

**COOPERATION AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
AND
THE PLAQUEMINES PARISH GOVERNMENT AS GOVERNING AUTHORITY
FOR THE GRAND PRAIRIE LEVEE DISTRICT
FOR
RESTORATION AND REHABILITATION OF NON-FEDERAL
FLOOD CONTROL WORKS**

THIS AGREEMENT is entered into by and between THE DEPARTMENT OF THE ARMY (hereinafter referred to as the "Government") represented by the District Commander, New Orleans District, U. S. Army Corps of Engineers, and the PLAQUEMINES PARISH GOVERNMENT AS GOVERNING AUTHORITY FOR THE GRAND PRAIRIE LEVEE DISTRICT (hereinafter referred to as the "Public Sponsor"), represented by the Parish President, Plaquemines Parish Government.

WITNESSETH THAT:

WHEREAS, pursuant to the Department of Defense, Emergency Supplemental Appropriations Act to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza, 2006, Public Law 109-148, the Government is authorized to repair, restore or rehabilitate flood damage reduction and hurricane and storm damage reduction projects, and related works, at full Federal expense;

WHEREAS, via written correspondence, the Public Sponsor has requested the Government to repair, restore or rehabilitate certain non-Federal flood control works (hereinafter the "Project") damaged by recent flooding or coastal storms, in accordance with Public Law 109-148 and established policies of the U.S. Army Corps of Engineers; and,

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 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 and rehabilitation of the non-Federal levees breached locations near Braithwaite and Scarsdale, Louisiana, to the pre-storm level of design protection as constructed prior to the 2005 hurricane event, as generally described in the "Project Information Report, East Bank Breaches, Plaquemines Parish non-Federal Levees, Flood Protection Project, Plaquemines Parish,

LA”, prepared by the District Commander, U. S. Army Engineer District, New Orleans, dated May 5, 2006 and approved by the Deputy Division Commander on May 8, 2006 (hereinafter “PIR”). It is understood and agreed that this Project Information Report is subject to change by the Government, at the Government’s sole discretion, in consultation with the Public Sponsor.

B. The term "Rehabilitation Effort costs" shall mean all costs incurred by the Public Sponsor and the Government, in accordance with the terms of this Agreement, directly related to implementation of the Rehabilitation Effort. The 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, relocations, and dredged or excavated material disposal areas that are not owned, claimed, or controlled by the Public Sponsor; and the cost of investigations to identify the existence of hazardous substances as identified in Article XII.A. The term shall not include any costs for operation and maintenance; any costs to correct deferred or deficient maintenance; any increased costs for betterments or Public Sponsor preferred alternatives; or the costs of lands, easements, rights-of-way, relocations, or suitable borrow and dredged or excavated material disposal areas required for the Rehabilitation Effort that are owned, claimed, or controlled by the Public Sponsor.

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 implement the Rehabilitation Effort, applying those procedures usually followed or applied in Federal projects, pursuant to Federal laws, regulations, and policies. The Public Sponsor, to the extent possible, shall be afforded the opportunity to review and comment on solicitations for all contracts, including relevant plans and specifications, prior to the issuance of such solicitations. The District Commander 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 Commander.

B. As further specified in Article III, the Public Sponsor shall provide right of entry to all lands, easements, and rights-of-way, including access routes, temporary construction areas, and suitable relocation, borrow and dredged or excavated material disposal areas determined by the Government to be necessary for construction, operation, and maintenance of the Rehabilitation Effort and the Project.

1. As further specified in Article III, after receiving the Public Sponsor’s right of entry to the lands, easements, and rights of way, including access routes, temporary construction and suitable relocation, borrow and dredged or excavated

material disposal areas (LERD) that are described in Article III.A.2. and III.A.3. of this Amendment, the Government, subject to the availability of appropriations, shall identify and pay just compensation to the owners of a compensable interest in the LERD described in Article III.A.3 of this Amendment. Additionally, the Government, subject to the availability of appropriations, shall acquire interests in those LERD described in Article III.A.2 of this Amendment to which the Public Sponsor was unable to obtain right of entry despite its best efforts.

2. As further specified in Article II, the Government shall perform such relocations as it determines to be necessary for the Rehabilitation Effort.

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

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, and any related betterments, except for damages due to the fault or negligence of the Government or the Government's contractors.

E. The Public Sponsor may request the Government to accomplish betterments. The Public Sponsor 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 Public Sponsor in accordance with Article IV.

F. The Public Sponsor shall prevent encroachments on lands, easements, and rights-of-way provided by or acquired on behalf of the Public Sponsor for the Rehabilitation Effort which may interfere with the proper functioning of the Project being repaired, restored, or rehabilitated by the Rehabilitation Effort, as determined by the Government. Said real estate interests shall be retained in public ownership for uses compatible with the authorized purposes of the Project being repaired, restored or rehabilitated by the Rehabilitation Effort.

ARTICLE III - LANDS, RELOCATIONS, DISPOSAL AREAS, AND PUBLIC LAW 91-646 COMPLIANCE

A. The Government shall provide the Public Sponsor with a description of the anticipated real estate requirements and relocations for the Rehabilitation Effort. Thereafter, the Public Sponsor shall, at no cost to the Government, provide right of entry to all lands, easements, and rights-of-way, including suitable relocation, borrow and dredged or excavated material disposal areas, access routes and temporary construction areas (hereinafter "LERD"), as may be determined by the Government in that description, or in any subsequent description, to be necessary for the construction, operation, and maintenance of the Rehabilitation Effort, in the manner hereinafter discussed.

1. The Public Sponsor shall provide right of entry to all LERD that it owns, claims or controls (hereinafter Public Sponsor LERD) in a manner that is free and clear of any liens, defects of title, or encumbrances, including the release or subordination to the Rehabilitation Effort of any third party interests, as determined by the Government to be necessary for the construction, operation and maintenance of the Rehabilitation Effort;

2. The Public Sponsor shall use its best efforts to provide right of entry to LERD that any other non-Federal governmental entity owns, claims, or controls (hereinafter Other Non-Federal Governmental LERD) in a manner that is free and clear of any liens, defects of title, or encumbrances, including the release or subordination to the Rehabilitation Effort of any third party interests within such LERD, as determined by the Government to be necessary for the construction, operation and maintenance of the Rehabilitation Effort; and

3. The Public Sponsor shall provide right of entry to all other LERD not owned, claimed, or controlled by the Public Sponsor or Other Non-Federal Governmental Entities (hereinafter Private LERD) as follows:

a. The Public Sponsor shall secure or cause to be secured an executive commandeering order or orders from the Parish President, Plaquemines Parish Government, Louisiana or the Governor of the State of Louisiana, which said order or orders shall commandeer Private LERD, in accordance with powers set forth in La. R.S. 29:721, et seq., including all privately owned third party interests, as determined by the Government to be necessary for the construction, operation and maintenance of the Rehabilitation Effort;

b. In the event that the commandeering official is not the presiding official of the Public Sponsor, the Public Sponsor must secure a right of entry from the commandeering official to the Private LERD described in the Commandeering Order or Orders; and

c. The Public Sponsor shall tender a right of entry to the Government for the Private LERD.

4. The necessary lands, easements, and rights-of-way 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 Government shall perform such relocations as it determines to be necessary for the construction, operation, and maintenance of the Rehabilitation Effort. In addition, the Government, in the name of the Public Sponsor, shall identify and provide just compensation to the owners of a compensable interest in the Private LERD and shall acquire the requisite interests in the non-Federal Governmental LERD to which the Public

Sponsor, despite its best efforts, was unable to obtain a free and unencumbered right of entry, all in accordance with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisitions Policy 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, required for construction, operation, and maintenance of the Project and the Rehabilitation Effort, including those necessary for relocations, borrow materials, and dredged or excavated material disposal, and shall inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

1. The Government shall obtain a deed or servitude agreement, as appropriate, in the name of the Public Sponsor, for those interests described in the Commandeering Order or Orders referenced in Paragraph A.3.a. of this Article. In like manner, the Government shall obtain a deed or servitude agreement, as appropriate, in the name of the Public Sponsor, for those interests in the non-Federal Governmental LERD to which the Public Sponsor, despite its best efforts, was unable to obtain a free and unencumbered right of entry.

2. Where the Government is unable to obtain free and unencumbered title on the behalf of the Public Sponsor or to reach an agreement with the interest owners in the Private and Other Non-Federal Governmental LERD, the Government shall obtain such interests, in the name of the United States of America, through the exercise of its eminent domain authority.

3. After the Rehabilitation Effort is complete and the acquisition and eminent domain proceedings finalized, the Government shall transfer and assign all of the Private and Other Non-Federal Governmental LERD acquired in the name of the United States of America pursuant to paragraph B.2. of this Article to the Public Sponsor through quitclaim deed, which said transfer, quitclaim, and assignment the Public Sponsor hereby agrees to accept.

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 of the Agreement. Rehabilitation Effort costs are currently estimated to be \$16,661,195 and the Public Sponsor's share (cash and services in kind) of total Rehabilitation Effort costs is currently 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 to be 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 share of the total Rehabilitation Effort costs including the Public Sponsor's estimated share of the costs attributable to the Rehabilitation Effort incurred prior to the initiation of construction. 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 Commander 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 Rehabilitation Effort as they are incurred, as well as Rehabilitation Effort costs incurred by the Government. In the event that Rehabilitation Effort costs 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 Public Sponsor's share of the revised estimate. 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 Rehabilitation Effort costs and tender to the Public Sponsor a final accounting of the Public Sponsor's share of Rehabilitation Effort costs.

1. In the event the total contribution by the Public Sponsor is less than the Public Sponsor's required share of total Rehabilitation Effort costs, 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 required share of Rehabilitation Effort costs.

2. In the event total contribution by the Public Sponsor is more than the Public Sponsor's required share of Rehabilitation Effort costs, 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; however, the Public Sponsor shall not be entitled to any refund for in-kind services. 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 Government has approved a credit for In-Kind Services, compatible with the Rehabilitation Effort, in the estimated amount of \$0.0 (zero dollars) for implementation

of such services by the Public Sponsor. The affording of such credit shall be subject to an onsite inspection by the Government to verify that the work was accomplished in a satisfactory manner and is suitable for inclusion in the Rehabilitation Effort. The actual amount of such credit shall be subject to an audit conducted to determine reasonableness, allocability, and allowability of costs. The Government shall apply the credit amount toward any additional cash contribution required under this Agreement. The Public Sponsor shall not receive credit for any amount in excess of such additional cash contribution, nor shall the Public Sponsor be entitled to any reimbursement for any excess credit amount.

ARTICLE VI – OPERATION AND MAINTENANCE

A. After the District Commander or his representative 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 Project in good working order at no cost to the Government.

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 Project for the purposes of inspection, and, if necessary, for the purpose of completing, operating, and maintaining the Project. 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 under Federal laws, regulations and policies. No action by the Government shall operate to relieve the Public Sponsor of responsibility to meet the Public Sponsor 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 Public Sponsor's rights and obligations 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 neither party is to be considered the officer, agent, nor employee of the other.

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 Commander shall terminate or suspend work on the Rehabilitation Effort, unless the District Commander 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 Project. 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, both parties shall conclude their activities relating to the Rehabilitation Effort and proceed to a final accounting in accordance with Article IV of this Agreement. In the event that either 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 Public Sponsor elects to proceed with further construction or terminates 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 any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. Sections 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 Project 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 the Public Sponsor shall not proceed with the 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 any 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. 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 Public Sponsor's responsibilities 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 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 project (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 project in a manner that will not cause liability to arise under CERCLA.

ARTICLE XIII – NOTICES

A. All notices, requests, demands, and other communications required or permitted to be given under this Amendment 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 Public Sponsor:

Parish President
Plaquemines Parish Government
106 Avenue G
Belle Chase, Louisiana 70037

If to the Government:

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

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.

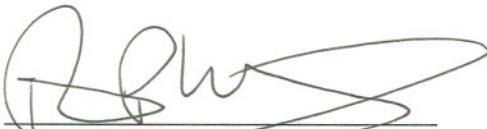
IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Commander.


FEDERAL SPONSOR:

PUBLIC SPONSOR:

THE DEPARTMENT OF THE ARMY

PLAQUEMINES PARISH
GOVERNMENT AS GOVERNING
AUTHORITY FOR THE GRAND
PRAIRIE LEVEE DISTRICT

BY: 
Richard P. Wagenaar
Colonel, Corps of Engineers
District Commander

BY: 
Benny Rousselle
Parish President
Plaquemines Parish Government

Date: 5-24-06

Date: 5/19/06

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.

PLAQUEMINES PARISH GOVERNMENT AS GOVERNING AUTHORITY FOR
THE GRAND PRAIRIE LEVEE DISTRICT



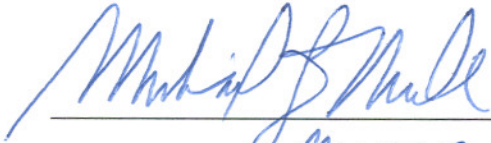
Benny Rousselle
Parish President
Plaquemines Parish Government

DATE: 5/19/06

CERTIFICATE OF AUTHORITY

I, MICHAEL L. MULLIN, do hereby certify that I am a legal officer of the Plaquemines Parish Government, that the Plaquemines Parish Government is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the Plaquemines Parish Government as Governing Authority for the Grand Prairie Levee District, to pay damages in accordance with the terms of this Agreement, if necessary, in the event of the failure to perform, as required by Section 221 of Public Law 91-611 (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Agreement on behalf of the Plaquemines Parish Government as Governing Authority for the Grand Prairie Levee District have acted within their authority.

19th IN WITNESS WHEREOF, I have made and executed this certification this day of May 2006.



Printed Name: MICHAEL L. MULLIN
Attorney for Plaquemines Parish Government