

**MINUTES OF VIDEOCONFERENCE MEETING NO. 2384
COMMISSIONERS OF
JEFFERSON COUNTY DRAINAGE DISTRICT NO. 7**

Place: 4749 Twin City Highway, Suite 300
Port Arthur, Texas

Date: November 15, 2022

Present: Commissioners
Albert Moses, Jr. Phil Kelley, General Manager
James Gamble, Sr.
Matthew Vincent

Absent: Richard Beaumont
Lester Champagne

Visitors: Allen Sims, DD7 (Via Zoom)
Brady Girouard, DD7
Garrett Boudoin, DD7

Albert Moses, Jr., Board Secretary, chaired the meeting in absence of the Chairman Richard Beaumont and the Vice-Chairman Lester Champagne. The meeting was called to order at 2:00 p.m. by Chairman Moses after ascertaining that the Notice of Meeting had been posted in accordance with the law. Commissioner Moses gave the invocation.

Minutes of Meeting No. 2383

The Minutes of Meeting No. 2383 was approved as read.

Consider Resolution Authorizing Second Amended Local Cooperation Agreement with the Texas General Land Office

Resolution No. 496 Authorizing Second Amended Local Cooperation Agreement with the Texas General Land Office was presented to the Board for consideration. Mr. Phil Kelley stated that this matter has been discussed in previous board meetings. This amendment is to clarify and clean up the agreements. Originally, the \$200 million in

funding was divided between the District, Orange County, and the Velasco Drainage District. Orange County has entered an Agreement for funding with the Gulf Coast Protection District; and, therefore, the money previously allocated to Orange County from the original funding will now be reallocated to the District. The Second Amended Local Cooperation Agreement clarifies the District will receive Orange County's \$63 million in funding which will increase the District's share to approximately \$163 million of the \$200 million originally allocated. Orange County will also be signing an amended agreement releasing its claim on the funds. Commissioner Vincent moved to approve Resolution No. 496 Authorizing the Second Amended Local Cooperation Agreement with the Texas General Land Office. Commissioner Gamble seconded the motion. The Chairman voted aye. The motion carried. A copy of Resolution No. 496 is attached hereto and incorporated herein by reference.

Consider Resolution Ratifying Authorization for Reimbursement Agreement with Enterprise Refined Products Company, LLC

Resolution No. 497 Ratifying Authorization for Reimbursement Agreement with Enterprise Refined Products Company, LLC was presented to the Board for consideration. Mr. Phil Kelley stated that this agreement relates to work that is being done at P.S. #3, located on West Port Arthur Road. Enterprise Refined Products Company has agreed to relocate the perimeter fencing surrounding their facility which will allow the needed repairs to the stormwater discharge piping to be completed and supports. Mr. Kelley stated it would be more costly for the District to relocate the fencing in that it would have to go out for bids and utilize a vendor that is approved to perform work inside the facility. Therefore, it is timelier and more cost effective for Enterprise Refined Products Company to relocate the fencing and the District reimburse them. The

estimated cost utilizing an approved vendor to work in the Enterprise Refined Products Company is Thirty-Four Thousand Eight Hundred Forty-Nine and 86/100 (\$34,849.86) Dollars. Mr. Sims previously executed the reimbursement agreement not knowing that the agreement needed prior approval by the board. Consequently, said action needs the Board's ratification. Commissioner Gamble moved to approve Resolution No. 497 Ratifying Authorization for Reimbursement Agreement with Enterprise Refined Products Company, LLC. Commissioner Vincent seconded the motion. The Chairman voted aye. The motion carried. A copy of Resolution No. 497 is attached hereto and incorporated herein by reference.

Consider Approval of NISD's Request to Modify Drive Entrance Pertaining to Main C Loop Extension Project

Mr. Kelley stated that last fiscal year the District began to concrete line the raw ditch/channel that runs in and around the Nederland High School. During the construction of the project, Nederland Independent School District (NISD) began building a new high school on the school grounds. The District completed its project before NISD completed their construction. The design of the District's concrete work is not working well with the entrance to one of the parking areas. NISD is asking the District to pay Pena's Concrete and Demolition to alter the end of that channel. The modification will make the eighty-foot area easier to maintain while retaining the structural integrity of both projects. The estimate to modify the area is Eighteen Thousand Four Hundred Ninety-Five and 00/100 (\$18,495.00) Dollars. Mr. Garrett Boudoin recommends that the District pay for the modification. Commissioner Vincent moved to approve the Request to Modify the Drive Entrance Pertaining to Main C Loop Extension Project. Commissioner Gamble seconded the motion. The Chairman voted aye. The motion carried.

Consider Award of Bid for Diesel Engines and Reduction Gears for Foley & Ninth Avenue Pump Stations

Mr. Kelley stated that the bids were opened at the last meeting for the Diesel Engines and Reduction Gears for Foley & Ninth Avenue Pump Stations. Although Cummins Sales and Service was the only bidder, the award of the bid was tabled to ensure that the quotation included the required specifications. Historically, Cummins Sales and Service has been the only bidder on every engine replacement program. Mr. Kirby Johnson recommends accepting the bid of \$498,360.00. Commissioner Gamble moved to approve the Award of the Bid for the Diesel Engine and Reduction Gears for the Foley & Ninth Avenue Pump Stations to Cummins Sales and Service in the amount of Four Hundred Ninety-Eight Thousand Three Hundred Sixty and 00/100 (\$498,360.00) Dollars. Commissioner Vincent seconded the motion. The Chairman voted aye. The motion carried.

Receive, Open and Read the Names of Responding Firms to Request for Qualifications for Engineering Services for CDBG-MIT Grant Projects

Mr. Phil Kelley stated the District advertised for Request for Qualifications for Engineering Services for CDBG-MIT Grant Projects, which are the grant funds awarded to the District from the Southeast Texas Regional Planning Commission. The grant funds will be split between the District, Jefferson County Drainage District No. 6, Orange County, and Hardin County. The District's share is approximately \$42 million. Engineering Services are required to begin the project development of the CDBG-MIT Projects. Each of the responding firms will be scored by a committee according to grant requirements. There are no monetary values associated with the request for

qualifications. The following firms have responded to the request for qualifications for engineering services:

DEC, Formerly Dannenaum Engineering

Freese & Nichols Engineering

LJA Engineering

Receive, Open and Read the Names of Responding Firms to Request for Proposals for Grant Administration Services for CDBG-MIT Grant Projects

Mr. Phil Kelley stated the District also advertised for Request for Proposals for Grant Administration Services for CDBG-MIT Grant Projects, which proposals are also related to the CDBG-MIT Grant project. Mr. Sims stated that his plan is to award the project to one grant administrator and two or three of the engineering firms. This will allow the District to work on multiple projects simultaneously. Mr. Kelley stated that possible projects are still being discussed. The grant funding agreement requires that the projects be completed within five years. The application for each potential project is due the first week of January 2023 which the District has yet to identify. The following contractors responded to the request for proposals:

CONTRACTOR	BID AMOUNT
Langford CMS, Inc.	6% cap of the grant amount
Public Management, Inc.	3.75% cap of the grant amount
Traylor & Associates, Inc.	\$1,850,000 for grant administration services

Based on the form of the proposals, it will need to be determined if the percentages are per approved projects or the total amount of the grant.

Consider Pay Request No. 4 to N & T Construction, Inc. for the New Administration Building Project

A recommendation letter to approve Pay Request No. 4 to N & T Construction, Inc. was received from Sigma Engineers for construction of the New Administration Building project in the amount of Two Hundred Seventy Thousand Five and 20/100 (\$270,005.20) Dollars. Mr. Kelley stated that Mr. Sina Nejad recommends approving the subject pay request. Commissioner Gamble moved to approve Pay Request No. 4 to N & T Construction, Inc. for Construction of the New Administration Building in the amount of Two Hundred Seventy Thousand Five and 20/100 (\$270,005.20) Dollars. Commissioner Vincent seconded the motion. The Chairman voted aye. The motion carried.

Consider Pay Request No. 4 to Rebel Contractors, Inc. for Improvements to Blocks Bayou Ditch Phase 1 Project

A recommendation letter to approve Pay Request No. 4 to Rebel Contractors, Inc. was received from Texan Engineering and Consulting, LLC for improvements to Blocks Bayou Ditch Phase 1 in the amount of One Hundred Seven Thousand Six Hundred Thirty-Two and 67/100 (\$107,632.67) Dollars. Mr. Garrett Boudoin stated this payment is for channel excavation, removal of existing concrete liner, installation of 6" concrete liner, and the installation of structural rock backfill. The Contractor has completed 33% of the work using 34% of the contract time. Commissioner Vincent moved to approve Pay Request No. 4 to Rebel Contractors, Inc. for improvements to Blocks Bayou Ditch Phase 1 in the amount of One Hundred Seven Thousand Six Hundred Thirty-Two and 67/100 (\$107,632.67) Dollars. Commissioner Gamble seconded the motion. The Chairman voted aye. The motion carried.

Sabine Pass to Galveston Bay Project Summary

Mr. Brady Girouard gave a brief update on the Sabine Pass to Galveston Bay Project Summary and stated that there is no substantial progress to report. Design efforts continue. The District is not engaging in any actual construction until a decision has been made by USACE regarding the environmental issues. Contract 4 is going out for bid. It will be a design build effort with no HTRW issues. Most work will be done from the waterway with minimal disruption to the surrounding residential area.

Allen Sims had attended the National Waterways Conference Annual Meeting. He, Ray Russo and Chris Sallese were able to talk to the new Assistant Secretary of the Army about the HTRW issues. USACE has a new programs director for the Southwest Division. Mr. Russo and Mr. Sallese both know him. The new director is scheduled to visit Orange County on November 28th and will visit the District on November 29th. There will be a meeting and a site visit to show him the system.

Manager's Miscellaneous Reports

Mr. Phil Kelley presented the financial statements prepared by FMW, P.C. for the period ended October 31, 2022, and gave a collateral securities report as of October 31, 2022.

EXECUTIVE SESSION – CONSIDER AND TAKE ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION

No executive session was held.

Checks & Purchase Orders

Maintenance Fund

Ck. No. 21245 – Christus St. Elizabeth

\$485.00 – Employee Medical

Ck. No. 21246 – Dannenbaum Engineering

\$5,506.80 – Rodair Gully Detention HMGP Project

Ck. No. 21247 – Deep South Crane

\$3,320.00 – Crane, Operator & Transport Fees – P.S. #15

Ck. No. 21248 – ESRI

\$1,500.00 – GSI Software Maintenance Renewal

Ck. No. 21249 – FMW, P.C.

\$2,300.00 – Accounting Services

Ck. No. 21250 – LJA Engineering

\$1,092.00 – Stormwater Management Plan

Ck. No. 21250 – LJA Engineering

\$1,500.00 – Rodair Gully Detention HMGP Project

Ck. No. 21251 – LJA Environmental

\$3,548.00 – Sabine Pass to Galveston Bay Project

Ck. No. 21251 – LJA Environmental

\$705.00 – A-3-A & Groves Detention HMGP Projects

Ck. No. 21252 – M & S Unlimited

\$7,000.00 – Crane & Operator, Repairs at P.S. #16 Annex

Ck. No. 212253 – N & T Construction Co., Inc.

\$270,005.20 – Administration Building Project

Ck. No. 21254 – Port Arthur News

\$426.64 – CDBG-MIT Grant Administration & Engineering

Ck. No. 21255 – Ritter Forest Products

\$1,470.00 – Mat Rental

Ck. No. 21256 – Ron Lewis & Associates

\$3,500.00 – Legislative Consulting Fee

Ck. No. 21257 – Sigma Engineers

\$2,184.00 – Administration Building Project

Ck. No. 21258 – Soutex Surveyors

\$1,463.40 – Administration Building Project

Ck. No. 21259 – Sunbelt Rentals

\$853.48 – Concrete Saw Rental, Administration Building Project

Ck. No. 21260 – Texan Engineering

\$7,560.00 – General Engineering, Permits, Blocks Bayou Phase 1 Project

Ck. No. 21261 – TWCA Risk Management

\$228.00 – General Liability Final Audit

Ck. No. 21262 – Union Pacific Railroad Co.

\$3,297.52 – Sabine Pass to Galveston Bay Project – USACE Floodgate Relocation

Ck. No. 21263 – Waukesha-Pearce

\$7,202.00 – Komatsu Grader Rental, Road Repair

Ck. No. 21289 – Spencer Baker

\$180.55 – Employee Insurance Reimbursement

Maintenance Note Account

Ck. No. 1073 – Rebel Contactors, Inc.

\$107,632.67 – Improvements to Blocks Bayou Ditch Phase 1 Project

Commissioner Vincent moved that the checks from the Maintenance Fund and Maintenance Note Fund be approved for payment. Commissioner Gamble seconded the motion. The Chairman voted aye. The motion carried.

Chairman Moses asked if there was any other business to come before the Board. There was none.

At 2:52 p.m., Commissioner Gamble moved that the meeting be adjourned. Commissioner Vincent seconded the motion. The Chairman voted aye. The motion carried.


Albert Moses, Jr., Secretary


Matthew Vincent, Assistant Secretary

RESOLUTION NO. 496
AUTHORIZING SECOND AMENDED LOCAL COOPERATION
AGREEMENT WITH THE TEXAS GENERAL LAND OFFICE

WHEREAS, Jefferson County Drainage District No. 7 ("the District") entered into a Local Cooperation Agreement for the Jefferson County Element of the Sabine Pass to Galveston Bay Coastal Storm Risk Management Project (the "LCA") with the Texas General Land Office ("the GLO") on October 21, 2019, for funding of the non-federal cost share required for the project; and

WHEREAS, the GLO and the District wish to amend the LCA by revising the Projected Funding Request to reflect a modified not to exceed amount as set forth in the Amendment No. 2 attached hereto and incorporated herein by reference; and

WHEREAS, the GLO and the District agree to delete in its entirety the current Projected Funding Request and replace it with the Revised Projected Funding Request attached hereto and incorporated herein by reference; and

WHEREAS, the District wishes to authorize the District's Chairman to execute the Amendment No. 2 to the Local Cooperation Agreement with the GLO on behalf of the District.

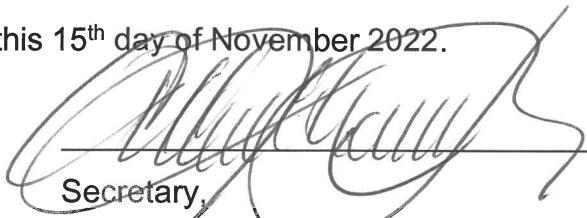
NOW, THEREFORE, BE IT RESOLVED by the COMMISSIONERS OF JEFFERSON COUNTY DRAINAGE DISTRICT NO. 7:

THAT it is in the best interest of District to enter into the referenced Amendment No. 2 with the General Land Office regarding modification of the not to exceed amount as set forth in the Revised Projected Funding Request.

THAT the Chairman be, and hereby is, authorized to take any and all action and is authorized to execute any and all instruments, documents, or filings in connection with the accomplishment of the transactions outlined in this resolution and to certify the adoption of such resolutions to such parties which such Chairman deems necessary or appropriate.

I, Albert Moses, Jr., Secretary of the Board of Commissioners of Jefferson County Drainage District No. 7, do hereby certify that the above is a true and correct copy of a resolution adopted by the Board of Commissioners of Jefferson County Drainage District No. 7, at their meeting No. 2384 held on the 15th day of November, 2022, upon motion made by Commissioner Vincent and seconded by Commissioner Gamble and adopted unanimously by said Board, a quorum being present.

Given under my hand this 15th day of November 2022.



Secretary,

Jefferson County Drainage District No. 7



**AMENDMENT NO. 2 TO
GLO CONTRACT NO. 20-127-000-C102**

THE GENERAL LAND OFFICE (the "GLO") and **JEFFERSON COUNTY DRAINAGE DISTRICT NO. 7** (the "District"), each a "Party" and collectively "the Parties" to GLO Contract No. 20-127-000-C102 (the "Contract"), desire to amend the Contract. Therefore, the Parties agree as follows:

1. **ATTACHMENT A** to the Contract, **Projected Funding Request**, is deleted in its entirety and replaced with the **Revised Projected Funding Request**, attached hereto as **ATTACHMENT A-1**.
2. This Amendment shall be effective upon the date of the last signature.
3. The terms and conditions of the Contract not amended herein shall remain in force and effect.

SIGNATURE PAGE FOLLOWS

**SIGNATURE PAGE FOR AMENDMENT NO. 2 TO
GLO CONTRACT No. 20-127-000-C102**

GENERAL LAND OFFICE

**JEFFERSON COUNTY DRAINAGE DISTRICT
No. 7**

Mark A. Havens, Chief Clerk/
Deputy Land Commissioner
Date of execution: _____

Name: _____
Title: _____
Date of execution: _____

- OGC _____
- DIV _____
- DIR _____
- DD _____
- SDD _____
- DGC _____
- GC _____

ATTACHED TO THIS AMENDMENT:

ATTACHMENT A-1 – Revised Projected Funding Request

Revised Projected Funding Request

This Attachment is the revised second amended budget for the Contract. This budget utilizes state appropriations provided to the GLO under Section 68 of Senate Bill 500, 86th Texas Legislature, Regular Session, effective June 6, 2019.

The GLO will reimburse or provide advance funding to the District for the Port Arthur and Vicinity Separable Element of the Sabine Pass to Galveston Bay ("S2G") Texas Coastal Storm Risk Management Project (the "Project"). The District shall use the funds provided under this Contract solely as creditable Non-Federal Cost Share matching funds for the Project, and in accordance with the schedules for each Cost Category listed herein. Total reimbursements or advance funding provided under this Contract shall not exceed \$162,965,068.23 during the period of September 1, 2019 to August 31, 2023.

Cost Categories

01 – Lands, Easements, and Rights of Way

State Fiscal Year	Old Budget	Amended amount	New Budget
2020	\$10,000,000	(\$10,000,000)	\$0.00
2021	\$0.00	\$0.00	\$0.00
2022	\$0.00	\$0.00	\$0.00
2023	\$0.00	\$0.00	\$0.00

- The GLO will distribute funds directly to the District for acquisition of lands, easements and rights of way. For all advance funding requests and distributions, the District must submit to the GLO all necessary supporting documentation and reporting in accordance with Contract Section 4.03, and the following documentation, as applicable:
 - Appraisal(s) of Fair Market Value consistent with the current Uniform Standards of Professional Appraisal Practice that has been approved by the U.S. Army Corps of Engineers (USACE), Galveston District, or cost estimate(s) agreed to in writing by the Facility/Utility Owner and approved by the GLO.
 - Documentation of costs required by Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, as amended (42 U.S.C 4630 and 4655), and Section 24.4 of the Uniform Regulations contained in 49 C.F.R. Part 24, and other applicable provisions of federal law as defined in Article III.E. of the Project Partnership Agreement between the USACE and the District for the Port Arthur and Vicinity Separable Element, S2G Project.
 - Documentation of incidental costs that the District incurred in acquiring any real property interests. Such incidental costs may include closing and title costs, appraisal costs, survey costs, attorney’s fees, plat maps, mapping costs, actual amounts expended for payment of any relocation assistance benefits, and other payments by the District for items that are generally recognized as compensable, and required to be paid, by applicable state law.

02 – Relocations

State Fiscal Year	Old Budget	Amended amount	New Budget
2020	\$0.00	\$2,072,698.00	\$2,072,098.00
2021	\$0.00	\$0.00	\$0.00
2022	\$0.00	\$36,646,625.76	\$36,646,625.76
2023	\$0.00	\$0.00	\$0.00

- The GLO will distribute funds directly to the District for the design and construction costs of any utilities/facilities relocation that are directly related to construction, operation, and maintenance of the Project. For all advance funding requests and distributions, the District must submit to the GLO all necessary supporting documentation and reporting in accordance with Contract Section 4.03. The District must also provide to the GLO all documentation regarding utility relocations described below.
- The cost for a relocation will be based on applicable principles of just compensation as negotiated between the District and the Utility/Facility Owner.
- Relocation costs include actual costs of performing the relocation, including planning, engineering, and design costs; supervision and administration costs; and documented incidental costs associated with performance of the relocation, as determined by the USACE.
- For all utility relocations, the District must:
 - Provide to the GLO a PDF of any existing District permit requiring the utility owner to pay the costs of relocation.
 - Provide notification to the GLO of any utility relocation which is not subject to an existing District permit.
 - For all relocations that have District permit language requiring the utility owner to pay the costs of relocation, the District must request the owner to comply with the permit and fund the relocation.
 - Provide documentation to the GLO if the utility owner cannot reasonably comply with the request.

03 – Engineering and Design (In-Kind)

State Fiscal Year	Old Budget	Amended amount	New Budget
2020	\$0.00	\$266,675.00	\$266,675.00
2021	\$0.00	\$534,020.65	\$534,020.65
2022	\$0.00	\$0.00	\$0.00
2023	\$0.00	\$0.00	\$0.00

- The GLO will distribute funds directly to the District for the in-kind design services approved by the USACE, Galveston District. For all advance funding requests and distributions, the District must submit to the GLO all necessary supporting documentation and reporting in accordance with Contract Section 4.03.

04 – Construction and Construction Management (35% cash contribution)

State Fiscal Year	Old Budget	Amended amount	New Budget
2020 Q1	\$1,744,750.00	(\$1,744,750.00)	\$0.00
2020 Q2	\$3,395,000.00	(\$3,395,000.00)	\$0.00
2020 Q3	\$995,750.00	\$34,435,137.52	\$35,430,887.52
2020 Q4	\$1,002,750.00	(\$1,002,750.00)	\$0.00

State Fiscal Year	Old Budget	Amended amount	New Budget
2021 Q1	\$1,002,750.00	(\$1,002,750.00)	\$0.00
2021 Q2	\$7,001,750.00	(\$7,001,750.00)	\$0.00
2021 Q3	\$882,000.00	(\$882,000.00)	\$0.00
2021 Q4	\$122,046,750.00	(\$122,046,750.00)	\$0.00

State Fiscal Year	Old Budget	Amended amount	New Budget
2022 Q1	\$0.00	\$3,400,000.00	\$3,400,000.00
2022 Q2	\$0.00	\$0.00	\$0.00
2022 Q3	\$0.00	\$0.00	\$0.00
2022 Q4	\$0.00	\$0.00	\$0.00

State Fiscal Year	Old Budget	Amended amount	New Budget
2023 Q1	\$0.00	\$24,500,000.00	\$24,500,000.00
2023 Q2	\$0.00	\$60,114,761.28	\$60,114,761.30
2023 Q3	\$0.00	\$0.00	\$0.00
2023 Q4	\$0.00	\$0.00	\$0.00

- The GLO will distribute funds directly to the District for the District's subsequent distribution to the USACE, Galveston District. For all advance funding requests and distributions, the District must submit to the GLO all necessary supporting documentation and reporting in accordance with Contract Section 4.03.
- The GLO will distribute funds quarterly to the District to for the District to pay the Non-Federal Share of Engineering and Design costs.
- The GLO will distribute funds to the District for the District to pay the Non-Federal Share of Construction and Construction Management Costs within 60 days prior to the USACE's award of a construction contract.
- Contracts scheduled to be awarded through Fiscal Year 2023 include:
 - FY20 Q3 – Contract PAV01 Levee Raise
 - FY23 Q2 – Contract PAV03A Pump Station Fronting Protection
 - FY23 Q3 – Contract PAV03B Floodwall and Levee
 - FY23 Q4 – Contract PAV03 Floodwall

THAT it is in the best interest of the District to ratify the actions of the District's Assistant Manager in entering into the Reimbursement Agreement with Enterprise Refined Products Company LLC pertaining to the relocation of security fencing surrounding the facility necessary for repairs to be made to the District's discharge canal at Pump Station #3, and for the agreement to pay one hundred percent (100%) of the total cost to remove and reconstruct the subject security fence.

That the Assistant Manager be, and hereby is, authorized to take any and all action and is authorized to execute any and all instruments, documents, or filings in connection with the accomplishment of the transactions outlined in this resolution and to certify the adoption of such resolutions to such parties which such Assistant Manager deems necessary or appropriate.

I, Albert Moses, Jr., Secretary of the Board of Commissioners of Jefferson County Drainage District No. 7, do hereby certify that the above is a true and correct copy of a resolution adopted by the Board of Commissioners of Jefferson County Drainage District No. 7, at their meeting No. 2384 held on the 15th day of November, 2022, upon motion made by Commissioner Gamble and seconded by Commissioner Vincent and adopted unanimously by said Board, a quorum being present.

Given under my hand this 15th day of November 2022.



Secretary

JEFFERSON COUNTY DRAINAGE DISTRICT NO. 7

REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT ("Agreement") is made and entered into as of this 1 day of November, 2022, by and between **ENTERPRISE REFINED PRODUCTS COMPANY LLC** ("COMPANY"), a Delaware limited liability company, whose address is 1100 Louisiana, Suite 1000, Houston, Texas 77002, and **Jefferson County Drainage District No. 7**, a governmental entity ("DD7"), whose address is P.O. Box 3244, Port Arthur, Texas 77642-1862. COMPANY and DD7 are also referred to herein individually as a "Party" and collectively as the "Parties".

WHEREAS, security fence relocation is necessary for repairs to be made to DD7's discharge canal at Pump Station #3 in Port Arthur, TX.

WHEREAS, DD7 agrees to pay for one hundred percent (100%) of the total cost to remove and reconstruct the security fence described herein.

NOW THEREFORE, for and in consideration of the premises and the mutual benefits to all parties, and intending hereby to be legally bound, it is understood and agreed as follows:

1. COMPANY will remove and replace approximately 542 linear feet of security fencing and one 24-ft double swing gate in order to accommodate the Project. This work on security fencing shall meet any and all requirements of applicable local, state and federal ordinances, statutes, and regulations of such authorities' specifications deemed necessary by such authorities as well as COMPANY design guidelines. All activities described in Paragraph 1 will hereinafter referred to as the "Work."
2. COMPANY estimates the total Costs to be paid by DD7 are \$34,849.86 (the "Estimated Costs"), as summarized in Exhibit A attached hereto. Implementation of the Work shall be based on a schedule agreed to by DD7 and COMPANY. The Estimated Costs shall include, but not be limited to, labor and materials to be paid to contractors or subcontractors to perform the work specific to the relocation. Labor and material fees include but are not limited to construction contractors, inspection, surveyor, land agents, and other such third-party service providers as necessary to complete the Work.
3. DD7 shall reimburse COMPANY for one hundred percent (100%) of the Estimated Costs for the Work. If Actual Costs exceed the Estimated Costs, COMPANY shall notify DD7 of the estimated increase in costs. Upon agreement between DD7 and COMPANY on the updated cost estimate, DD7 shall provide additional advance funding to COMPANY within 15 calendar days, so as to completely cover the entire amount of the COMPANY's Actual Costs to perform the Work.
4. The costs for the Estimated Costs summarized in Exhibit A are based on actual cost estimates from third-party consultants, contractors and historical costs for material and labor which COMPANY has paid for similar recent projects. Such cost estimate makes no provision of encountering unforeseen bad weather or any other unforeseen contingencies in connection with the Work and such contingencies will be included and accounted for in the total actual cost of the Work in a commercially reasonable manner.
5. Upon completion of the Work, COMPANY shall provide DD7 an accounting of actual time and actual expenses incurred by COMPANY. For internal costs, the accounting from COMPANY to DD7 shall include a description of each activity, the name and title of the

person performing the work, the date of the work, the number of hours of work performed by that person to the nearest one quarter hour (0.25 hour). In addition, COMPANY shall provide to DD7 complete copies of all invoices, statements, credit memoranda or other documentation of material costs as part of the accounting. Upon completion of the Work, COMPANY shall provide a final accounting to DD7 within 30 days of completion of the Work. If excess advance funds remain upon completion of the Work, COMPANY shall remit the excess advance funds to DD7 along with the final accounting for the Work.

6. COMPANY agrees to perform the Work in accordance with the requirements of the Project and the permitting agencies. COMPANY shall rely on its own consultants, engineers, employees, and contractors to design and implement the Work. DD7 is not responsible for designing, implementing, or supervising Work. DD7's only role is to fund 100% of the Costs as described more specifically above.

7. COMPANY and DD7 acknowledge and agree that nothing in this Agreement shall operate or be construed as a representation or guarantee that the activities of COMPANY will result in the Work being completed by any specific or anticipated date, and COMPANY shall have no liability whatsoever to DD7 for the failure to complete the Work. If COMPANY is unable or unwilling to complete the Work at any point and terminates the job DD7 will be reimbursed the unused advance payment and COMPANY and DD7 will use their best efforts to reach an agreement or understanding of how the Work can be completed to the satisfaction of COMPANY and DD7. COMPANY will undertake the Work in its normal course of business. The Work undertaken by COMPANY herein shall be provided with NO WARRANTY, EXPRESS OR IMPLIED, AS IS, WHERE IS, WITH ALL FAULTS, AND COMPANY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO ITS ACTIVITIES OR ANY MATTER HEREUNDER, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, OR CONFORMANCE TO MODELS OR SAMPLES OF MATERIAL. In no event shall COMPANY be liable to DD7 with respect to the Work or for any losses, costs, liabilities, obligations, or damages arising out of or in connection with such Work, whether arising in contract, tort, (including, but not limited to, negligence or strict liability) or otherwise. IT IS SPECIFICALLY AGREED THAT COMPANY SHALL HAVE NO OBLIGATION WHATSOEVER FOR, AND DD7 EXPRESSLY WAIVES, ANY LOST PROFITS, CONSEQUENTIAL, INDIRECT, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, DELAY DAMAGES WITH RESPECT TO THE WORK, OR THIS AGREEMENT, REGARDLESS OF HOW CAUSED, EXCEPT AND UNLESS CAUSED INTENTIONALLY BY ACT OR ACTS OF COMPANY'S CONTRACTORS, AGENTS OR EMPLOYEES CAUSING BODILY INJURY AND OR PROPERTY DAMAGE FOR WHICH THERE IS NO RELEASE. In no event shall DD7 be liable to COMPANY with respect to the Work or for any losses, costs, liabilities, obligations, or damages arising out of or in connection with such Work, whether arising in contract, tort, (including, but not limited to, negligence or strict liability) or otherwise. IT IS SPECIFICALLY AGREED THAT DD7 SHALL HAVE NO OBLIGATION WHATSOEVER FOR, AND COMPANY EXPRESSLY WAIVES, ANY LOST PROFITS, CONSEQUENTIAL, INDIRECT, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, DELAY DAMAGES WITH RESPECT TO THE WORK, OR THIS AGREEMENT, REGARDLESS OF HOW CAUSED EXCEPT AND UNLESS CAUSED INTENTIONALLY BY ACT OR ACTS OF DD7'S CONTRACTORS, AGENTS OR EMPLOYEES CAUSING BODILY INJURY AND OR PROPERTY DAMAGE FOR WHICH THERE IS NO RELEASE. Neither Party has any obligation to defend,

indemnify or hold harmless the other with respect to claims or lawsuits by third parties.

8. 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.
9. Except as otherwise provided in this Agreement, the Parties reserve any and all rights and remedies available at law or in equity. Before litigation is commenced, the parties agree to mediate any dispute before a mediator agreeable to both parties, in either Jefferson or Harris County, Texas and use their best reasonable efforts to resolve any such dispute.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

Jefferson County Drainage District No. 7

By: 

Title: *Asst. Mgr.*

Date: *11/2/2022*

Enterprise Refined Products Company LLC

By: 

Title: *Agent + Attorney in Fact*

Date: *11/01/2022*

EXHIBIT A

PROJECT OVERVIEW:

Enterprise Refined Products Company LLC (EP) owns and operates a tank farm facility adjacent to Jefferson County Drainage District 7's (DD7) C-5 Lateral Extension. To facilitate repairs to this canal, DD7 and EP have entered into a previously established Property Access Agreement, which would allow DD7 to use EP's existing terminal road for construction ingress and egress. To further enable constructability and future maintenance, EP has agreed to move approximately 550 LF of existing site fencing, providing a 35-foot-wide working area.

SCOPE OF WORK

The total cost of removal and construction of the new fencing is currently estimated to be **\$34,849.86** accomplished in accordance with the attached plans.