to be \$7,660,000. In order to meet its share of the said total cost, the Local Sponsors must provide a cash contribution currently estimated to be \$2,735,000. The dollar amounts set forth in this Article are based upon the Government's best estimates, which reflect projections of costs, price level changes, and anticipated inflation. Such cost estimates are subject to adjustments based upon cost actually incurred and are not to be construed as the total financial responsibilities of the Government and the Local Sponsors.

b. The Local Sponsors shall provide the Local Sponsors' required cash contribution during the period of construction in accordance with the following provisions:

1. For purposes of budget planning, the Government shall notify the Local Sponsors by July 1 of each year of the estimated funds that will be required from the Local Sponsors to meet the Local Sponsors' share of the total cost of construction of the general navigation features for the upcoming fiscal year.

2. No later than 60 calendar days prior to the award of the first construction contract, the Government shall notify the Local Sponsors of the Local Sponsors' share of the total cost of construction of the general navigation features required for the first fiscal year of construction, including the Local Sponsors' share of costs attributable to the Project incurred prior to the initiation of construction. No later than 30

calendar days thereafter, the Local Sponsors shall verify to the satisfaction of the Government that the Local Sponsors have deposited the requisite amount in an escrow or other account acceptable to the Government, with interest accruing to the Local Sponsors.

3. For the second and subsequent fiscal years of Project construction, the Government shall, no later than 60 calendar days prior to the beginning of the fiscal year, notify the Local Sponsors of the Local Sponsors' share of the total cost of construction of the general navigation features for that fiscal year. No later than 30 calendar days prior to the beginning of the fiscal year, the Local Sponsors shall make the necessary funds available to the Government through the funding mechanism specified in Article VI.b.2. of this Agreement.

4. As construction of the Project proceeds, the Government shall, on a regular basis each year, adjust the amounts required to be provided under this paragraph to reflect actual costs to date. If at any time during the period of construction the Government determines that additional funds will be needed from the Local Sponsors, the Government shall so notify the Local Sponsors, and the Local Sponsors, no later than 45 calendar days from receipt of such notice, shall make the necessary funds available through the funding mechanism specified in Article VI.b.2. of this Agreement.

5. The Government will draw on the escrow account provided by the Local Sponsors such sums as the Government deems necessary to cover contractual and in-house fiscal obligations attributable to the Project as they are incurred, as well as Project costs incurred by the Government prior to the initiation of construction.

c. In advance of the Government incurring any financial obligation associated with additional work under Article II.g. or II.h. of this Agreement, the Local Sponsors shall verify to the satisfaction of the Government that the Local Sponsors have deposited the full amount of the funds required to pay for such additional work in an escrow or other account acceptable to the Government, with interest accruing to the Local Sponsors. The Government shall draw from the funds provided by the Local Sponsors such sums as the Government deems necessary to cover the Government's financial obligations for such additional work as they are incurred. In the event the Government determines that the Local Sponsors must provide additional funds to meet its cash contribution, the Government shall notify the Local Sponsors in writing of the additional funds required. Within 30 calendar days thereafter, the Local Sponsors shall provide the Government with a check for the full amount of the additional required funds.

d. During the period of construction, the Government shall provide quarterly financial reports on the status of the total cost of construction of the general navigation features and the cost of any additional work provided under Article II.g. and II.h. of this Agreement and the status of contributions made by the Local Sponsors. Upon completion of the Project and resolution of all relevant contract claims and appeals, the Government shall compute the total cost of construction of the general navigation features and the cost of any additional work provided under Article II.g. and II.h. of this Agreement and tender to the Local Sponsors a final accounting of the Local Sponsors' share.

1. In the event the total contribution by the Local Sponsors is less than the Local Sponsors' required share of the total cost of construction of the general navigation features and the cost of any additional work provided under Article II.g. and II.h. of this Agreement, the Local Sponsors shall, no later than 90 calendar days after receipt of written notice, make a cash payment to the Government of whatever sum is required to meet the Local Sponsors' required share of the total cost of construction of the general navigation features and the cost of any additional work provided under Article II.g. and II.h. of this Agreement.

2. In the event the Local Sponsors have made excess cash contributions which result in the Local Sponsors' having provided more than their initial required share of the total cost of construction of the general navigation features and the cost of any additional work provided under Article II.g. and II.h. of this Agreement, the Government shall first credit the excess to the additional amount the Local Sponsors must repay pursuant to Article II.f. of this Agreement. In the event the excess cash contribution exceeds the additional amount the Local Sponsors must repay pursuant to Article II.f., the Government shall, no later than 90 calendar days after the final accounting is complete, subject to the availability of funds, return said excess to the Local Sponsors. In the event existing funds are not available to repay the Local Sponsors for excess contributions provided, the Government shall seek such appropriations as are necessary to repay the Local Sponsors for excess contributions provided.

e. The Local Sponsors shall repay the additional amount required pursuant to Article II.f. of this Agreement in equal annual installments over a period of 30 years from the completion of the period of construction of the general navigation features. Such repayment shall include interest at a rate to be determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the repayment period, during the month preceding the fiscal year in which costs for construction of the Project are first incurred, or, in the case of recalculating, the fiscal year in

which the recalculation is made, plus a premium of one-eighth of one percentage point for transaction costs. The interest rate shall be recalculated by the Secretary of the Treasury at five-year intervals. Nothing in this Agreement shall preclude the Local Sponsors from repaying this additional amount in full upon receipt of the final accounting. Should this full repayment be made within 90 days from receipt of the final accounting, there shall be no charges for interest or transaction costs.

ARTICLE VII - DISPUTES

Before any party to this Agreement may bring suit in any court concerning an issue relating to this Agreement, such party must first seek in good faith to resolve the issue through negotiation or other forms of nonbinding alternative dispute resolution mutually acceptable to the parties.

ARTICLE VIII - OPERATION, MAINTENANCE, REPAIR, REPLACEMENT, AND REHABILITATION (OMRR&R)

a. The Local Sponsors shall operate, maintain, repair, replace, and rehabilitate all Project features other than the general navigation features in accordance with regulations or directions prescribed by the Government. The Local Sponsors' annualized cost of maintenance of said project features is currently estimated to be \$127,000.

b. The Government shall operate and maintain the general navigation features of the Project.

c. The Local Sponsors hereby give the Government a right to enter, at reasonable times and in a reasonable manner, upon land that the Local Sponsors own or control for access to the Project for the purpose of inspection, and, if necessary, for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the Project. If an inspection shows that the Local Sponsors for any reason are failing to fulfill the Local Sponsors' obligations under this Agreement without receiving prior written approval from the Government, the Government will send a written notice to the Local Sponsors. If after 30 calendar days from receipt of notice, the Local Sponsors continue to fail to perform, then the Government shall have the right to enter, at reasonable times and in a reasonable manner, upon lands the Local Sponsors own or control for access to the Project for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the Project. No completion, operation, maintenance, repair, replacement, or rehabilitation by the Government shall operate to relieve the Local Sponsors of responsibility to meet the Local Sponsors' obligations as set forth in this Agreement, or to preclude the Government from pursuing any other remedy as law or equity to assure faithful performance pursuant to this Agreement.

ARTICLE IX - RELEASE OF CLAIMS

The Local Sponsors shall hold and save the Government free from all damages arising from the construction, operation, maintenance, repair, replacement, and rehabilitation of the Project and any Project-related betterments, except for damages due to the fault or negligence of the Government or the Government's contractors.

ARTICLE X - MAINTENANCE OF RECORDS

Within 60 days of the date of this Agreement, the Government and the Local Sponsors shall develop procedures for keeping books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to this Agreement to the extent and in such detail as will properly reflect total project costs. The Government and the Local Sponsors shall maintain such books, records, documents, and other evidence in accordance with these procedures and for a minimum of three years after completion of construction of the Project and resolution of all relevant claims arising therefrom, and shall make available at their offices at reasonable times, such books, records, documents, and other evidence for inspection and audit by authorized representatives of the parties to this Agreement.

ARTICLE XI - GOVERNMENT AUDIT

The Government shall conduct an audit, when appropriate, of the Local Sponsors' records for the Project to ascertain the allowability, reasonableness, and allocability of the Local Sponsors' costs for inclusion as credit against the Local Sponsors' share of total project costs.

ARTICLE XII - FEDERAL AND STATE LAWS

In the exercise of the Local Sponsors' rights and obligations under this Agreement, the Local Sponsors agree to comply with all applicable Federal and State laws and regulations, including Section 601 of the Civil Rights Act of 1964, Public Law 88-352, and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulations 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army".

ARTICLE XIII - RELATIONSHIP OF PARTIES

The Government and the Local Sponsors act in an independent capacity in the performance of their respective functions under this Agreement, and neither is to be considered the officer, agent, or employee of the other.

ARTICLE XIV - OFFICIALS NOT TO BENEFIT

No member of, or delegate to, the Congress, or resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom.

ARTICLE XV - COVENANT AGAINST CONTINGENT FEES

The Local Sponsors warrant that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Local Sponsors for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this Agreement without liability, or, in the Government's discretion, to add to the Agreement or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XVI - TERMINATION OR SUSPENSION

a. If at any time the Local Sponsors fail to make the payments required under this Agreement, the Assistant Secretary of the Army (Civil Works) shall terminate this Agreement or suspend work under this Agreement until the Local Sponsors are no longer in arrears, unless the Assistant Secretary of the Army (Civil Works) determines that continuation of work on the Project is in the interest of the United States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the Project. Any delinquent payment shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13-week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3-month period if the period of delinquency exceeds 3 months.

b. If the Government fails to receive annual appropriations in amounts sufficient to meet Project expenditures for the then-current or upcoming fiscal year, the Government shall so notify the Local Sponsors. After 60 calendar days either party may elect without penalty to terminate this Agreement pursuant to this Article or to defer future performance under this Agreement; however, deferral of future performance under this Agreement shall not affect existing obligations or relieve the parties of liability for any obligation previously incurred. In the event that either party elects to terminate this Agreement pursuant to this Article or Article XVII.c. of this Agreement, all parties shall conclude their activities relating to the Project and proceed to a final accounting in accordance with Article VI of this Agreement. In the event that any party elects to defer

future performance under this Agreement pursuant to this Article, such deferral shall remain in effect until such time as the Government receives sufficient appropriations or until either the Government or the Local Sponsors elect to terminate this Agreement.

ARTICLE XVII - HAZARDOUS SUBSTANCES

a. After execution of this Agreement and upon direction by the Contracting Officer, the Local Sponsors shall perform, or cause to be performed, such investigations for hazardous substances as are determined necessary by the Government or the Local Sponsors to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601-9675, on lands necessary for Project construction, operation, and maintenance. All actual costs incurred by the Local Sponsors that are properly allowable and allocable to performance of any such investigations for hazardous substances shall be included in total costs of construction of the general navigation features and cost shared as a construction cost in accordance with Section 103 (a) of Public Law 99-662.

b. In the event it is discovered through an investigation for hazardous substances or other means that any lands, easements, rights-of-way, or disposal areas to be acquired or provided for the Project contain any hazardous substances regulated under CERCLA, the Local Sponsors and the Government shall provide prompt notice to each other, and the Local Sponsors shall not proceed with the acquisition of lands, easements, rights-of-way, or disposal areas until mutually agreed.

c. The Government and the Local Sponsors shall determine whether to initiate construction of the Project, or if already in construction, to continue with construction of the Project, or to terminate construction of the Project for the convenience of the Government in any case where hazardous substances regulated under CERCLA are found to exist on any lands necessary for the Project. Should the Government and the Local Sponsors determine to proceed or continue with construction after considering any liability that may arise under CERCLA, the Local Sponsors shall be responsible, as between the Government and the Local Sponsors, for any and all necessary clean up and response costs, to include the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall not be considered a part of total project costs as defined in this Agreement. In the event the Local Sponsors fail to provide any funds necessary to pay for clean up and response costs or to otherwise discharge the Local Sponsors' responsibilities under this paragraph upon direction by the Government, the Government may either terminate or suspend work on the Project or proceed with further work as provided in Article XVI of this Agreement.

d. The Local Sponsors and the Government shall consult with each other under Article V of this Agreement to assure that responsible parties bear any necessary clean up and response costs as defined in CERCLA. Any decision made pursuant to Article XVII.c. of this Agreement shall not relieve any party from any liability that may arise under CERCLA.

e. To the maximum extent practicable, the Local Sponsors shall perform their responsibilities under this Agreement, including the dredging of berthing areas or access channels, and operation and maintenance of any required disposal facilities, in a manner so that liability will not arise under CERCLA.

ARTICLE XVIII - NOTICES

a. All notices, requests, demands, and other communications required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally, given by prepaid telegram, or mailed by first-class (postage pre-paid), registered, or certified mail, as follows:

If to the Local Sponsors:

Victoria County Navigation District
P.O. Box 1969
Victoria, Texas 77902

West Side Calhoun County
Navigation District
P.O. Box 280
Seadrift, Texas 77983-02800

with copy to:

Anderson, Smith, Null, Stofer, & Murphree, L.L.P.
P.O. Box 1969
Victoria, Texas 77902
Attn: Munson Smith

If to the Government:

U.S. Army Engineer District, Galveston
ATTN: CESWG-DE
P.O. Box 1229
Galveston, Texas 77553-1229

b. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

c. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at such time as it is either personally delivered or seven calendar days after it is mailed, as the case may be.

ARTICLE XIX - CONFIDENTIALITY

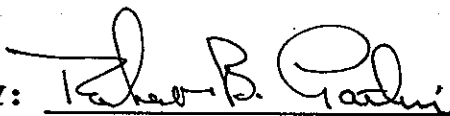
To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE XX - SECTION 902 PROJECT COST LIMITS

The Local Sponsors have reviewed the provisions set forth in Section 902 of P.L. 99-662, as amended, and understands that Section 902 establishes the maximum total project cost. For purposes of this Agreement, the Section 902 cost limit is \$36,880,000, as calculated on April 16, 1993. This amount is calculated using procedures set forth in Appendix P of ER 1105-2-100. It shall be adjusted to allow for appropriate increases for inflation and changes in total project costs as provided in Section 902. Should this cost maximum be reached, no additional funds may be expended on the Project until additional authority is obtained from Congress.

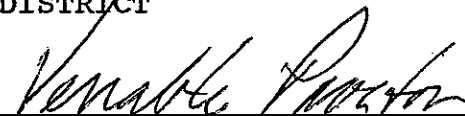
IN WITNESS WHEREOF, the parties hereto have executed this agreement, which shall become effective upon the date it is signed by the Government.

THE DEPARTMENT OF THE ARMY

BY: 
ROBERT B. GATLIN
Colonel, EN
Commanding


DATE: 17 November 1994

VICTORIA COUNTY NAVIGATION DISTRICT

BY: 
Venable Proctor, Chairman

DATE: 17 November 1994

WEST SIDE CALHOUN COUNTY NAVIGATION DISTRICT

BY: 
Walter Pilgrim, Jr.
Chairman

Date: 17 November 1994

CERTIFICATE OF AUTHORITY

I, Munson Smith, do hereby certify that I am the principal legal officer of the Victoria County Navigation District and the West Side Calhoun County Navigation District, that the Victoria County Navigation District and the West Side Calhoun County Navigation District are legally constituted public bodies with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the Victoria County Navigation District and the West Side Calhoun County Navigation District in connection with the Project, and to pay damages, if necessary, in the event of the failure to perform, in accordance with Section 221 of Public Law 91-611, and that the persons who have executed this Agreement on behalf of the Victoria County Navigation District and the West Side Calhoun County Navigation District have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this 17th day of November 1994.

Munson Smith [SIGNED] Legal Counsel Title

CERTIFICATION REGARDING LOBBYING

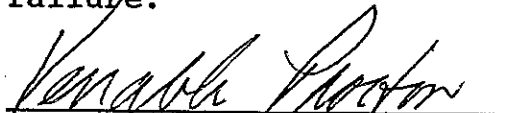
The undersigned certifies, to the best of his or her knowledge and belief that:

(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.

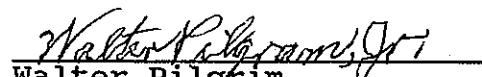
(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this 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.



Venable Proctor
Chairman
Victoria County Navigation District



Walter Pilgrim
Chairman
West Side Calhoun County
Navigation District

DATE: 17 November 1994

CERTIFICATION OF LEGAL REVIEW

The Project Cooperation Agreement for Channel to Victoria has been fully reviewed by the Office of Counsel, USAED, Galveston.

Frances S. Higgins

Frances S. Higgins
District Counsel

RESOLUTION OF THE VICTORIA COUNTY

NAVIGATION DISTRICT

THAT WHEREAS, the modification of the Channel to Victoria to enlarge the channel to 125 feet wide by 12 feet deep at mean low tide for the improvement of shallow-draft navigation (hereinafter referred to as the "Project"), was authorized by Section 3 (15) of the Water Resources Development Act of 1988, Public Law 100-676, as amended; and

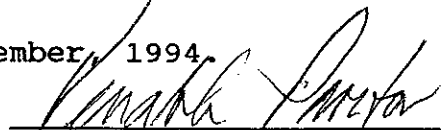
WHEREAS, Section 101 of the Water Resource Development Act of 1986, Public Law 99-662, as amended, specifies the cost-sharing requirements applicable to the Project; and

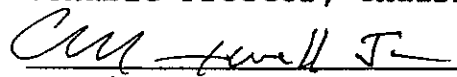
WHEREAS, Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended, provides that Federal participation in any water resources project by the Secretary of the Army shall not be commenced until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project; and

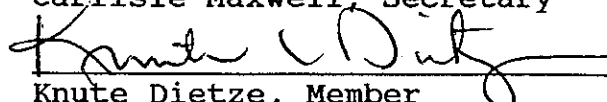
WHEREAS, the Victoria County Navigation District (hereinafter called the "District") is a joint Local Sponsor of the Project with the West Side Calhoun County Navigation District and has the authority and capability to perform and cooperate in cost-sharing and financing of the construction of the Project in accordance with the terms of the Agreement hereinafter set forth;

NOW THEREFORE, BE IT RESOLVED by the Navigation and Canal Commissioners of the District, that the agreement with the United States of America, which has been presented to and considered by the Commission entitled PROJECT COOPERATION AGREEMENT BETWEEN THE DEPARTMENT OF THE ARMY AND THE VICTORIA COUNTY NAVIGATION DISTRICT AND THE WEST SIDE CALHOUN COUNTY NAVIGATION DISTRICT FOR ENLARGEMENT OF THE CHANNEL TO VICTORIA, TEXAS (hereinafter called the "Agreement"), be and the same is approved, and the Chairman is hereby authorized to execute the Agreement for and on behalf of the District.

DATED this the 8th day of November, 1994.


Venable Proctor, Chairman


Carlisle Maxwell, Secretary


Knute Dietze, Member

I hereby certify that the above and foregoing is a true and correct copy of a Resolution duly passed and adopted at a regular meeting of the Navigation and Canal Commissioners of the Victoria County Navigation District held on the 8th day of November, 1994, after proper notice of the time, place and purpose of said meeting, and that said Resolution has not been amended or rescinded.

Dated the the 8th day of November, 1994.

Ch. J. J. J.
Secretary, Navigation and Canal
Commissioners, Victoria County
Navigation District

RESOLUTION OF THE WEST SIDE CALHOUN
COUNTY NAVIGATION DISTRICT

THAT WHEREAS, the modification of the Channel to Victoria to enlarge the channel to 125 feet wide by 12 feet deep at mean low tide for the improvement of shallow-draft navigation (hereinafter referred to as the "Project"), was authorized by Section 3 (15) of the Water Resources Development Act of 1988, Public Law 100-676, as amended; and

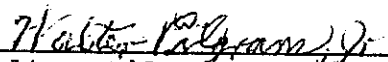
WHEREAS, Section 101 of the Water Resource Development Act of 1986, Public Law 99-662, as amended, specifies the cost-sharing requirements applicable to the Project; and

WHEREAS, Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended, provides that Federal participation in any water resources project by the Secretary of the Army shall not be commenced until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project; and


WHEREAS, the West Side Calhoun County Navigation District (hereinafter called the "District") is a joint Local Sponsor of the Project with the Victoria County Navigation District and has the authority and capability to perform and cooperate in cost-sharing and financing of the construction of the Project in accordance with the terms of the Agreement hereinafter set forth;

NOW THEREFORE, BE IT RESOLVED by the Navigation and Canal Commissioners of the District, that the agreement with the United States of America, which has been presented to and considered by the Commission entitled PROJECT COOPERATION AGREEMENT BETWEEN THE DEPARTMENT OF THE ARMY AND THE VICTORIA COUNTY NAVIGATION DISTRICT AND THE WEST SIDE CALHOUN COUNTY NAVIGATION DISTRICT FOR ENLARGEMENT OF THE CHANNEL TO VICTORIA, TEXAS (hereinafter called the "Agreement"), be and the same is approved, and the Chairman is hereby authorized to execute the Agreement for and on behalf of the District.

DATED this the 8th day of November, 1994.


Walter Pilgram, Jr., Chairman


Teddy Hawes, Secretary


F. J. (Bo) Cunningham, Member

I hereby certify that the above and foregoing is a true and correct copy of a Resolution duly passed and adopted at a regular meeting of the Navigation and Canal Commissioners of the West Side Calhoun County Navigation District held on the 8th day of November, 1994, after proper notice of the time, place and purpose of said meeting, and that said Resolution has not been amended or rescinded.

Dated the the 8th day of November, 1994.

Liddy Hawes
Secretary, Navigation and Canal
Commissioners, West Side Calhoun
County Navigation District