

**INTERLOCAL AGREEMENT BETWEEN  
GULF COAST PROTECTION DISTRICT  
AND  
JEFFERSON COUNTY DRAINAGE DISTRICT NO. 7**

This Interlocal Agreement (the "Agreement") is made this 21st day of Feb 2023 between the Gulf Coast Protection District ("GCPD") and the Jefferson County Drainage District No. 7 ("DD7").

Pursuant to the authority granted by the "Texas Interlocal Cooperation Act," Chapter 791 Texas Government Code, providing for the cooperation between local governmental bodies, the parties hereto, in consideration of the premises and mutual promises contained herein, agree as follows:

WHEREAS, construction of the Sabine Pass to Galveston Bay Coastal Storm Risk Management Project ("S2G") was authorized by Section 1401(3)(3) of the America's Water Infrastructure Act of 2018, Public Law 115-270;

WHEREAS, the Port Arthur and Vicinity Coastal Storm Risk Management Project ("Project") is a separable element of S2G;

WHEREAS, federal appropriations provided under Title IV, Division B of the Bipartisan Budget Act of 2018, Public Law 115-123, enacted February 9, 2018, are available to undertake the design and construction of S2G;

WHEREAS, DD7, as the Non-Federal sponsors, and the U.S. Army Corps of Engineers (the "Government"), entered into a Project Partnership Agreement ("PPA") on November 29, 2019, for design; construction; and operation, maintenance, repair, replacement, and rehabilitation of the Project;

WHEREAS, state appropriations provided under Section 18.52 of Senate Bill 1, 87<sup>th</sup> Texas Legislature, Regular Session, effective September 1, 2021, are available to the GLO for partially funding the GCPD to meet the Non-Federal cost sharing requirements applicable to S2G, and as defined in the PPA, with additional state funding subject to Legislative appropriations, potential ad valorem tax receipts and other sources of income;

WHEREAS, the GCPD and the GLO also intend to enter into an LCA to utilize state appropriations provided under Section 18.52 of Senate Bill 1, 87<sup>th</sup> Texas Legislature, Regular Session, effective September 1, 2021, to fund a portion of the non-Federal share of the "construction costs" as defined in the PPA;

WHEREAS, the GCPD desires DD7 to engage and participate with the Government on all non-Federal roles and responsibilities defined in the PPA;

WHEREAS, this contract is made under the authority of the "Texas Interlocal Cooperation Act", Chapter 791 of the Texas Government Code, providing for the cooperation between local governmental bodies, and the parties hereto find that the subject of this Agreement

is necessary for the benefit of the public to advance the Project and that each party has the legal authority to perform and to provide the governmental function or service which is the subject matter of this contract; furthermore, each party finds that the performance of this Agreement is in the common interest of each party, and that the provision of services set forth herein by each party fairly compensates the other party for the provision of services provided by such other party.

NOW, THEREFORE, for mutual and adequate consideration received by each party, the GCPD and DD7 hereby contract as follows:

**TERMS AND CONDITIONS:**

**1. DD7's Responsibilities.** Pursuant to the request of the GCPD, and as agreed to by DD7, DD7 shall:

- a. serve as the Non-Federal sponsor for all Non-Federal sponsor obligations, roles, and responsibilities defined in the PPA;
- b. submit requests for reimbursement and/or advance payments to the GCPD to fund payments for acquisition of real property interests, placement area improvements, and relocations; to perform in kind contributions approved by the Government; and to provide any additional funds requested by the Government to bring the Non-Federal share to 35 percent of total construction costs for the Project;
- c. receive and hold in trust any and all funds advanced by the GCPD for the payment for acquisition of real property interests, placement area improvements, and relocations; to perform design, construction, or any other in kind contributions approved by the Government; and to provide any additional funds to the Government required to bring the total Non-Federal share to 35 percent of total construction costs for the Project;
- d. assist the GCPD as may be requested in outreach with the Texas Legislature, the Congress, and other entities for obtaining necessary federal and non-federal funding for the Project;
- e. provide routine monthly project status and financial reports to the GCPD on Project expenses, Project funding and Project implementation; and
- f. upon request, provide the GCPD with copies of all invoices, receipts, and other evidences of payment made by DD7 for the Non-Federal share of construction costs for the Project.

**2. GCPD Responsibilities.** Pursuant to the request of DD7, and as agreed to by the GCPD, the GCPD shall:

- a. submit requests for reimbursement and/or advance payments from SB 1 funds to the GLO for payments to DD7 for acquisition of real property interests, placement area improvements, and relocations; to perform design, construction, or any other in kind contributions approved by the Government; and to provide any additional funds to the

Government required to bring the total Non-Federal share to 35 percent of construction costs for the Project as defined in the PPA, to the extent that such funds are available to the GLO for such purpose;

b. remit payments to DD7 for acquisition of real property interests, placement area improvements, and relocations; to perform design, construction, or any other in kind contributions approved by the Government; and to provide any additional funds to the Government required to bring the total Non-Federal share to 35 percent of construction costs for the Project as defined in the PPA, to the extent that such funds are available to the GLO for such purpose; and

c. assume the leadership role for outreach with the Texas Legislature, the Congress, and other entities for obtaining necessary federal or non-federal funding for the Project, to the extent authorized by law.

**3. Immunity from Civil Liability.** The Parties expressly agree and acknowledge that the Work performed under this Agreement is related to a Homeland Security Activity as that term is defined pursuant to Tex. Gov't. Code Section 421.001(2)(3), such that the GCPD and DD7 and their employees or authorized representatives, shall not be responsible for any civil liability that arises or relates to the Work arising under this Agreement, or for any act or omission resulting in death, damage, or injury while acting in good faith and in the course and scope of its function to provide a service related to a Homeland Security Activity in accordance with Tex. Gov't. Code Section 421.062. Further, nothing herein shall be interpreted as a waiver of any immunity that might exist in the absence of this Agreement or this provision.

**4. No Waiver of Immunity.** This Agreement does not waive the GCPD's rights under the legal theory of sovereign immunity, and this Agreement does not waive DD7's rights under the legal theory of sovereign immunity.

**5. Third Party.** This Agreement shall not be interpreted to inure to the benefit of a third party not a party to this Agreement. This Agreement may not be interpreted to waive any statutory or common law defense, immunity, including governmental and sovereign immunity, or any limitation of liability, rights or responsibilities of any party to this Agreement otherwise provided by law.

**6. Joint Venture, Joint Enterprise and/or Agency.** The relationship between the Parties to this Agreement shall not create a partnership, joint venture and/or joint enterprise between the Parties. This Agreement does not appoint any party as agent for the other party; however, this provision does not prevent the GCPD from designating DD7 as a representative for communications with the Government regarding the responsibilities of DD7 during the construction of the Project as set forth above.

**7. Effective Date.** This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed.

**8. Termination of Agreement.** This Agreement shall terminate upon the fulfillment or termination of all obligations of the Parties for the construction of the Project. This Agreement may only be modified or amended by written agreement of the Parties hereto.

**9. Governing Law.** This agreement shall be construed in accordance with the laws of the State of Texas, is subject to all valid laws, rules, or regulations of any governmental authority having jurisdiction, incorporates the entire agreement between the parties, may only be changed or amended by written agreement of the parties hereto, and shall be binding on the parties hereto as well as their successors and assigns.

**10. Enforceability of Agreement.** If any provision of this agreement, whether a paragraph, section, sentence or any portion thereof, is determined by a court of competent jurisdiction to be null and void or unenforceable, such provision shall be deemed to be severed and the remaining provisions of this agreement shall remain in force and effect. Furthermore, the parties shall negotiate in good faith to modify this agreement so as to give full effect to the original intent of the parties via a provision as similar in terms to such null and void or unenforceable provision as may be possible and as may be legal, valid, and enforceable.

**11. Counterparts.** This Agreement may be executed in multiple counterparts (one for each party), each of which shall be deemed an original for all purposes, whether or not the parties sign the same document. In making proof of this Agreement, the proponent need not produce or account for more counterparts than are necessary to show execution by or on behalf of both parties.

**12. Notice.** All notices, demands, requests or communication required or permitted hereunder shall be in writing and shall either be (i) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the Parties at the addresses set forth below, or at such other addresses as may have been specified by written notice delivered in accordance herewith, or (ii) by fax and/or email addressed and sent to the Parties at the addresses as set forth below:

**To GCPD:**

Gulf Coast Protection District  
Executive Director  
3200 South Freeway #2600  
Houston, Texas 77026  
[Nicole.Sunstrum@gcpdtexas.com](mailto:Nicole.Sunstrum@gcpdtexas.com)

**To DD7**

Jefferson County Drainage  
District No. 7  
General Manager  
P.O. Box 3244  
Port Arthur, Texas 77642  
[pkelley@dd7.org](mailto:pkelley@dd7.org)  
With copy to  
Glenn H Steele Jr  
General Counsel  
P.O. Box 1117  
Port Neches, Texas 77651  
[ps@ghsteele.com](mailto:ps@ghsteele.com)


Any party may change its address for receiving notices or communications hereunder by giving notice of such new address in accordance with paragraph 7.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their authorized officers the day and year first above written.

JEFFERSON COUNTY DRAINAGE  
DISTRICT NO. 7

GULF COAST PROTECTION DISTRICT

By:   
Phil Kelley  
General Manager

By:   
Rachael N. Sunstrum  
Executive Director

ATTEST:  


ATTEST:  
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