

**MODEL MOA FOR  
BENEFICIAL PLACEMENT OF DREDGED MATERIAL  
IN CONNECTION WITH DREGING OF A FEDERAL NAVIGATION PROJECT  
USING OTHER THAN THE FEDERAL STANDARD PLACEMENT ALTERNATIVE**

**August 3, 2015**

**APPLICABILITY AND INSTRUCTIONS:**

1. The attached model MOA is for the placement of dredged material, in connection with dredging of a Federal navigation project, using other than the Federal standard placement alternative, with the non-Federal interest paying all additional costs associated with such placement. The non-Federal interest must be an entity that meets the definition of section 221 of the Flood Control Act of the 1970, as amended (42 U.S.C. 1962d-5b), but does not have to be the non-Federal sponsor of the Federal navigation project.
2. Make all required insertions; remove this cover page; remove the open and close brackets and any instructional text; and ensure the spacing and page breaks throughout the agreement are appropriate.
3. Include the Certificate of Authority, Certification Regarding Lobbying, and the Non-Federal Interest's Self-Certification of Financial Capability as a part of the agreement package submitted for approval. These certificates can found at the following Corps website:  
[http://www.usace.army.mil/Missions/CivilWorks/ProjectPartnershipAgreements/ppa\\_forms.a.spx](http://www.usace.army.mil/Missions/CivilWorks/ProjectPartnershipAgreements/ppa_forms.a.spx)

MEMORANDUM OF AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
**[FULL NAME OF NON-FEDERAL INTEREST]**  
FOR DREDGED MATERIAL PLACEMENT DURING DREDGING OF  
**[FULL NAME OF THE PROJECT]**

This MEMORANDUM OF AGREEMENT (hereinafter the “MOA”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the Department of the Army (hereinafter the “Government”), represented by the U.S. Army Engineer, \_\_\_\_\_ District (hereinafter the “District Engineer”), and the **[FULL NAME OF THE NON-FEDERAL INTEREST]** (hereinafter the “Non-Federal Interest”), represented by **[TITLE OF NON-FEDERAL INTEREST’S REPRESENTATIVE SIGNING MOA]**.

WITNESSETH, THAT:

WHEREAS, the **[FULL NAME OF THE PROJECT]** (hereinafter the “Project”) was authorized pursuant to **[CITE AUTHORITY, INCLUDING SECTION NUMBER AND PUBLIC LAW NUMBER]**; and

WHEREAS, the Non-Federal Interest requests placement of **[DESCRIPTION OF DREDGED MATERIAL, INCLUDING LOCATION OF PLACEMENT]** (hereinafter the “dredged material placement”) and agrees to pay all costs of such placement that are in excess of the costs of the Federal Standard dredged material placement alternative identified by the Government as the least costly alternative consistent with sound engineering practices and meeting the environmental standards established by the Clean Water Act section 404(b)(1) evaluation process or ocean dumping criteria consistent with 33 C.F.R. Part 335.

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

1. The Non-Federal Interest shall provide to the Government funds to pay all costs, including the costs of environmental compliance, supervision and administration, and engineering and design, associated with the dredged material placement that exceed the costs of the Federal Standard dredged material placement alternative. While the Government will endeavor to limit the additional costs associated with the dredged material placement to the current estimate of \$\_\_\_\_\_, the Non-Federal Interest acknowledges that the actual costs for the dredged material placement that are in excess of the costs of the Federal Standard dredged material placement alternative may exceed such estimated amount due to claims or other unforeseen circumstances and that the Non-Federal Interest is responsible for all costs, including any claims, related to the dredged material placement that exceed the costs of the Federal Standard dredged material placement alternative.

2. Within \_\_\_\_\_(\_\_\_\_) calendar days of execution of this MOA, the Non-Federal Interest shall provide to the Government the sum of \$\_\_\_\_\_. If at any time the Government determines that additional funds are needed, the Government shall notify the Non-Federal Interest in writing of the amount, and no later than \_\_\_\_\_ (\_\_\_\_) calendar days from receipt of such notice, the Non-Federal Interest shall provide to the Government the full amount of the additional funds.
3. The Non-Federal Interest shall provide the funds to the Government by delivering a check payable to “FAO, USAED \_\_\_\_\_ District” to the District Engineer or providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government.
4. The Government shall not commence the dredged material placement until: a) 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); and the Non-Federal Interest has provided to the Government authorization for entry to all lands, easements and rights-of-way the Government determines to be required for the dredged material placement.
5. The Government shall provide the Non-Federal Interest with quarterly reports of obligations for the dredged material placement. The first such report shall be provided within \_\_\_\_\_(\_\_\_\_) calendar days after the final day of the first full quarter of the Government fiscal year following receipt of the funds pursuant to this MOA. Subsequent reports shall be provided within \_\_\_\_\_(\_\_\_\_) calendar days after the final day of each succeeding quarter until the Government concludes the dredged material placement.
6. Upon conclusion of the dredged material placement and resolution of all relevant claims and appeals, the Government shall conduct a final accounting of the costs of such work and furnish the Non-Federal Interest with written notice of the results of such final accounting. Such final accounting shall in no way limit the Non-Federal Interest’s responsibility to pay for all costs associated with the dredged material placement that exceed the costs of the Federal Standard dredged material placement alternative, including contract claims or any other liability that may become known after the final accounting. If such costs are more than the amount of funds provided by the Non-Federal Interest, the Non-Federal Interest shall provide the required additional funds within \_\_\_\_\_(\_\_\_\_) calendar days of such written notice by delivering a check payable to “FAO, USAED \_\_\_\_\_ District” to the District Engineer or providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government. If such costs are less than the amount of funds provided by the Non-Federal Interest, the Government shall refund the excess to the Non-Federal Interest within \_\_\_\_\_(\_\_\_\_) calendar days of such written notice, subject to the availability of funds.
7. Before either party to this MOA may bring suit in any court concerning an issue relating to this MOA, such party must first seek in good faith to resolve the issue through negotiation or other forms of nonbinding alternative dispute resolution mutually acceptable to the parties.

8. The Non-Federal Interest shall hold and save the Government free from all damages arising from the dredged material placement, except for damages due to the fault or negligence of the Government or its contractors.

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

10. 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 by registered or certified mail, with return receipt, as follows:

If to the Non-Federal Interest:

**[TITLE AND ADDRESS]**

If to the Government:

**[TITLE AND ADDRESS]**

b. A party may change the recipient or address to which such communications are to be directed by giving written notice to the other party in the manner provided in this paragraph.

11. This MOA may be modified or amended only by written, mutual agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the **[GOVERNMENT REPRESENTATIVE]**.

DEPARTMENT OF THE ARMY                      **[FULL NAME OF NON-FEDERAL INTEREST]**

BY:           **[SIGNATURE]**            
          **[TYPED NAME]**  
          **[TITLE IN FULL]**

BY:           **[SIGNATURE]**            
          **[TYPED NAME]**  
          **[TITLE IN FULL]**

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_