

## **SECTION 208 – FCA 54, AS AMENDED**

### **MODEL PROJECT PARTNERSHIP AGREEMENT FOR SECTION 208 - CONTINUING AUTHORITY CLEARING AND SNAGGING FOR FLOOD RISK MANAGEMENT PROJECTS**

#### **MODEL HISTORY:**

**22 September 2006** - Model originally approved.

**4 January 2007** - Model revised to: 1) correct notes to agree with applicability paragraph contained in Amendment #2 of Appendix F, ER 1105-2-100; 2) correct reference in Article II.C.2. of the agreement; and 3) update text in Article VI.D.3. of the agreement.

**22 January 2009** - Model revised to: 1) change PCA to PPA in the title and Whereas clauses; 2) change term “flood damage reduction” to “flood risk management” throughout model; and 3) increase the Section 215 limit.

**21 August 2012** - Model revised to: 1) correct note 38; 2) update text in Articles II.B.5.e., II.G., IV.A., V.D., VI.A.1., VI.A.2., XIII.A., and XIX.A.; and 3) delete old note 18 and the optional paragraph in Article II.A. allowing for deferral in the event total project costs exceeds a specified amount.

**15 October 2014** - Model revised to: 1) correct note 43.E.; 2) revise text and amount for Section 1156 waiver in note 8, the applicable Whereas clause, and Article II.O.; 3) revise text in note 27 and VI.B.1. (both options) to delete letter of credit; 4) replace text of Article XI and revise text referring to labor laws in Articles II.B.5.g., IV.F. and V.C.; and 5) update text in Articles II.A.2. (options 1 & 2 only), II.B.5.e., II.B.5.f., II.G., IV.A., IV.C.1., VI.C.1., VI.D.3.a., and XV.B. of the agreement.

**Note:** For information regarding the approval authority and signature authority for a project specific agreement developed using the current version of the Section 208 model, go to the Implementation Memo link to see the Section 208 Model Implementation Memo, dated 14 December 2006.

#### **MODEL APPLICABILITY:**

The Section 208 model addresses projects for removing accumulated snags and other debris, and clearing and straightening the channel in navigable streams and tributaries thereof implemented pursuant to Section 208 of the Flood Control Act of 1954, Public Law 83-780, as amended (33 U.S.C. 701g). This model should not be used for implementation of projects under any of the other CAP authorities nor for specifically authorized projects.

Further, this model is structured to address performance of design and construction of a Section 208 project pursuant to one agreement, in accordance with the project implementation procedures outlined in Appendix F, ER 1105-2-100. However, optional language is included that allows this model to be used for Section 208 projects where the planning and design was completed by the Government in accordance with the implementation procedures for Section 208 projects in place prior to 31 January 2006.

1. An agreement using the optional language for performance of both design and construction may be approved and executed prior to compliance with all applicable environmental laws and regulations including, but not necessarily limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347; hereinafter “NEPA”) and Section 401 of the Federal Water Pollution Control Act (33 U.S.C. 1341). Compliance with all applicable environmental laws and regulations can be performed during the design portion of the agreement but **MUST** be completed prior to initiation of construction.

2. An agreement using the optional language for performance of construction only cannot be approved for execution prior to compliance with all applicable environmental laws and regulations including, but not necessarily limited to, NEPA and Section 401 of the Federal Water Pollution Control Act (33 U.S.C. 1341).