COOPERATION AGREEMENT

BETWEEN

THE UNITED STATES OF AMERICA

AND

THE KING COUNTYFLOOD CONTROL ZONE DISTRICT

FOR

REHABILITATION OF A NON-FEDERAL FLOOD CONTROL WORK

DESIMONE-BRISCOE SCHOOL LEVEE, JOB NO. GRN-01-14

THIS AGREEMENT, entered into this 6 day of FEB, 2015, by and between the DEPARTMENT OF THE ARMY (hereinafter referred to as the "Government") represented by the District Engineer, U.S. Army Corps of Engineers, Seattle District, and the **King County Flood Control Zone District** (hereinafter referred to as the "Public Sponsor"), represented by the Director, Department of Natural Resources and Parks, King County, WA.

WITNESSETH THAT:

WHEREAS, pursuant to 33 U.S.C. 701n, the Government is authorized to assist in the repair or restoration of flood control improvements threatened or destroyed by flood;

WHEREAS, via written correspondence, the Public Sponsor has requested the Government to repair or restore a certain flood control work damaged by recent flooding or coastal storms, in accordance with 33 U.S.C. 701n and established policies of the U.S. Army Corps of Engineers;

WHEREAS, via written correspondence, the Public Sponsor stated its intent to perform certain construction work consisting of labor, equipment, supplies and/or services in connection with such repair or restoration of flood control improvements; 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 laying back slopes and armoring riverward slopes for approximately 1075 feet, moving the levee landward and, due to site constraints, building 780 feet of retaining wall at the landward shoulder of the levee, and transitioning back to the existing section at the tie-in points,, as generally described in a report entitled Project Information Report for Rehabilitation of Flood Control Works, GRN-01-14 prepared by the District Engineer, U.S. Army Corps of Engineers, Seattle District, dated 28 AUG 2014, and approved by the Division Deputy Engineer on 9 SEP 2014.

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; and the cost of investigations to identify the existence of hazardous substances as identified in Article XIIA. 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; 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.

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.

D. The term "In-kind Services" shall consist of the construction of 780 LF of retaining wall and all associated landward work.

ARTICLE II - OBLIGATIONS OF THE GOVERNMENT AND PUBLIC SPONSOR

A. The Government, subject to receiving funds appropriated by the Congress of the United States and using those funds and funds provided by the Public Sponsor, 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 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 Contracting Officer 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 Contracting Officer.

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

C. As further specified in Article IV, the Public Sponsor shall contribute, in cash, in-kind services, or a combination thereof, a contribution toward construction of the Rehabilitation Effort in an amount equal to 20 percent of total Rehabilitation Effort costs.

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

E. 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.

F. The Public Sponsor agrees to participate in and comply with the policies and procedures of the U.S. Army Corps of Engineers Rehabilitation and Inspection Program.

G. 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.

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 furnish all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform any relocations, 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. 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 solicitation of that construction contract.

B. The Public Sponsor shall comply 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, and performing relocations for construction, operation, and maintenance of the Rehabilitation Effort, including implementation of the In-kind Services, including those necessary for relocations, borrow materials, and dredged and excavated material disposal, and shall inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

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 $8,789,000.00. Included in the Rehabilitation Effort is the Locally Preferred Alternative Plan Work Effort, which includes an additional 295 feet of levee construction, at an incremental cost of $1,899,000.00. The Public Sponsor's share (cash and services in kind) of total Rehabilitation Effort costs is currently estimated to be $3,277,000.00, which includes both 20% of the Least Cost Alternative ($1,378,000.00) and 100% of the additional costs associated with the Locally Preferred Alternative ($1,899,000.00). In order to meet the Public Sponsor's cash payment requirements, the Public Sponsor must provide a cash contribution estimated to be $1,899,000.00. 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 in implementing the Rehabilitation Effort 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 Seattle" to the Contracting Officer representing the Government. 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

A. The Government has approved a credit for In-Kind Services, compatible with the Rehabilitation Effort, in the estimated amount of $ 1,653,000.00 for implementation of such services by the Public Sponsor. In order to be eligible to receive credit toward its required cash contribution, the Public Sponsor shall provide or perform the In-kind Services in accordance with the terms and conditions of this Article V.

B. Any activity undertaken by the Public Sponsor for the implementation of the In-kind Services is solely at the Public Sponsor's own risk and responsibility. The Public Sponsor shall be responsible for developing all necessary engineering plans and specifications for the In-kind Services. The Public Sponsor shall complete all necessary environmental coordination and obtain all applicable Federal, State, and local permits required for the performance of the In-kind Services. The Public Sponsor will not commence the construction portion of In-kind Services to be provided or performed until the designs, detailed plans and specifications, and arrangements for the prosecution of such work have been approved by the Government. In addition, changes proposed by the Public Sponsor to approved designs and plans and specifications must be approved by the Government in advance of the related construction.

C. The Government must make a determination that the In-kind Services, as completed, are suitable for incorporation into the Rehabilitation Effort and that all in-kind contributions were performed or provided subsequent to execution of this Agreement. 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 in accordance with applicable Federal laws, regulations, and policies.

D. Crediting is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)). Crediting may be withheld, in whole or in part, as a result of the Public Sponsor's failure to comply with its obligations under these laws.

E. 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 only toward the Public Sponsor's cash contribution required under this Agreement. The Public Sponsor shall not receive credit for any amount in excess of such required cash contribution, nor shall the Public Sponsor be entitled to any reimbursement for any excess credit amount. The costs of In-kind Services that may be eligible for inclusion in the costs to be shared under this Agreement will be the costs incurred by the Public Sponsor to obtain such materials or services and provide them to the Government for use in the Rehabilitation Effort, or the market value of such materials or services as of the date that the Public Sponsor provides such materials or services for use in the Rehabilitation Effort, whichever is less. The Government will not include in the costs to be shared under this Agreement any costs of In-kind Services that exceed the Government's estimate of the cost to perform or contract for such work, if such work been accomplished by the Government.

F. Execution of this Agreement shall not commit the United States to any type of reimbursement or credit for the In-kind Services; nor shall it be construed as preventing the Government from modifying the Rehabilitation Effort in a manner that could result in the In-kind Services performed by the Public Sponsor no longer being an integral part of the design of the Rehabilitation Effort.

ARTICLE VI - OPERATION AND MAINTENANCE

A. After the Contracting Officer 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, 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.

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 Public Law 84-99. 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, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)).

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 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 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 and upon direction by the Contracting Officer, the Public Sponsor shall perform, or cause to be performed, such investigations for hazardous substances as are determined necessary by the Government or the Public Sponsor 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. All actual costs incurred by the Public Sponsor that are properly allowable and allocable to performance of any such investigations for hazardous substances shall be included in total Rehabilitation Effort costs and cost shared as a construction cost.

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 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 Public Sponsor:
Engineering and Special Projects Lead
River and Floodplain Mgmt Section
201 S. Jackson Street, Suite 600
Seattle, WA 98104

If to the Government:
District Engineer
P.O. Box 3755
Seattle, WA 98124-3755

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 HEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Engineer.

THE DEPARTMENT OF THE ARMY

BY: _____
JOHN G. BUCK
Colonel, Corps of Engineers
District Engineer

DATE: 6 FEB 15

KING COUNTY FLOOD CONTROL ZONE DISTRICT

BY: _____
CHRISTIE TRUE
Director
Department of Natural Resources and Parks

DATE: 12/12/2014

CERTIFICATE OF AUTHORITY

I, Rod P. Kaseguma, , do hereby certify that I am an attorney authorized to represent the King County Flood Control Zone District, that the King County Flood Control Zone District 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 King County Flood Control Zone District in connection with the Desimone-Briscoe School Levee Project and 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 King County Flood Control Zone District have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this 15th day of December 2014.

Rod P. Kaseguma

Rod P. Kaseguma.
Attorney for King County Flood Control Zone District

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.

DATED this 12th day of December, 2014.

KING COUNTY
FLOOD CONTROL ZONE DISTRICT

BY: _____
CHRISTIE TRUE
Director
Department of Natural Resources and Parks
King County, Washington