

**AGREEMENT BETWEEN
THE DEPARTMENT OF THE ARMY
AND
METROPOLITAN GOVERNMENT OF NASHVILLE & DAVIDSON COUNTY,
TENNESSEE
TO
PROVIDE RELOCATION ASSISTANCE
FOR THE
THE MILL CREEK FLOOD RISK MANAGEMENT PROJECT
DAVIDSON COUNTY, TENNESSEE**

THIS AGREEMENT entered into this ____ day of _____, 2018, by and between THE DEPARTMENT OF THE ARMY (hereinafter the "Government"), acting by and through the United States of America Army Engineer for the Nashville District (hereinafter the "USACE") and Metropolitan Government of Nashville and Davidson County, Tennessee (hereinafter the "Non-Federal Sponsor") acting by and through its Director of Water Services;

WITNESSETH, THAT:

WHEREAS, implementation of the Mill Creek Flood Risk Management Project, (hereinafter the "Project"), was authorized by Section 1402(a) of the Water Resources Development Act of 2016 directs that the portion of the specifically authorized Mill Creek, Tennessee project consisting of measures within the Mill Creek Basin which includes the acquisition and relocation of 42 residential structure and the elevation of two residential structures (hereinafter the "Project") be carried out pursuant to Section 205 of the Flood Control Act of 1948, as amended (33 U.S.C. 701s) (hereinafter "Section 205"). The Project includes the Mill Creek Watershed area;

WHEREAS, the Government and the Non-Federal Sponsor entered into a Project Partnership Agreement (hereinafter the "PPA"), dated 15 December 2017 for implementation of the Project;

WHEREAS, Article II. Section B.2. of the PPA provides that the Non-Federal Sponsor shall provide all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform all relocations (hereinafter LERRDs) determined by the Government to be necessary for implementation, operation, and maintenance of the structural and nonstructural aspects of the Project;

WHEREAS, Article III. Section D. of the PPA provides that, the Non-Federal Sponsor may request in writing that the Government acquire all or specified portions of such real property interests, construct placement area improvements, perform necessary relocations of facilities or utilities and assist the Non-Federal Sponsor, as part of its acquisition of the required real estate, in providing relocations of the displaced individuals in accordance with Public Law 91-646

(hereinafter P.L. 91-646). The Non-Federal Sponsor's payment for all such services shall be in advance of the Government incurring any financial obligation therefore, in accordance with Article VI. Section F. of the PPA;

WHEREAS, the Government and the Non-Federal Sponsor desire to enter into this separate agreement providing for the Government to provide relocation assistance pursuant to P.L. 91-646 to the individuals displaced because of the project as part of the real estate acquisition, on behalf of the Non-Federal Sponsor.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree as follows:

1. This Agreement is in support of and in furtherance of the PPA and shall not be interpreted in any manner inconsistent with or in contradiction to the PPA. The mention of any specific provision of the PPA in this Agreement shall not operate to exclude reference to nor negate any other provision of the PPA.

2. The Government shall, on behalf of the Non-Federal Sponsor, provide relocation assistance pursuant to P.L. 91-646 to the individuals displaced because of the project as part of the real estate acquisition, on behalf of the Non-Federal Sponsor, in accordance with Article III of the PPA, to be necessary for the implementation, operation, and maintenance of the Project. Acquisition shall include the authority to accept delivery of all instruments of conveyance on behalf of the Non-Federal Sponsor.

3. The Government shall furnish all services and work under this Agreement in accordance with applicable U.S. laws and regulations. Unless otherwise required by law, all contract work undertaken by the Government shall be performed in accordance with Department of the Army procurement and claims policies and procedures. All real estate work shall be performed in accordance with Department of Army real estate regulations as well as other applicable law.

4. The Non-Federal Sponsor shall pay for the services to be provided pursuant to this Agreement in advance of the Government incurring any financial obligation for said services, in accordance with Article VI of the PPA. The Government will draw on the funds provided by the Non-Federal Sponsor, such sums as the Government deems necessary to cover contractual and in-house financial obligations attributable to the services provided hereunder, as they are incurred.

5. The procedures for keeping books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the Agreement shall be those developed and used in accordance with Article X of the PPA.

6. The Project Coordination Team appointed in accordance with Article II.M. of the PPA shall, in addition to the tasks specified in Article V of the PPA, generally oversee implementation

of the services to be provided pursuant to this Agreement.

7. Either the Government or the Non-Federal Sponsor may terminate this Agreement by providing 60 calendar days written notice to the other party.

8. In the event of termination of this Agreement, the Government and the Non-Federal Sponsor shall consult with each other concerning all claims for termination costs. The Non-Federal Sponsor shall continue to be obligated for payment of costs incurred by the Government under this Agreement, for costs of closing out or transferring any ongoing contracts, and for costs of litigating all civil actions arising pursuant to this Agreement to final resolution.

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

10. The principal personnel and points of contact for matters relating to this Agreement shall be the representatives of the parties appointed to the Project Coordination Team.

11. This Agreement may be modified or amended only by written agreement of the parties.

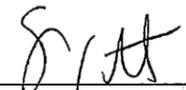
12. This Agreement shall be effective upon the date of the signature of the District Engineer.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above-recited.

THE DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
NASHVILLE DISTRICT

METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY

BY: _____
CULLEN A. JONES
Lieutenant Colonel
Corps of Engineers
District Engineer

BY:  _____
SCOTT POTTER
Director of Water Services

DATE: _____

DATE: 23 Jul 2018

ATTEST:

BY: Office of the Metropolitan Clerk

DATE: _____

CERTIFICATE OF AUTHORITY

I, Jon Cooper, do hereby certify that I am the principal legal officer of the METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE, that the METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE 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 METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE in connection with the MILL CREEK FLOOD RISK MANAGEMENT PROJECT, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement, as required by Section 221 of Public Law 91-611, as amended (42 U.S.C. Section 1962d-5b), and that the person who has executed this Agreement on behalf of the METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE, has acted within their statutory authority. The Director of Water Services and his successor has the authority to enter into the agreement and any other agreement to accomplish the mission of the project.

IN WITNESS WHEREOF, I have made and executed this certification this
3rd day of August 2018.



JON COOPER
Director of Law