

**COOPERATION AGREEMENT  
BETWEEN  
THE UNITED STATES OF AMERICA,  
THE SEWERAGE AND WATER BOARD OF NEW ORLEANS,  
AND  
THE SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST  
ON BEHALF OF ORLEANS LEVEE DISTRICT  
FOR REHABILITATION OF A FEDERAL HURRICANE/SHORE  
PROTECTION PROJECT**

**THIS COOPERATION AGREEMENT** (hereinafter referred to as the "Agreement") is entered into by and between THE DEPARTMENT OF THE ARMY (hereinafter referred to as the "Government") represented by the District Engineer, New Orleans District, U. S. Army Corps of Engineers (or his designee), the SEWERAGE AND WATER BOARD OF NEW ORLEANS (hereinafter referred to as "S&WB"), represented by the President of the Sewerage and Water Board, and THE SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST ON BEHALF OF ORLEANS LEVEE DISTRICT (hereinafter referenced as the "Public Sponsor"), represented by the President of the Board of Commissioners of the Southeast Louisiana Flood Protection Authority-East.

**WITNESSETH THAT:**

**WHEREAS**, the Government constructed a Hurricane/Shore Protection Project (HSPP) for the Lake Pontchartrain, Louisiana and Vicinity, Louisiana, Project, including features along New Orleans East and Orleans East Bank, authorized by the Flood Control Act of 1965, Public Law 298 of the 89<sup>th</sup> Congress, approved October 27, 1965, as amended, and governed by the following Agreements, all of which remain in full effect: "Act of Assurance" for the Lake Pontchartrain and Vicinity, Louisiana, Project, Barrier Plan, signed by the President of the Board of Commissioners of the Orleans Levee District on July 28, 1966 and approved on September 30, 1966; "Act of Assurance" wherein the Local Sponsor agreed to pay its pro rata portion of the cost of construction of the Lake Pontchartrain and Vicinity, Louisiana, Project, Barrier Plan within Orleans Parish, signed by the President of the Board of Commissioners of the Orleans Levee District on September 16, 1971 and approved on March 29, 1974; "Supplemental Assurance" wherein the Local Sponsor agreed to comply with Public Law 91-646 in fulfilling its obligations for the Lake Pontchartrain and Vicinity, Louisiana project, signed by the President of the Board of Commissioners of the Orleans Levee District on September 21, 1973 and approved on April 2, 1974; "Agreement between the United States and the Board of Commissioners of the Orleans Levee District" in which the parties acknowledge that the Public Sponsor could make deferred payments pursuant to the Water Resources Development Act of 1974 (WRDA 74), signed by the President of the Board of Commissioners of the Orleans Levee District on March 30, 1976, signed by

the Corps of Engineers on February 15, 1977 and approved on December 7, 1977; "Interim Agreement" wherein the Public Sponsor agreed to comply with all the required conditions and provisions of local cooperation in the previous Assurances for the High Level Plan, rather than the Barrier Plan, signed by the President of the Board of Commissioners of the Orleans Levee District on February 21, 1985 and approved on March 7, 1985; "Supplemental Agreement" wherein the Public Sponsor agreed to comply with all the required conditions and provisions of local cooperation in the previous Assurances for the High Level Plan, rather than the Barrier Plan, signed by the President of the Board of Commissioners of the Orleans Levee District on May 29, 1985 and approved on June 21, 1985; "Supplemental Agreement between the United States of America, the Orleans Levee District, and the Sewerage and Water Board of New Orleans," signed by all three parties on February 18, 1997, in which the Sewerage and Water Board of New Orleans agreed to provide all lands, easements, and rights-of-way and to operate and maintain "fronting protection" to pumping stations located in the Orleans Avenue Canal, the London Avenue Canal, and the New Basin Canal and Orleans Levee District agreed to continue all of obligations for the project; "Supplemental Agreement between the United States of America, the Orleans Levee District, the East Jefferson Levee District and the Sewerage and Water Board of New Orleans," signed by all four parties on February 18, 1997, in which the Sewerage and Water Board of New Orleans agreed to provide all lands, easements, and rights-of-way and to operate and maintain "fronting protection" to Pumping Station No. 6 located in the 17th Street Canal, and Orleans Levee District and East Jefferson Levee District agreed to continue their respective obligations for the project;

**WHEREAS**, in response to the damages to and the impacts upon Orleans Parish, Louisiana as a result of the 2005 Hurricane Katrina, the Government and non-federal entities, including the Orleans Levee District, have entered various cooperation agreements (hereinafter referred to as "Cooperation Agreements"), as follows, all of which remain in full force and effect: "Cooperation Agreement between the United States of America and Orleans Levee District for Rehabilitation of a Federal Hurricane/Shore Protection Project, fully executed on October 21, 2005, for rehabilitation work along New Orleans East and the Orleans East Bank; "Cooperation Agreement between the United States of America and Orleans Levee District for Rehabilitation of a Federal Hurricane/Shore Protection Project, fully executed on October 21, 2005, for rehabilitation work of the Chalmette Area Plan; "Cooperation Agreement between the United States of America and Orleans Levee District for Post Flood Response Assistance (Flood or Coastal Storm)," fully executed December 19, 2005 for construction of a non-Federal levee to provide interim level of protection to 10 feet; Supplemental Agreement No. 1, Cooperation Agreement between the United States of America and the Board of Commissioners of the Orleans Levee District, the Sewerage and Water Board of New Orleans, and the City of New Orleans for Rehabilitation of a Federal Hurricane/Shore Protection Project," signed by the parties on January 27, 2006, for additional repair and rehabilitation of the London Avenue and Orleans Avenue Outfall Canals; and Supplemental Agreement No. 2, Cooperation Agreement between the United States of America and the Board of Commissioners of the Orleans Levee District, the Board of Commissioners of the East Jefferson Levee District, the Sewerage and Water Board of

New Orleans, the Fourth Jefferson Drainage District, the Sub-District A of the Fourth Jefferson Drainage District, the Parish of Jefferson, and the City of New Orleans for Rehabilitation of a Federal Hurricane/Shore Protection Project,” signed by the parties on January 27, 2006, for additional repair and rehabilitation of the 17<sup>th</sup> Street Outfall Canal; “Cooperation Agreement between the United States of America and the Board of Commissioners of the Orleans Levee District”, fully executed on June 19, 2006 for the first phase removal of trees; “Supplemental Agreement No. 1-A Cooperation Agreement between the United States of America and the Board of Commissioners of the Orleans Levee District, the Sewerage and Water Board of New Orleans, and the City of New Orleans for Rehabilitation of a Federal Hurricane/Shore Protection Project,” fully executed on December 29, 2006; and “Supplemental Agreement No. 2-A Cooperation Agreement between the United States of America and the Board of Commissioners of the Orleans Levee District, the Board of Commissioners of the East Jefferson Levee District, the Sewerage and Water Board of New Orleans, the Fourth Jefferson Drainage District, the Sub-District A of the Fourth Jefferson Drainage District, the Parish of Jefferson, and the City of New Orleans for Rehabilitation of a Federal Hurricane/Shore Protection Project,” fully executed on December 29, 2006;

WHEREAS, the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza Act, 2006, Public Law 109-148 (the 3<sup>rd</sup> Supplemental Appropriation) authorized the restoration of the Project to provide the level of protection for which the Project was designed, at full Federal expense, insofar as the restoration of the Project is implemented utilizing funds appropriated by the said Act for restoration and reprogrammed thereunder, and/or any additional funds appropriated in the future in support of the restoration authority of the said 3<sup>rd</sup> Supplemental Appropriation Act;

WHEREAS, the Rehabilitation Effort includes the restoration of the Orleans Parish portion of the Lake Pontchartrain and Vicinity, Louisiana to provide the level of protection for which the project was designed, all as generally described in the Project Information Report for the restoration effort, prepared by the District Engineer, U. S. Army Engineer District, New Orleans, dated December 2006 and approved by the Division Engineer on December 20, 2006; which has been provided to all parties to this Agreement and is incorporated by reference as if copied in its entirety herein.

WHEREAS, as between the Government and the Public Sponsor, the above referenced project assurances and agreements set forth the respective obligations of the parties therein named, including, but not limited to, the obligation of the Public Sponsor, without costs to the Government, to provide all interior drainage and pumping plants required for reclamation and development of the protected areas, to maintain and operate levees, floodgates and approach channels, drainage structures, drainage ditches or canals, floodwalls, and stoplog structures in relation to this HSPP and to the Rehabilitation Efforts herein described, except as expressly provided within this Agreement;

WHEREAS, the Sewerage and Water Board of New Orleans (S&WB) is the entity that has the jurisdictional mission of interior drainage for that portion of the

Greater New Orleans Metropolitan Area situated on the East Bank of the Parish of Orleans, including operation and maintenance of canal bottoms and interior pumping stations on property under the control of or within the geographical jurisdiction of the Parish of Orleans;

**WHEREAS**, pursuant to Act 1 of the 2006 First Extraordinary Session of the Louisiana legislature, the Board of Commissioners of the Southeast Louisiana Flood Protection Authority East became the successor to the Board of Commissioners of the Orleans Levee District; with all the powers and duties provided by law for boards of commissioners of levee districts, and the additional powers and duties authorized by said Act; including the authority to execute this Agreement on behalf of the Orleans Levee District;

**WHEREAS**, the Public Sponsor hereby represents that it has the authority and legal capability to furnish the non-Federal cooperation hereinafter set forth and is willing to participate in the HSPP Rehabilitation Effort in accordance with the terms of this Agreement.

**NOW THEREFORE**, the Government and the Public Sponsor agree as follows:

#### ARTICLE I – DEFINITIONS AND GENERAL PROVISIONS

For purposes of this Agreement:

A. The term “Rehabilitation Effort” shall mean the restoration of the Orleans Parish features of the Lake Pontchartrain, LA and Vicinity Hurricane Protection Project to provide the level of protection for which the project was designed, all in accordance with project authority therefor, as generally described in the following report: “Project Information Report (PIR), Restoration Effort for Lake Pontchartrain, La And Vicinity Hurricane Protection Project, Orleans Parish, Louisiana,” prepared by the District Engineer, U. S. Army Engineer District, New Orleans, dated December 2006 and approved by the Division Engineer on December 20, 2006. It is understood and agreed that the PIR is subject to change by the Government in consultation with the Public Sponsor.

B. The term “Rehabilitation Effort costs” shall mean all costs incurred by the Government directly related to construction of the Rehabilitation Effort. Such term shall include, but is not necessarily limited to: actual construction costs, including supervision and inspection costs; costs of contract dispute, settlements, or awards; the costs of lands, easements, rights of way, borrow, and relocations that are not owned, claimed or controlled by the Public Sponsor or a non-federal governmental entity; and the cost of investigations to identify the existence of the hazardous substances as identified in Article XII.A. The term shall not include any costs for operation and maintenance; any costs that correct deferred or deficient maintenance; any increased costs for betterments or Public Sponsor-preferred alternatives; periodic nourishment under the project authorization; or

the costs of lands, easements, rights-of-way, borrow, or relocations that are owned, claimed, or controlled by the Public Sponsor or a non-federal governmental entity.

C. The term "betterment" shall mean the design and construction of a rehabilitation Effort feature accomplished on behalf of, or at the request of, the Public Sponsor, in accordance with standards that exceed the standards that the Government would otherwise apply for accomplishing the Rehabilitation Effort.

## ARTICLE II – OBLIGATIONS OF THE GOVERNMENT AND PUBLIC SPONSOR

A. The Government, subject to receiving funds appropriated by the Congress of the United States, shall expeditiously construct the Rehabilitation Effort, applying those procedures usually followed or applied in Federal projects, pursuant to Federal laws, regulations, and policies. The Public Sponsor shall be afforded the opportunity to review and comment on all such solicitations for all contracts, including relevant plans and specifications, prior to the issuance of such solicitations. The District Engineer will, in good faith, consider the comments of the Public Sponsor, but award of contracts, modifications or change orders, and performance of all work on the Rehabilitation Effort (whether the work is performed under contract or by Government personnel), shall be exclusively within the control of the District Engineer.

B. As further specified in Article III, the Public Sponsor shall provide an authorization for entry or a right of entry to all lands, easements, and rights-of-way required for the construction, operation and maintenance of the Rehabilitation Effort, including those required for relocations, the borrowing of material and the disposal of dredged or excavated material. Also, as specified in Article III, the Public Sponsor shall provide rights of entry to privately owned lands, easements, and rights-of-way by securing or causing to be secured, an executive commandeering order in accordance with La. R.S. 29:721, et seq., from the local parish or State. Finally, as further specified in Article III, the Government, subject to the availability of appropriations, shall acquire all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material and the disposal of dredged or excavated material and perform all relocations on behalf of the Public Sponsor.

C. The Public Sponsor shall not use Federal funds to meet their share of Rehabilitation Effort costs under this Agreement unless the expenditure of such funds is expressly authorized by statute as verified in writing by the Federal granting agency.

D. The Public Sponsor shall hold and save the Government free from all damages arising from the construction, operation, and maintenance of the Rehabilitation Effort, the HSPP, and any related betterments, except for damages due to the fault or negligence of the Government or the Government's contractors. The rights set forth in this Article II.D. and the benefits that derive therefrom, shall inure only to the United States of America, and may not be asserted by, or provide a benefit to, any other person or entity, whether or not a party to this Agreement.

E. The Public Sponsor may request the Government to accomplish betterments. The Public Sponsor requesting said betterment shall be solely responsible for any increase in costs resulting from the betterments and all such increased costs will be paid in advance by the requesting Public Sponsor in accordance with Article IV.

F. The Public Sponsor shall prevent future encroachments on the Rehabilitation Effort (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as new developments on project lands, easements, and rights-of-way and ponding areas or the addition of facilities which might reduce the level of protection the flood damage reduction features afford, hinder operation and maintenance of the project, or interfere with the Rehabilitation Effort's proper function.

G. The S&WB shall provide all interior drainage and pumping plants required for reclamation and development of the areas protected by the Project, including, but not limited to the Rehabilitation Effort.

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

A. The Government shall determine the lands, easements, and rights of way required for the construction, operation and maintenance of the Rehabilitation Effort, including those required for relocations, the borrowing of material and the disposal of dredged or excavated material and shall provide the Public Sponsor with the general written descriptions, including maps as appropriate, of the lands, easements and rights-of-way and the relocations required for the Rehabilitation Effort.

B. Prior to the issuance of the solicitation for each Government contract for construction of the Rehabilitation Effort, the Public Sponsor shall provide an authorization for entry on all lands, easements and rights-of-way that are owned, claimed or controlled by the Public Sponsor as necessary for the construction, operation and maintenance of the project. In addition, the Public Sponsor shall obtain the necessary rights for construction, operation and maintenance over lands, easements, and rights-of-way owned by any other governmental entity, as determined necessary by the Government, and provide right of entry for construction thereto.

C. Prior to the issuance of the solicitation for each Government contract for construction of the Rehabilitation Effort on lands, easements, and rights of way that are not owned, claimed or controlled by the Public Sponsor or other non-federal governmental entities, the Public Sponsor shall secure or cause to be secured, an executive commandeering order in accordance with La. R.S. 29:721, et seq. After securing an executive commandeering order, the Public Sponsor shall provide a right of entry for construction to the Government.

D. Except as modified by paragraph B of this Article, the Government shall, on behalf of the Public Sponsor, acquire all lands, easements and rights of way required for the construction, operation and maintenance of the Rehabilitation Effort, on which a right

of entry for construction was provided to the Government by the Public Sponsor, in accordance with Article III.C. In the event that the Public Sponsor cannot terminate or subordinate, or cause the termination or subordination, of third party private interests on lands, easements, and rights-of-way that are owned, claimed or controlled by the Public Sponsor or other non-federal governmental entities that are required for the Rehabilitation Effort, after having exhausted all available remedies in contract, law, and/or regulation, but excluding expropriation, the Government shall acquire such interests

E. The Government shall acquire lands, easements and rights-of-way in the name of the Orleans Levee District or, if acquired by eminent domain, the Government shall convey all of its right, title and interest to the Orleans Levee District by quitclaim deed or deeds. The Orleans Levee District shall accept delivery of such deed or deeds.

F. Acquisition of lands, easements, and rights-of-way required for construction, operation, and maintenance of the Rehabilitation Effort, including those required for relocations, the borrowing of material, or the disposal of dredged or excavated material, shall be in accordance with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 C.F.R. Part 24, and the Government shall inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

G. The Public Sponsor shall ensure that lands, easements, and rights-of-way acquired by the Government on behalf of the Public Sponsor for the Rehabilitation Effort, as well as those lands, easements and rights-of-way that the Public Sponsor provided through an authorization for entry or right of entry, are retained in public ownership for uses compatible with the authorized purposes of the Rehabilitation Effort.

#### ARTICLE IV – METHOD OF PAYMENT

A. The Public Sponsor shall provide, during the period of construction, cash payments, in-kind services, or a combination thereof, required to meet the Public Sponsor's obligations under Article II. Rehabilitation Effort costs are currently estimated to be \$38,345,294.00. In order to meet the Public Sponsor's cash payment requirements, the Public Sponsor must provide a cash contribution estimated to be \$0.0 (zero dollars). The dollar amounts set forth in this paragraph are based upon the Government's best estimates that reflect projections of costs, price level changes, and anticipated inflation. Such cost estimates are subject to adjustments based upon costs actually incurred and are not construed as the total financial responsibilities of the Government and the Public Sponsor.

B. The required cash contribution shall be provided as follows: At least ten calendar days prior to the award of the first construction contract, the Government shall

notify the Public Sponsor of the Public Sponsor's estimated cash contribution required to meet the Public Sponsor's obligation under Article II.E. Within five calendar days thereafter, the Public Sponsor shall provide the Government the full amount of the required contribution by delivering a check payable to "FAO, USAED, B2, New Orleans" to the District Engineer of the U. S. Army Engineer District, New Orleans. The Government shall draw on the funds provided by the Public Sponsor such sums as the Government deems necessary to cover contractual and in-house fiscal obligations attributable to the Public Sponsor's obligations under Article II.E. as they are incurred by the Government. In the event that total costs of the Public Sponsor's obligations under Article II.E. are expected to exceed the estimate given at the outset of construction, the Government shall immediately notify the Public Sponsor of the additional contribution the Public Sponsor will be required to make to meet the additional required contribution. Within ten calendar days thereafter, the Public Sponsor shall provide the Government the full amount of the additional required contribution.

C. During the period of construction, the Government will provide periodic financial reports on the status of the total Rehabilitation Effort costs and status of contributions made by the Public Sponsor. Upon completion of the Rehabilitation Effort and resolution of all relevant contract claims and appeals, the Government shall compute the total Rehabilitation Effort costs and tender to the Public Sponsor a final accounting of the Public Sponsor's obligations under Article II.E.

1. In the event the total contribution by the Public Sponsor is less than the Public Sponsor's obligations under Article II.E., the Public Sponsor 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 Public Sponsor's obligations under Article II.E.

2. In the event total contribution by the Public Sponsor is more than the Public Sponsor's required obligation under Article II.E., the Government shall, no later than 90 calendar days after the final accounting is complete, subject to the availability of funds, return the excess to the Public Sponsor. In the event the existing funds are not available to repay the Public Sponsor for excess contributions provided, the Government shall seek such appropriations as are necessary to repay the Public Sponsor for excess contributions provided.

#### ARTICLE V – CREDITING OF IN-KIND SERVICES

The Public Sponsor shall not be entitled to receive a credit or reimbursement for any costs incurred by the Public Sponsor.



## ARTICLE VI – OPERATION AND MAINTENANCE

A. The Public Sponsor maintains responsibility for operating and maintaining that portion of the subject HSPP at all times. After the District Engineer has determined that construction of the Rehabilitation Effort is complete and provided the Public Sponsor with written notice of such determination, the Public Sponsor shall operate and maintain the HSPP, to include those areas restored by the Rehabilitation Effort, at no cost to the Government, in accordance with specific directions prescribed by the Government in Engineer Regulation 500-1-1 and any subsequent amendments thereto and other applicable authorities, including the obligation to keep the floodwalls and levee sections free of woody vegetation and roots.

B. The Public Sponsor hereby gives the Government a right to enter, at reasonable times and in a reasonable manner, upon land that the Public Sponsor owns or controls for access to the HSPP for the purposes of inspection, and, if necessary, for the purpose of completing, operating, and maintaining the HSPP. If an inspection shows the Public Sponsor for any reason is failing to fulfill the Public Sponsor's obligations under this Agreement without receiving prior written approval from the Government, the Government will send a written notice to the Public Sponsor. If, after 30 calendar days from receipt of such notice, the Public Sponsor continues to fail to perform, then the Government shall have the right to enter, at reasonable times and in a reasonable manner, upon lands the Public Sponsor owns or controls for access to the Project for the purposes of completing, operating, and maintaining the project, or to deny further assistance. No action by the Government shall operate to relieve the Public Sponsor of responsibility to meet the Public Sponsor's obligations as set forth in this Agreement, or to preclude the Government from pursuing any other remedy at law or equity to assure faithful performance pursuant to this Agreement.

## ARTICLE VII – FEDERAL AND STATE LAWS

In the exercise of the rights and obligations of the Public Sponsor hereunder, the Public Sponsor agrees to comply with all applicable Federal and state laws and regulations.

## ARTICLE VIII – RELATIONSHIP OF PARTIES

The Government and the Public Sponsor act in an independent capacity in the performance of their respective functions under this Agreement, and none of the parties are to be considered the officer, agent, nor employee of the other parties.

## ARTICLE IX – 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 X – COVENANT AGAINST CONTINGENT FEES

The Public Sponsor warrants 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 Public Sponsor 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 XI – TERMINATION OR SUSPENSION

If at any time the Public Sponsor fails to carry out its obligations under this Agreement, the District Engineer shall terminate or suspend work on the Rehabilitation Effort, unless the District Engineer determines that continuation of work on the Rehabilitation Effort 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 this Rehabilitation Effort and the HSPP. 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 any party elects to terminate this Agreement pursuant to this Article, the parties shall conclude their activities relating to the Rehabilitation Effort and proceed to a final accounting in accordance with Article IV. 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 either the Government or the Public Sponsor elects to proceed with further construction or terminate this Agreement.

## ARTICLE XII – HAZARDOUS SUBSTANCES

A. After execution of this Agreement, the Government shall perform, or cause to be performed, such investigations for hazardous substances as are determined necessary by the Government to identify the existence and extent of hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 42 U.S.C. 9601-9675, on lands necessary to Rehabilitation Effort construction, operation, and maintenance.

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 HSPP or the Rehabilitation Effort contain any hazardous substances regulated under CERCLA, the Public Sponsor and the Government shall provide prompt notice to each other and shall not proceed with the commandeering and/or acquisition of lands, easements, rights-of-way, or disposal areas until mutually agreed.

C. The Government and the Public Sponsor shall determine whether to initiate construction of the Rehabilitation Effort, or, if already in construction, to continue with construction of the Rehabilitation Effort, or to terminate construction of the Rehabilitation Effort 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 Rehabilitation Effort. Should the Government and the Public Sponsor determine to proceed or continue with the construction after considering liability that may arise under CERCLA, the Public Sponsor shall be responsible, as between the Government and the Public Sponsor, 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 located in, on, or under the Public Sponsor's LERD, the Other Non-Federal Governmental LERD, and the Private LERD. Such costs shall not be considered a part of the total Rehabilitation Effort costs as defined in this Agreement. In the event the Public Sponsor fails to provide any funds necessary to pay for clean up and response costs or to otherwise discharge the responsibilities of the Public Sponsor under this paragraph upon direction by the Government, the Government may either terminate or suspend work on the Rehabilitation Effort or proceed with further work as provided in Article XI of this Agreement.

D. The Public Sponsor and the Government shall consult with each other to assure that responsible parties bear any necessary clean up and response costs as defined in CERCLA. Any decision made pursuant to paragraph C. of this Article shall not relieve any party from any liability that may arise under CERCLA.

E. As between the Government and the Public Sponsor, the Public Sponsor shall be considered the operator of the HSPP (which the Rehabilitation Effort is repairing and restoring) for purposes of CERCLA liability. To the maximum extent practicable, the Public Sponsor shall operate and maintain the HSPP in a manner that will not cause liability under CERCLA.

#### ARTICLE XIII – NOTICES

A. All notices, requests, demands, and other communications required or permitted to be given under this Cooperation 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 prepaid), registered, or certified mail, as follows:

If to the Southeast Louisiana  
Flood Protection Authority-East:

President  
203 Plauche Court  
Harahan, LA 70123

If to the Government:

District Engineer  
U. S. Army Corps of Engineers  
P.O. Box 60267  
New Orleans, Louisiana 70160-0267

If to the Sewerage and Water Board of New Orleans:

Executive Director  
625 St. Joseph Street  
New Orleans, Louisiana 70165

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.

IN WITNESS WHEREOF, the parties hereto have executed this Cooperation Agreement between the United States of America, the Sewerage and Water Board of New Orleans, and the Southeast Louisiana Flood Protection Authority East on behalf of the Orleans Levee District for Rehabilitation of a Federal Hurricane/Shore Protection Project, which may be executed in counterparts and having full force and effect as a whole, and which shall become effective upon the date it is signed by the District Engineer.

**THE DEPARTMENT OF THE ARMY**

BY: 

Richard P. Wagenaar  
Colonel, U.S. Army  
District Engineer

Date: 2-13-07

**BOARD OF COMMISSIONERS FOR THE SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY EAST**

BY: 

Thomas Jackson  
President

Date: 2/13/07

**SEWERAGE AND WATER BOARD OF NEW ORLEANS**

BY: 

C. Ray Nagin  
President

Date: 2-13-07

FORM AND LEGALITY APPROVED:



Law Department, City of New Orleans

## 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.



\_\_\_\_\_  
President, Board of Commissioners for the  
Southeast Louisiana Flood Protection Authority East

DATE: \_\_\_\_\_

2/13/07

**CERTIFICATE OF AUTHORITY**

I, Denise B. Fitzgerald, do hereby certify that I am an attorney for the Board of Commissioners for the Southeast Louisiana Flood Protection Authority East, that it is a legally constituted public body with full authority and legal capability to perform the terms of the Cooperation Agreement, in connection with the Lake Pontchartrain, Louisiana and Vicinity, Hurricane Protection Project Rehabilitation Effort, and to my best information and belief, the authority and legal capability to pay damages in accordance with the terms of this Agreement, if necessary, in the event of the failure to perform, as required by Section 221 of Public Law 91-611 (42 U.S.C. Section 1962d-5b), and that the person who has executed this Agreement, on behalf of the Board of Commissioners for the Southeast Louisiana Flood Protection Authority East, has acted within his or her authority.

IN WITNESS WHEREOF, I have made and executed this certification this 12 day of February, 2007.

Denise B. Fitzgerald  
Attorney for the Southeast Louisiana  
Flood Protection Authority East

**CERTIFICATION REGARDING LOBBYING**

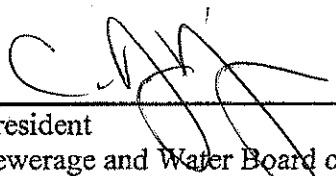
The undersigned certifies, to the best of his or her knowledge and belief that:

(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.

  
\_\_\_\_\_  
President  
Sewerage and Water Board of New Orleans

DATE: 2-13-07

**FORM AND LEGALITY APPROVED:**

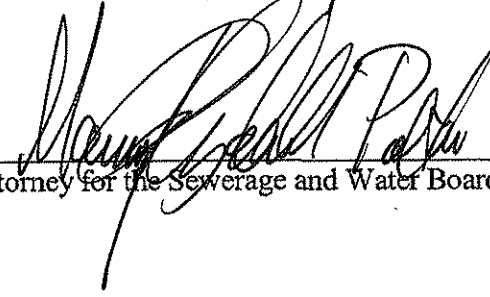
  
\_\_\_\_\_  
Law Department, City of New Orleans



**CERTIFICATE OF AUTHORITY**

I, Mary-Elizabeth PALTRON, do hereby certify that I am an attorney for the Sewerage and Water Board of New Orleans, that the Sewerage and Water Board of New Orleans is a legally constituted public body with full authority and legal capability to perform the terms of the Cooperation Agreement, in connection with the Lake Pontchartrain, Louisiana and Vicinity, Hurricane Protection Project Rehabilitation Effort, and to my best information and belief the authority and legal capability to pay damages in accordance with the terms of this Agreement, if necessary, in the event of the failure to perform, as required by Section 221 of Public Law 91-611 (42 U.S.C. Section 1962d-5b), and that the person who has executed this Agreement, on behalf of Sewerage and Water Board of New Orleans has acted within his or her authority.

ME WITNESS WHEREOF, I have made and executed this certification this 13 day of February, 2007.

  
\_\_\_\_\_  
Attorney for the Sewerage and Water Board of New Orleans