

# COOPERATIVE AGREEMENT MODIFICATION

Agreement/Appendix Title and Number: W912PQ-13-2-1022  
Project Name/Description and Location: ANG Environmental Program Management  
Modification Number: P00001

ISSUED BY:  NATIONAL GUARD BUREAU	ISSUED TO:  THE STATE OF NEW YORK
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This modification is issued pursuant to the Authorities, 31 U.S.C. Chapter 63; MCA and Appendices Article VII, Sect 703; MCCA Article XII, Sect 1201 of the basic cooperative agreements. Mark purpose and obtain signatures as appropriate IAW NGR 5-1, Chapter 3.

- a. FUNDING
- b. TERMS AND CONDITIONS
- c. TERMINATION
- d. OTHER ADMINISTRATIVE

### DESCRIPTION OF MODIFICATION:

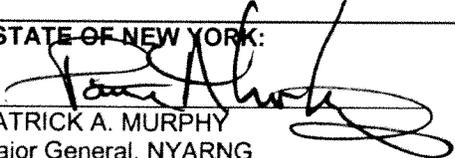
1. This Appendix, W912PQ-12-2-1022, is hereby extended for Fiscal Year 2013. The effective date is 01 October 2012 and the termination date is 30 September 2013, "Subject to availability of Funds".
2. The Appendix number W912PQ-11-2-1021 is changed to read W912PQ-13-2-1021 for FY2013.
3. The Estimated Costs-AFP (Federal) is established at \$240,550.00.
4. The Maximum Funding Limitation (Federal) is "Subject to availability of Funds".
5. The Estimated Costs-AFP (State) is established at \$80,183.33.
6. The Maximum Funding Limitation (State) is "Subject to availability of Funds".
7. As FY2013 budgets are approved by NGB, program managers will add funding to the Appendix by separate modification.

### EXECUTION

Except as provided herein, all terms and conditions of the Cooperative Agreement and/or Appendix remain unchanged in full force and effect.

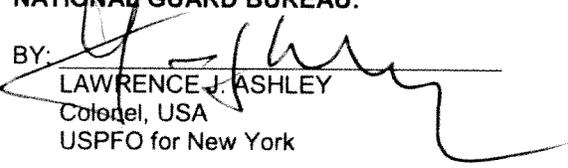
IN WITNESS WHEREOF, the parties by their authorized representatives execute this Cooperative Agreement Modification.

#### THE STATE OF NEW YORK:

BY:   
PATRICK A. MURPHY  
Major General, NYARNG  
The Adjutant General

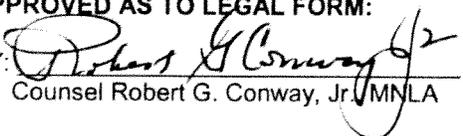
Date: 12 Oct 12

#### NATIONAL GUARD BUREAU:

BY:   
LAWRENCE J. ASHLEY  
Colonel, USA  
USPFO for New York

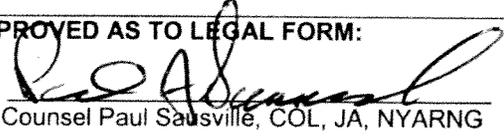
Date: 19 Oct 12

#### APPROVED AS TO LEGAL FORM:

BY:   
Counsel Robert G. Conway, Jr. MNLA

Date: 30 Oct 2012

#### APPROVED AS TO LEGAL FORM:

BY:   
Counsel Paul Sausville, COL, JA, NYARNG

Date: 20 Oct 12

**MODIFICATION REQUIREMENTS FOR  
AIR GUARD FY-13  
Environmental Program  
CONTRACT NUMBER W912PQ-13-2-1022**

AS OF: 9/24/2012

LOCATION	CURRENT MOD # PERCENTAGE	CURRENT ALLOCATION	CHANGE +/-	REVISED ALLOCATION
<b>GABRESKI</b>	100% FEDERAL			-
	100% FEDERAL SRM			-
	75% FEDERAL	64,900.00		64,900.00
	<b>TOTAL FEDERAL</b>	<b>64,900.00</b>	-	<b>64,900.00</b>
	25% STATE	21,633.33		21,633.33
	<b>GRAND TOTAL</b>	<b>86,533.33</b>	-	<b>86,533.33</b>
AFP: \$88,425.33				
<b>HANCOCK</b>	100% FEDERAL			-
	100% FEDERAL SRM			-
	75% FEDERAL			-
	<b>TOTAL FEDERAL</b>	-	-	-
	25% STATE			-
	<b>GRAND TOTAL</b>	-	-	-
<b>FORT DRUM</b>	100% FEDERAL			-
AFP:				
<b>NIAGARA FALLS</b>	100% FEDERAL			-
	100% FEDERAL SRM			-
	75% FEDERAL	61,500.00		61,500.00
	<b>TOTAL FEDERAL</b>	<b>61,500.00</b>	-	<b>61,500.00</b>
	25% STATE	20,500.00		20,500.00
	<b>GRAND TOTAL</b>	<b>82,000.00</b>	-	<b>82,000.00</b>
AFP: \$81,457.00				
<b>STRATTON</b>	100% FEDERAL			-
	100% FEDERAL SRM			-
	75% FEDERAL	59,600.00		59,600.00
	<b>TOTAL FEDERAL</b>	<b>59,600.00</b>	-	<b>59,600.00</b>
	25% STATE	19,866.67		19,866.67
	<b>GRAND TOTAL</b>	<b>79,466.67</b>	-	<b>79,466.67</b>
AFP: \$59,600.00				
<b>STEWART</b>	100% FEDERAL			-
	100% FEDERAL SRM			-
	75% FEDERAL	54,550.00		54,550.00
	100% FEDERAL SIMULATOR			-
	<b>TOTAL FEDERAL</b>	<b>54,550.00</b>	-	<b>54,550.00</b>
	25% STATE	18,183.33		18,183.33
	<b>GRAND TOTAL</b>	<b>72,733.33</b>	-	<b>72,733.33</b>
AFP: \$54,413.00				
<b>GRAND TOTAL (ALL BASES)</b>	100% FEDERAL	-	-	-
	100% FEDERAL SRM	-	-	-
	75% FEDERAL	240,550.00	-	240,550.00
	100% FEDERAL SIMULATOR	-	-	-
	<b>TOTAL FEDERAL</b>	<b>240,550.00</b>	-	<b>240,550.00</b>
	25% STATE	80,183.33		80,183.33
	<b>GRAND TOTAL</b>	<b>320,733.33</b>	-	<b>320,733.33</b>
Total AFP: \$263,895.33				

\* Includes Ft. Drum

## **APPENDIX 22 ANG ENVIRONMENTAL PROGRAM MANAGEMENT**

### **Section 2201. General.**

a. This Appendix to the Master Cooperative Agreement (MCA) prescribes the terms, conditions, policies and administrative procedures related to the National Guard Bureau's (NGB's) Federal contribution for the Environmental Division activities of the Air National Guard within the State.

b. **Statements of Fact.**

(1) The provisions set forth in NGR 5-1 are incorporated into this Appendix by reference.

(2) Only ANG flying unit or training site facilities under tenant code "54" (Air National Guard) listed in the United States Air Force (USAF) Real Property Inventory Detail List [RCS: HAF-PRE(AR)7115] will be supported under this Appendix. These environmental programs may require State matching funds or may be 100% Federal funded depending on the mission of the unit.

### **Section 2202. Additional Definitions.**

a. **Environmental Compliance/Corrective Projects.** Maintenance and repair and/or construction projects which are initiated to comply with environmental laws, prevent pollution, conserve and restore the environment, and protect human health.

b. **Environmental Services.** Activities which support or enhance environmental compliance, pollution prevention, conservation and restoration including studies, plans, surveys, tests, monitoring, hazardous waste disposal and management of environmental permits.

c. **Program Management.** Includes actions, activities and tasks accomplished to maintain an environmental program to include environmental compliance corrective projects, hazardous waste management, ECAMP auditing, training, environmental project reviews, environmental planning activities, and natural resources actions.

d. **NEPA.** National Environmental Policy Act.

### **Section 2203. Office of Primary Responsibility.**

a. The Office of Primary Responsibility for this Appendix is The Civil Engineer (ANG/A7), National Guard Bureau, Air National Guard Readiness Center, 3500 Fetchet Avenue, Andrews AFB, MD 20762.5157.

b. The Civil Engineer, for the purposes of this Appendix, is a designee of the Chief, National Guard Bureau, and is the individual authorized to make final approval of all environmental program management budgets and modifications, distributions and withdrawals of funds, receive required accounting reconciliation reports, and approve environmental actions specifically reserved under this Appendix for ANG/A7. Within the Civil Engineer Directorate, the Chief, Environmental division (ANG/A7CV) acts for The Civil Engineer in the day to day administration of the Appendix.

### **Section 2204. Scope of Agreement.**

a. **Scope of Services:** Environmental Programs Management includes three types of environmental actions: Compliance/Corrective Projects, Environmental Services, and Program Management.

(1) Environmental Compliance/Corrective Projects are maintenance and repair and/or construction projects which are initiated to comply with environmental laws, prevent pollution, conserve the environment, and/or restore the environment. An Environmental Compliance/Corrective Project normally shall result in a complete and environmentally sound facility or structure, but may be phased to meet environmental requirements. Structuring projects with the purpose of circumventing funding approval limits is prohibited.

(2) Environmental Services are activities that support enforcement and compliance, pollution prevention, conservation, and restoration such as studies, plans, surveys, tests, monitoring, hazardous waste disposal and management, and environmental public affairs requirements. Specifically included is the Natural Resource Management Program which includes inventorying, protecting, and restoring state cultural and geophysical resources on lands, facilities and property owned or managed by the National Guard.

(3) Program Management includes actions, activities, and tasks which are accomplished to maintain an environmental program. Program Management includes, but not limited to actions by the Grantee to accomplish environmental activities such as; environmental corrective actions, hazardous waste management, ECAMP auditing, training, environmental project reviews, environmental planning activities, and natural resources actions.

b. Performance Specifications:

(1) Serve as the base wide single point of ANG contact for compliance with the Resource Conservation Recovery ACT (RCRA) and applicable portions of the 40 CFR (Code of Federal Regulations) with regard to hazardous waste (HW) management.

(2) Prepare base annual State HW generation reports and Source Reduction Plans, as mandated by State Law or regulations.

(3) Work NEPA actions for Environmental Baselines Surveys (EBSs), Environmental Assessments (EAs), and Environmental Impact Statements (EISs) and AFI 32-7086/Air National Supplement directives.

(4) Provide training classes in proper management of Hazardous Waste (HW) accumulation points to generators of HW on the facility.

(5) Serve as the base wide single point of ANG contact services for recycling issues and establishment of a Qualified Recycling Plan, as specified in State and Federal guidance.

**Section 2205. Authorized charges/Activities.**

a. Personnel:

(1) Costs validated by NGB/A7CV for salaries, to include approved overtime and allowable benefits, in accordance with state personnel policy for the payment and benefits of like state government positions within the same geographic area. When there is no like state government position available, salaries and benefits will be equivalent to a comparable grade and series Federal Civil Service position in the geographic area. If a state has a pay raise, pay freeze, pay cap, a hiring freeze or employee furloughs for like positions throughout the state then Appendix employees will have corresponding limitations. Raises for ANG State environmental employees will not exceed those for other state employees.

(2) Costs for travel expenses at a rate consistent with state regulations for personnel performing duty away from their home stations. Grantee employees are authorized travel on military aircraft when performing environmental functions (Reference DODI 4515.13R).

(3) Costs for training fees for training authorized personnel in support of the environmental requirements.

b. Special Machines, Tools, and Equipment.

(1) Costs for the purchase of environmental machines, tools, or equipment used in providing the environmental services. Costs for equipment in excess of \$1,000 are subject to prior approval by ANG/A7CV.

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(2) Costs for reimbursement for repair or maintenance of Grantee owned equipment used solely in support of the environmental program activities.

c. Other.

(1) Costs for required Physical Examination (OSHA) pre-employment, routine, and post-employment physical examinations based on the recommendations of either the Occupational Health or Bioenvironmental Engineering Sections.

(2) Costs for required AFOSH/OSHA clothing and the purchase of safety and other protective clothing required for the duties of the position.

d. Any other charges not specified shall be submitted to ANG/CEV for approval prior to execution.

**Section 2206. Unauthorized charges/Activities.**

a. Costs of computer equipment, copy machines, fax machines, telephones, or other communications equipment.

b. Costs for uniforms and cleaning charges.

c. Reimbursement for courses, whether accredited or non-accredited and professional training not specifically required for performance of position duties covered under this agreement.

**Section 2207. Financial Plan Requirements.**

a. Budget.

(1) The CA PM will prepare an annual financial plan (FINPLAN), in accordance with ANG/A7 directives, to be submitted through the Base Civil Engineer for a consolidated financial plan for total Real Property Support (RPS) funds. The Fin Plan shall list by line item the Environmental Services to be funded under the Appendix and the amount the Grantee expects reimbursement from NGB. The Fin Plan shall only list the NGB share of each line item.

(2) The total amount of the Budget shall be the maximum amount for which NGB is obligated to reimburse the Grantee for the costs of performance of this Appendix. Any increase, or decrease, to the budget must be approved by ANG/A7, even if an increase will not cause the maximum obligation amount stated in the Appendix to be exceeded. If such approval increases the amount of the maximum obligation ANG/A7 stated, ANG/A7 shall, if additional funds are available, cause the maximum obligation amount to be increased.

(3) The CA PM must submit a written request to increase or decrease the federal funds in its budget. The CA PM must furnish a copy of the said request to ANG/A7. The request and approval shall not be binding unless a CA modification to this appendix has been executed.

(4) ANG/A7, at its discretion, may unilaterally increase or decrease the Fin Plan total, the total for any facility, or the total for any line item.

b. Element of Expense/Investment Codes (EEICs): EEICs in the ANG/CEV approved Financial Plan are the only authorized EEICs for use. As additional EEICs are required or when changes are necessary, they will be disseminated by official memorandum by the NGB Program Manager.

c. The CA PM shall reconcile the Financial Plan amounts as directed by NGB.

d. Cost Sharing. Depending on the Environmental Programs Management activity line item in the approved Fin Plan, NGB shall contribute no more than 100 percent, 85 percent, 80 percent, or 75 percent of the total cost of

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the activity. The Fin Plan shall separately list the total NGB contribution for 100 percent, 85 percent, 80 percent, and 75 percent Environmental Programs Management activities, and it shall list the total Grantee share.

**Section 2208. Appendix Administration.**

a. Grantee services to be provided. The Grantee is responsible for providing personnel, supplies, and equipment required to perform those services needed to maintain ANG facilities and installations in good working order. All Grantee employees or contracted personnel will receive technical direction from the Environmental Manager, the Civil Engineer, or the Support Group Commander. Supervision of employees will be in accordance with state policy and procedures. The designated ANG Environmental Program representative providing technical direction will provide input to the Grantee regarding personnel actions (i.e. hiring, performance evaluations, terminations, performance counseling). When employees are required to support ANG Geographically Separated Units (GSU), the supervisor may elect to assign them to work directly at the GSU.

b. Air National Guard Manpower Standard (ANGMS).

(1) ANGMS is the method used by ANG/A7 to determine manpower requirements. It standardizes the number of employees necessary for proper environmental management and support at each ANG installation. The standard ANG installation should have two positions in order to properly manage the environmental activities at a standard ANG Unit.

(2) ANGMS sets the requirements, but does not provide the funding. ANG/A7CV provides the list of authorized Environmental employees based on the total requirement. This listing includes any positions in addition to the standard and any GSU's requiring the position. NGB provides reimbursement for employees that are performing at least 75% of their job function that matches the position description. Additional positions, which are requested and authorized, may be funded using unit funds or through agreements with tenant organizations for work performed.

(3) Supplies and services will be contracted through the Grantee. All supplies and services that are federally procured shall be processed as in-kind assistance in accordance with NGR 5-1, Chapter 8.

(4) When required by Federal assistance program legislation, such as the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, environmental remediation construction will have the provisions of the Davis-Bacon Act [40 U.S.C. 3141 et seq., as supplemented by Department of Labor regulations (29 CFR Parts 1, 3 and 5)], inserted in construction contracts over \$2,000 that are awarded by States and State contractors and subcontractors. The Davis-Bacon Act applies to that portion of the remedial work which calls for excavation, substantial earth moving, removal of contaminated soil, and the actual mobilization of the incinerator followed by restoration of the landscape, regardless of whether such activities are performed with any other construction activities done on any buildings or other structures at the cleanup site.

c. Changes to the instructions, terms and or conditions of this Appendix will be IAW NGR 5-1, Chapter 3. The request shall not be binding unless it is approved by ANG/A7CV. The written request shall be on an instrument containing the signatures of both the USPF0 and TAG, or authorized designees.

**Section 2209. Funding Limitation.**

a. Approved Budget/Annual Funding Program (AFP): The total dollar amount that NGB anticipates, subject to the availability of funds, being available for reimbursement to the Grantee for its costs in fulfilling its responsibilities under this Appendix. This amount may be increased or decreased by NGB during the fiscal year.

b. Total Dollars Obligated: The total amount of funds obligated for NGB's share under this Appendix. Only funds obligated through an executed CA modification to this appendix are available for reimbursement to the Grantee. Funds shall be obligated as received by the CA PM.

c. Accomplished as In-Kind Assistance: The total dollars expended through Federal acquisition. This dollar amount may reflect anticipated In-Kind Assistance and be updated as IKA is approved, but as a minimum shall reflect the total dollars accomplished through In-Kind Assistance in support of this Appendix for each fiscal year as it occurs.

d. The following funding limitations are provided for each fiscal year as it occurs:

1. Fiscal Year 2010:	Approved Budget/(AFP)	Total Dollars Obligated
Federal (75%)	\$ <u>224,200.00</u>	\$ <u>224,200.00</u>
<b>Federal Total</b>	\$ <u>224,200.00</u>	\$ <u>224,200.00</u>
State (25%)	\$ <u>74,733.33</u>	\$ <u>74,733.33</u>
<b>State Total</b>	\$ <u>74,733.33</u>	\$ <u>74,733.33</u>

Accomplished as In-Kind Assistance \$ \_\_\_\_\_

2. Fiscal Year 2011:	VALIDATED ALLOCATION/(AFP)	ALLOCATION
Federal (75%)	\$ <u>234,500.00</u>	\$ <u>234,500.00</u>
<b>Federal Total</b>	\$ <u>234,500.00</u>	\$ <u>234,500.00</u>
State (25%)	\$ <u>78,166.67</u>	\$ <u>78,166.67</u>
<b>State Total</b>	\$ <u>78,166.67</u>	\$ <u>78,166.67</u>

3. Fiscal Year 2012:	VALIDATED ALLOCATION/(AFP)	ALLOCATION
Federal (75%)	\$ <u>256,658.00</u>	\$ <u>182,800.00</u>
<b>Federal Total</b>	\$ <u>256,658.00</u>	\$ <u>182,800.00</u>
State (25%)	\$ <u>85,552.67</u>	\$ <u>60,933.33</u>
<b>State Total</b>	\$ <u>85,552.67</u>	\$ <u>60,933.33</u>

4. Fiscal Year _____:	Approved Budget/(AFP)	Total Dollars Obligated
	\$ _____	\$ _____
	Accomplished as In-Kind Assistance \$ _____	

5. Fiscal Year _____:	Approved Budget/(AFP)	Total Dollars Obligated
	\$ _____	\$ _____
	Accomplished as In-Kind Assistance \$ _____	

c. Accomplished as In-Kind Assistance: The total dollars expended through Federal acquisition. This dollar amount may reflect anticipated In-Kind Assistance and be updated as IKA is approved, but as a minimum shall reflect the total dollars accomplished through In-Kind Assistance in support of this Appendix for each fiscal year as it occurs.

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<b>Federal Total</b>	\$ <u>224,200.00</u>	\$ <u>224,200.00</u>
State (25%)	\$ <u>74,733.33</u>	\$ <u>74,733.33</u>
<b>State Total</b>	\$ <u>74,733.33</u>	\$ <u>74,733.33</u>

Accomplished as In-Kind Assistance \$ \_\_\_\_\_

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<b>State Total</b>	\$ <u>85,552.67</u>	\$ <u>60,933.33</u>

4. Fiscal Year 2013:	Approved Budget/(AFP)	Total Dollars Obligated
Federal (75%)	\$ <u>240,550.00</u>	\$
<b>Federal Total</b>	\$ <u>240,550.00</u>	
State (25%)	\$ <u>80,183.33</u>	\$
<b>State Total</b>	\$ <u>80,183.33</u>	

5. Fiscal Year _____:	Approved Budget/(AFP)	Total Dollars Obligated
	\$ _____	\$ _____

Accomplished as In-Kind Assistance \$ \_\_\_\_\_

**Section 2210. Agreement Particulars.**

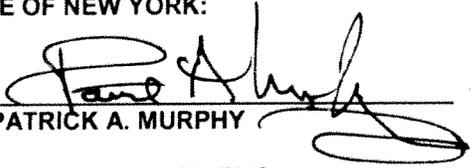
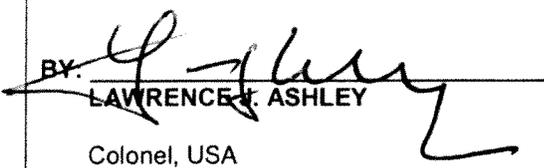
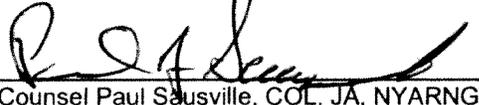
The information below shall be recorded by the Grants Officer's Representative (GOR) for compliance with the reporting requirements of the DoD Assistance Award Action Report System (DAADS) and the Federal Funding Accountability and Transparency Act of 2006.

- |  |   |
|--|---|
| a. Grantee/Recipient Category:   | Government                                    |
| b. Grantee/Recipient Type:   | State Government                              |
| c. Grantee/Recipient DUNS:   | 044776024                                     |
| d. Primary Place of Performance (if different from 'Issued To' on CA Modification Form): | New York, 12110-3514                          |
| (To include Zip + 4)   |   |
| e. Grantee/Recipient County (Primary Place of Performance):                              | 36  |
| f. Grantee/Recipient Congressional District (Primary Place of Performance):              | Albany  |
| g. Major Agency:   | DOD   |
| h. Agency Code:  | 5700  |
| i. Funding Agency:   | Air   |
| j. Program Source Agency:  | 57  |
| k. Transaction Type:   | Cooperative Agreement                         |
| l. CFDA:   | 12.401  |
| m. CFDA Program Title:   | Operation and Maintenance, Air National Guard |
| n. Program Source Account-Funding:   | 3840  |
| o. Treasury Appropriation Code:  | 3840  |
| p. Award/Obligation/Action Date:   | 1 Oct 2012                                    |
| q. Starting Date:  | 1 Oct 2012                                    |
| r. Ending Date:  | 30 Sep 2013                                   |
| s. Record Type:  | Individual Action                             |
| t. Fiscal Year/Quarter:  | 2013/1 <sup>st</sup> Qtr                      |

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**EXECUTION**

**IN WITNESS WHEREOF:** *The parties, by their signatures, execute this Appendix and agree to its terms and conditions.*

<p><b>STATE OF NEW YORK:</b></p> <p>BY:  PATRICK A. MURPHY</p> <p>Major General, NYARNG The Adjutant General</p> <p><u>12 Oct 12</u> (Date)</p>	<p><b>NATIONAL GUARD BUREAU:</b></p> <p>BY:  LAWRENCE F. ASHLEY</p> <p>Colonel, USA USP&amp;FO for New York</p> <p><u>4 Oct 12</u> (Date)</p>
<p><b>Approved as Legal Form:</b></p> <p> Counsel Robert G. Conway, Jr., MNLA</p> <p><u>30 Oct 2012</u> (Date)</p>	<p><b>Approved as to Legal Form:</b></p> <p> Counsel Paul Sausville, COL, JA, NYARNG</p> <p><u>20 Oct 12</u> (Date)</p>