SUPPLEMENTAL AGREEMENT BETWEEN

THE UNITED STATES OF AMERICA

THE ORLEANS LEVEE DISTRICT

AND

THE SEWERAGE AND WATER BOARD OF NEW ORLEANS

THIS AGREEMENT is entered into this 18th day of February, 1997 by and between the UNITED STATES OF AMERICA (hereinafter called the "Government"), the Orleans Levee District (hereinafter called "OLD") and the Sewerage and Water Board of New Orleans (hereinafter called "S&WB").

WHEREAS, the Flood Control Act of 1965, Section 204, Public Law 298, 89th Congress, 1st Session (approved October 27, 1965), substantially following the Report of the Chief of Engineers, dated March 4, 1964 (contained in House Document No. 231, 89th Congress, 1st Session) authorized the construction of the Lake Pontchartrain and Vicinity Hurricane Protection Project;

WHEREAS, the Lake Pontchartrain, Louisiana, and Vicinity Hurricane Protection Project Reevaluation Study, dated December 1983, approved February 7, 1985, has authorized construction of the High Level Plan, rather than the Barrier Plan;

WHEREAS, the Board of Commissioners for OLD has granted assurances to the Government for the Lake Pontchartrain, Louisiana, and Vicinity Hurricane Protection Project containing the following items of local cooperation, among others:

a. Provide all lands, easements, and rights-of-way, including borrow and spoil disposal areas necessary for construction, operation, and maintenance of the Project;

b. Accomplish all necessary alterations and relocation to roads, railroads, pipelines, cables, wharves, pumping stations, and other facilities required by construction of the Project;

c. Hold and save the Government free from damages due to the construction works;

d. Maintain and operate all features of the Project in accordance with regulations prescribed by the Secretary of the Army, including levees, floodgates and approach channels, pumping stations, drainage ditches or canals, floodwalls, and stoplog structures;

WHEREAS, part of the work remaining on the Lake Pontchartrain and Vicinity Hurricane Protection Project High Level Plan is to provide fronting protection to pumping stations located in the Orleans Avenue Canal, the London Avenue Canal and the New Basin Canal (hereinafter called the "fronting project");

WHEREAS, the pumping stations are on property owned or under the control of the S&WB and are for providing storm water drainage for Orleans Parish;

WHEREAS, the S&WB wants to maintain and operate the fronting protection after construction and the OLD agrees that the S&WB is in the best position to operate and maintain the fronting protection after the construction;

WHEREAS, in furtherance of the above, the S&WB wants to become a local sponsor for the fronting protection segment of the Lake Pontchartrain and Vicinity Hurricane Protection Project for the limited purposes of providing all lands, easements, and rights-of-way necessary for construction, operation, and maintenance of the fronting project, and maintaining and operating all features of the fronting project according to regulations prescribed by the Secretary of the Army;

WHEREAS the OLD desires to remain the local sponsors for the fronting project for all other purposes previously agreed to in its Assurances including:

a. Providing all non-Federal funds necessary to meet the required financial commitments of the Local sponsor;

b. Hold and save the Government free from all damages arising from the construction of the fronting project and the construction of any fronting project related betterments, except for damages due to the fault or negligence of the Government or the Government's contractors;

c. During construction, provide any insurance and be responsible for any monetary considerations or remunerations to any railroads or other facility owners having any rights in the subject property other than the City of New Orleans, the State of Louisiana, the United States of America, or any of their subdivisions or agencies.

d. Receive all credits for any items of local cooperation performed or contributed to the project.

WHEREAS the OLD desires to retain the ownership of the fronting protection improvements constructed through the fronting project, subject to the right and obligation of the S&WB to operate, maintain, repair, replace, and rehabilitate the improvements;

WHEREAS, the Sewerage and Water Board of New Orleans, represented by Marc H. Morial, its President, pursuant to and by virtue of the provisions of its resolution, adopted August 14, 1996, who attaches hereto and makes a part hereof a duly certified copy of such resolution, and who declared that, in the accordance with said resolution and pursuant thereto, he, the said President of the Sewerage and Water Board of New Orleans, has assured and does now assure the Secretary of the Army of the United States that said Board of Commissioners of the Sewerage and Water Board of New Orleans has the authority and the capability to furnish the agreed upon portions of the

non-Federal cooperation required by the Federal legislation authorizing the fronting project and by other applicable laws; and

WHEREAS, the Board of Commissioners for the Orleans Levee District, represented by James P. Huey, its President, pursuant to and by virtue of the provisions of its resolution, adopted August 21, 1996, who attaches hereto and makes a part hereof duly certified copy of such resolution, and who declared that, in the accordance with said resolution and pursuant thereto, they, the said officers of the Board of Commissioners, assured and do now assure the Secretary of the Army of the United States that said Board of Commissioners consents to the Sewerage and Water Board of New Orleans furnishing the hereinafter agreed upon portions of the non-Federal cooperation required by the Federal legislation authorizing the fronting project, and that they will continue to provide the remaining items of the non-Federal cooperation and comply with all the required conditions and provisions of local cooperation listed in their previous Assurances.

NOW, THEREFORE, the Sewerage and Water Board of New Orleans, in consideration of the construction to be done by the United States of America for the fronting protection to its pumping stations, agrees that it will, without cost to the United States:

a. Provide all lands, easements, and rights-of-way determined by the Government to be necessary for the construction, operation, and maintenance of the fronting project;

b. For so long as the fronting project remains authorized, operate, maintain, repair, replace, and rehabilitate the completed fronting project features, at no cost to the Government, in accordance with applicable Federal and State laws and any specific directions prescribed by the Government;

c. Grant the Government and the OLD a right to enter, at reasonable times and in a reasonable manner, upon lands which the S&WB owns or controls, for access to the fronting project for the purpose of inspecting, and, if necessary, for the purpose of completing, maintaining, repairing, replacing, or rehabilitating the fronting project;

d. Hold and save the Government free from all damages arising from the operation, maintenance, repair, replacement, and rehabilitation of the fronting project and any fronting project related betterments, except for damages due to the fault or negligence of the Government or the Government's contractors;

e. Prevent future encroachments on the provided fronting project lands, easements and rights-of-ways which might interfere with the proper functioning of the fronting project;

f. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition 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-ways, and performing relocations, for

construction, operation, and maintenance of the fronting project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act;

g. Comply with all applicable Federal and State laws and regulations, including section 601 of the Civil Rights Act of 1964, Public Law 88-352, and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army."

FURTHER, the Board of Commissioners for the Orleans Levee District agrees that the provisions in the previous Assurances granted for the Lake Pontchartrain and Vicinity Hurricane Protection Project High Level Plan remain in full force and effect, except as to the modifications herein agreed upon.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the day and year first above written.

THE UNITED STATES OF AMERICA

BY: William L. Conner
Colonel, CE
District Engineer
New Orleans District

ORLEANS LEVEE DISTRICT

BY: James P. Huey
James P. Huey, President

SEWERAGE AND WATER BOARD OF NEW ORLEANS

BY: Marc H. Morial
Marc H. Morial, President