

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into between the United States of America, acting through both the United States Department of Justice and the United States Coast Guard ("Coast Guard") (collectively the "United States"), and Bollinger Shipyards, L.L.C. (formerly known as Bollinger Shipyards, Inc.), Bollinger Shipyards Lockport, L.L.C., and Halter Bollinger Joint Venture L.L.C. (collectively "Bollinger") (hereafter collectively referred to as "the Parties"), through their authorized representatives.

RECITALS

A. The Integrated Deepwater System Program ("Deepwater") was an effort to modernize and expand the capabilities of the Coast Guard's fleet of surface vessels and aircraft. The Coast Guard selected Integrated Coast Guard Systems ("ICGS"), an entity formed by Lockheed Martin Corporation ("Lockheed") and Northrop Grumman Ship Systems ("NGSS"), to submit a Deepwater proposal. ICGS submitted a proposal to modernize and/or replace various Coast Guard assets, including modifying the Coast Guard's fleet of 110-ft WPB boats and extending them to 123-ft WPB boats. ICGS proposed Bollinger, as a second-tier subcontractor to ICGS's first-tier subcontractor NGSS, to perform the WPB conversion after the Deepwater award.

On June 25, 2002, the Coast Guard awarded ICGS the Deepwater contract, designated Contract No. DTCG23-02-C-2DW001 ("the Contract"). Under the Contract, the Coast Guard issued to ICGS four task orders to convert 110-ft WPBs to 123-ft WPBs (Delivery Task Order (DTO) DTCG23-02-F-2DW2079 MATAGORDA; DTCG23-03-F-2DW196 METOMPKIN;

DTCG23-03-F-2DW247 PADRE; and DTCG23-03-F-2DW302 ATTU, NUNIVAK, VASHON, MONHEGAN, MANITOU). Bollinger performed work on these DTOs through its subcontract with NGSS.

The project described in Paragraph A is hereinafter referred to as “the 110’-123’ WPB Conversion Project”.

B. On July 29, 2011, the United States filed a False Claims Act action against Bollinger in the United States District Court for the District of Columbia captioned *United States v. Bollinger Shipyards, Inc., et al.* This case was subsequently transferred to the United States District Court for the Eastern District of Louisiana on April 11, 2012 and is now captioned *United States v. Bollinger Shipyards, Inc., et al.*, Case No. 2:12-cv-00920 (the “Civil Action”).

C. The United States asserts certain civil claims against Bollinger as set forth in the Complaint and First Amended Complaint (the “FAC”) in the Civil Action. These allegations are hereinafter referred to as the “Covered Conduct.”

D. Bollinger contends it has certain claims against the Coast Guard under the Contract for certain unpaid costs and expenses that Bollinger claims are due to it for work performed in connection with the 110’-123’ WPB Conversion Project.

E. The Coast Guard contends it has certain claims, under the Contract, against ICGS that would flow down to Bollinger relating to Bollinger’s performance of work concerning the 110’-123’ WPB Conversion Project.

F. This Settlement Agreement is neither an admission of liability by Bollinger nor a concession by the United States that its claims are not well-founded.

G. This Settlement Agreement is made in compromise of disputed claims and to

avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Bollinger shall pay to the United States \$8.5 million (the "Settlement Amount") by electronic funds transfer no later than 15 business days after the Effective Date of this Agreement, pursuant to written instructions that the Civil Division of the United States Department of Justice will provide within 5 business days after the Effective Date of this Agreement.
2. Subject to the exceptions in Paragraph 3 (concerning excluded claims) below, and conditioned upon Bollinger's full payment of the Settlement Amount, the United States fully and finally releases and discharges Bollinger together with its current and former parent corporations, partners, direct and indirect subsidiaries, brother or sister corporations or limited liability companies, divisions or subdivisions, owners or shareholders, employees, agents, officers, directors, and affiliates, and the successors and assigns of any of them (collectively, "the Released Bollinger Parties"), from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; the Contract Disputes Act, 41 U.S.C. §§ 7101-7109; any other statute creating causes of action for civil damages or civil penalties which the Civil Division has actual and present authority to assert and compromise pursuant to 28 C.F.R. Part 0, Subpart I, § 0.45(d) (2008); or the common law theories of breach of contract, payment by mistake, unjust enrichment, negligent misrepresentation, and fraud, including fraud

in the inducement and promissory fraud.

3. Notwithstanding the releases given in Paragraph 2 of this Agreement, or any other term of this Agreement, the following claims of the United States, if any, are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Any administrative liability, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct or the release in Paragraphs 2, 6, and 7;
- e. Any liability based upon obligations created by this Agreement.

4. Bollinger waives and shall not assert any defenses it may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

5. Bollinger fully and finally releases the United States and its agencies, employees, servants, and agents from any and all claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Bollinger asserted, could have asserted, or may assert

in the future against the United States, and its agencies, employees, servants, and agents, related to the Covered Conduct and the United States' investigation and prosecution thereof.

6. Bollinger fully and finally releases the Coast Guard, and its employees, servants, and agents from any and all claims (including attorneys' fees, costs, and expenses of every kind and however denominated that could be charged either directly or indirectly to the Contract or other Coast Guard contracts) that Bollinger asserted, could have asserted, or may assert in the future against the Coast Guard related to or arising under the Contract, including, but not limited to, unpaid claims for escalation, invoices, change orders, claims for delay and disruption, unnegotiated contract changes, any claims by Bollinger against Huntington Ingalls Inc. or ICGS for which the Coast Guard could be ultimately liable, and any other requests for payment of every kind and however denominated.

7. The Coast Guard, to the extent permitted by law, hereby releases the Released Bollinger Parties from any and all claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that the Coast Guard asserted, could have asserted, or may assert in the future against any of the Released Bollinger Parties related to or arising under the Contract, including any such claims the Coast Guard may have as a result of the May 17, 2007 Revocation of Acceptance of the 110/123' Patrol Cutters and any such claims it may have against ICGS or Huntington Ingalls Inc. that could flow down to any of the Released Bollinger Parties. Additionally, the Coast Guard agrees not to pursue any such claims related to or arising under the Contract it may have against ICGS or Huntington Ingalls Inc. that would flow down to any of the Released Bollinger Parties.

8. a. Unallowable Costs Defined: All costs (as defined in the Federal

Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of Bollinger, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) Bollinger's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment Bollinger makes to the United States pursuant to this Agreement, including costs and attorneys' fees, are unallowable costs for government contracting purposes (hereinafter referred to as "Unallowable Costs").

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by Bollinger and Bollinger shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Agreement, Bollinger shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by Bollinger from the United States. Bollinger agrees that the United States, at a minimum, shall be entitled to recoup from Bollinger any overpayment plus

applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine Bollinger's books and records and to disagree with any calculations submitted by Bollinger regarding any Unallowable Costs included in payments previously sought by Bollinger or the effect of any such Unallowable Costs on the amount of such payments.

9. This Agreement is intended to be for the benefit of the Parties only.

10. Upon receipt of the payments described in Paragraph 1 above, the Parties shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal with prejudice of the Civil Action pursuant to Federal Rule of Civil Procedure 41(a)(1).

11. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

12. Each party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

13. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Eastern District of Louisiana except that disputes arising under the Contract shall be resolved in accordance with the Contract Disputes Act and applicable provisions of the Federal Acquisition Regulation. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

14. This Agreement constitutes the complete agreement between the Parties. This

Agreement may not be amended except by written consent of the Parties.

15. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

16. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

17. This Agreement is binding on the Parties' successors, transferees, heirs, and assigns.

18. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

19. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles or scanned images of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

DATED: 12/9/15

BY:



DIANA J. YOUNTS

Arnold Auerhan

Eric Schmelzer

Bruce Bernstein


Attorneys

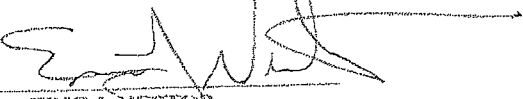
Commercial Litigation Branch

Civil Division

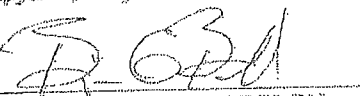
United States Department of Justice

THE UNITED STATES COAST GUARD


DATED: 12/8/15 BY: 
ROBERT MANGRUM
Office of Judge Advocate General
Acquisition and Procurement Law (CG-LPL)
United States Coast Guard

DATED: 12/8/15 BY: 
ERIC J. NESTOR
Assistant Judge Advocate General
For Acquisition and Litigation
United States Coast Guard

DEFENDANT BOLLINGER SHipyARDS, L.L.C. (formerly known as
Bollinger Shipyards, Inc.)

DATED: 12/7/15 BY: 
BENJAMIN G. BORDELON
President & Chief Executive Officer
Bollinger Shipyards, L.L.C.

DEFENDANT BOLLINGER SHipyARDS LOCKPORT, L.L.C.

DATED: 12/7/15 BY: 
BENJAMIN G. BORDELON
President & Chief Executive Officer
Bollinger Shipyards Lockport, L.L.C.

DEFENDANT HALTER-BOLLINGER JOINT VENTURE, L.L.C., by its
two members:

DATED:


BY:

BOLLINGER SHIPYARDS LOCKPORT, L.L.C., member
By: Benjamin G. Bordelon
Title: President & Chief Executive Officer

DATED:

12/4/15

BY:




VT HALTER MARINE, INC., member
By: John J. Prendergast, III
Title: Chief Executive Officer

COUNSEL FOR ALL DEFENDANTS

DATED:

12/4/15

BY:



RODERICK L. THOMAS
SCOTT M. MCCALED
MARK B. SWEET
JON W. BURD
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