

SECTION 217(A)  
MEMORANDUM OF AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
THE CITY OF TEXAS CITY  
FOR CONSTRUCTION, OPERATION, AND MAINTENANCE  
OF ADDITIONAL CAPACITY AT  
PLACEMENT AREA FIVE/SIX, TEXAS CITY, TX  
TEXAS CITY SHIP CHANNEL

This MEMORANDUM OF AGREEMENT (hereinafter the “MOA”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by and between the Department of the Army (hereinafter the “Government”), represented by the U.S. Army Engineer, Galveston District (hereinafter the “District Engineer”), and the City of Texas City (hereinafter the “Non-Federal Sponsor”), represented by Mayor Dedrick D. Johnson.

WITNESSETH, THAT:

WHEREAS, the Government and the Non-Federal Sponsor executed a PPA on 28 July 2007 for construction, operation, and maintenance of the Texas City Ship Channel (hereinafter the “Project”) pursuant to H.Doc. 92-199, 92nd Congress, 2nd Session; Section 201 of the River and Harbor Act of 1965, Public Law 89-298;

WHEREAS, Government constructed Placement Area 5/6, Texas City, Galveston County, Texas (hereinafter the “Dredged Material Placement Facility”) in connection with construction, operation, or maintenance of the Project;

WHEREAS, Section 217(a) of the Water Resources Development Act of 1996, as amended (33 U.S.C. 2326a(a)), authorizes the Government to provide additional capacity at a dredged material placement facility constructed by the Government beyond the capacity that is required for project purposes if the Non-Federal Sponsor agrees to pay all costs associated with the additional capacity;

WHEREAS, the Non-Federal Sponsor has requested that the Government make placement area improvements to include current dike raise, training dike raise, and all other associated work in order to create non-Federal Section 217(a) capacity for the use of the Non-Federal sponsor at the Dredged Material Placement Facility (hereinafter the “Additional Capacity”); and

WHEREAS, the Government and the Non-Federal Sponsor have the full authority and capability to perform in accordance with the terms of this Agreement.

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

1. The Non-Federal Sponsor shall pay all costs associated with design and construction of the non-Federal Additional Capacity, including the costs of environmental compliance and supervision and administration. The total cost of design and construction for the non-Federal additional capacity is estimated to be \$6,000,000. While the Government will endeavor to limit costs associated with the Additional Capacity to these estimates, the Non-Federal Sponsor acknowledges that the actual costs may exceed these estimated amounts due to claims or other unforeseen circumstances, and that the Non-Federal Sponsor is responsible for all costs, including any claims, related to the Additional Capacity. Additionally, since the Non-Federal Sponsor's financial obligations are limited to the Sponsor's Contribution, the amount of Additional Capacity will be determined based on the overall cost of the improvements to the Dredged Material Placement Facility as provided in the operations plan.

a. Within thirty (30) calendar days of execution of this MOA, the Non-Federal Sponsor shall provide to the Government \$6,000,000, which is the current estimated cost of design and construction of the Additional Capacity.

b. If at any time the Government determines that additional funds are needed, the Government shall meet with the Non-Federal Sponsor to discuss and agree on the additional amount needed, and no later than thirty (30) calendar days after agreement, the Non-Federal Sponsor shall provide to the Government the full amount of the additional funds agreed upon.

c. The Non-Federal Sponsor shall provide required funds to the Government by delivering a check payable to "FAO, USAED GALVESTON DISTRICT M3" to the District Engineer or providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government.

2. The Non-Federal Sponsor shall provide, at no cost to the Federal Government, all lands, easements, and rights-of-way required for construction, operation, and maintenance of the Additional Capacity, if any.

3. The Government shall not commence construction of the Additional Capacity until all applicable environmental laws and regulations have been complied with, including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and Section 401 of the Clean Water Act (33 U.S.C. 1341).

4. The Government and the Non-Federal Sponsor shall develop an operations plan that governs use of the Additional Capacity, including requirements for before and after surveys, sediment testing, and other information needed for utilization of the Additional Capacity.

5. The Government shall provide the Non-Federal Sponsor with quarterly reports of obligations for the Additional Capacity. The first such report shall be provided within thirty (30) calendar days after the final day of the first full quarter of the Government fiscal year

following receipt of funds pursuant to this MOA. Subsequent reports shall be provided within thirty (30) calendar days after the final day of each succeeding quarter.

6. Upon conclusion of design and construction and resolution of all relevant claims and appeals, the Government shall conduct a final accounting of design and construction costs for the Additional Capacity and furnish the Non-Federal Sponsor with the written results of such final accounting. Should the final accounting determine that additional funds are required from the Non-Federal Sponsor, after meeting and agreeing with the Government the Non-Federal Sponsor, within sixty (60) calendar days of receipt of written notice from the Government, shall provide the Government with the full amount of such additional required funds. If the costs of design and construction of the Additional Capacity are less than the amount of funds provided by the Non-Federal Sponsor, the Government, subject to the availability of funds, shall refund the excess to the Non-Federal Sponsor within sixty (60) calendar days of such written notice. Such final accounting does not limit the Non-Federal Sponsor's responsibility to pay all costs of design and construction costs for the Additional Capacity, including contract claims or any other liability that may become known after the final accounting.

7. The Non-Federal Sponsor shall hold and save the Government free from all damages arising from the Additional Capacity, except for damages due to the fault or negligence of the Government or its contractors.

8. In the exercise of their respective rights and obligations under this MOA, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

9. Notices.

a. Any notice, request, demand, or other communication required or permitted to be given under this MOA shall be deemed to have been duly given if in writing and either delivered personally or mailed, with return receipt, by registered or certified mail, as follows:

If to the Non-Federal Sponsor:

Dedrick D. Johnson  
Mayor of Texas City  
1801 9<sup>th</sup> Avenue N  
Texas City, TX 77590

If to the Government:

District Engineer  
USACE-Galveston  
2000 Fort Point Road  
Galveston, TX 77550

