



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
441 G STREET, NW  
WASHINGTON, DC 20314-1000

CECW-CO

JUL 14 2016

MEMORANDUM FOR COMMANDERS

SUBJECT: Implementation Guidance for Section 2106 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) – Additional Measures at Donor Ports and Energy Transfer Ports

1. Section 2106 of WRRDA 2014 authorizes the Secretary to provide funds to donor ports and energy transfer ports, subject to the availability of appropriations and the requirements of Section 2106. In addition, Section 2106 specifies the purposes for which the ports may use such funds. A copy of Section 2106 of WRRDA 2014 (33 U.S.C. 2238c) is enclosed.

2. Section 2106(a) provides definitions for donor port and energy transport port. Based on these definitions, the following ports qualify as donor ports and energy transfer ports:

Donor Ports:

Long Beach, CA 1/  
Los Angeles, CA  
Miami, FL  
New York/New Jersey, NY & NJ 1/  
Seattle, WA  
Tacoma, WA

Energy Transfer Ports:

Mobile, AL  
Long Beach, CA 1/  
Baton Rouge, LA  
Lake Charles, LA  
New Orleans, LA  
Plaquemines, LA  
South Louisiana, LA  
Baltimore, MD  
New York/New Jersey, NY & NJ 1/  
Beaumont, TX  
Corpus Christi, TX  
Houston, TX

CECW-CO

SUBJECT: Implementation Guidance for Section 2106 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) – Additional Measures at Donor Ports and Energy Transfer Ports

Texas City, TX  
Norfolk, VA

1/ The ports of Long Beach and New York/New Jersey qualify as both donor ports and energy transfer ports. Section 2106 prohibits ports from receiving funds as both a donor port and an energy transfer port, and both ports have elected to receive funds as a donor port.

3. Section 2106(e)(f) specifies that for each fiscal year(FY), amounts made available to carry out Section 2106 shall be provided in equal amounts to donor ports and energy transfer ports, e.g. if \$50 million is provided, \$25 million would be allocated to donor ports and \$25 million would be allocated to energy transfer ports. Section 2106(b)(2) further specifies that funds provided for energy transfer ports shall be divided equally among all states with energy transfer ports. Furthermore, the Joint Explanatory Statement accompanying the Energy and Water Development and Related Agencies Appropriations Act, 2016, provides that of funds provided in that Act for donor ports, 50 percent of the funds shall be allocated equally among the eligible donor ports and 50 percent shall be allocated based on each eligible donor port's percentage of the total Harbor Maintenance Tax revenues generated at such ports. This methodology, with which the donor ports have agreed, will be used in allocating funds among the donor ports. Although the Congressional direction addressed donor ports only, energy transfer ports within the State of Louisiana are electing to distribute funds among the Louisiana ports in accordance with the direction specified for the donor ports, whereas energy transfer ports within the State of Texas are electing to distribute funds equally among the Texas ports. A spreadsheet showing the FY 2016 allocations is attached. The methodology for donor ports and energy transfer ports as applied for the FY 2016 allocations will be used in future years.

4. Section 2106 involves the provision of funds to ports for work that is traditionally a non-federal responsibility; therefore, budgeting for these funds will have a low priority for inclusion in the President's annual budget. Districts, however, should canvas their respective donor and energy transfer ports each year during development of the annual budgets and work plans to obtain feedback from the ports on what work/activities the ports would accomplish if Congress appropriates funds for Section 2106. The district will then enter work packages in the Corps of Engineers Civil Work Integrated Funding Database under the Civil Works maintenance project associated with the port, using Category/Class/Subclass (CCS) Code "11D", Work Category Code "61123", and Phase Activity Code "DE".

CECW-CO

SUBJECT: Implementation Guidance for Section 2106 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) – Additional Measures at Donor Ports and Energy Transfer Ports

5. Uses of Appropriated Section 2106 Funds.

a. Section 2106 provides that funds provided to ports under this section may be used for the following purposes:

(1) To provide payments to importers entering cargo or shippers transporting cargo through that port, as calculated by U.S. Customs and Border Protection according to the amount of the harbor maintenance tax collected;

(2) For expanded uses, which as defined in Section 210(f) of the Water Resources Development Act of 1986, as amended (33 USCS § 2238(f)), means:

(a) Maintenance dredging of a berth in a harbor that is accessible to a Federal navigation project and that benefits commercial navigation at the harbor.

(b) Maintenance dredging and placement of legacy contaminated sediment, and sediment unsuitable for open water disposal, if:

(c) Such dredging and placement benefits commercial navigation at the harbor; and

(d) Such sediment is located in and affects the maintenance of a Federal navigation project or is located in a berth that is accessible to a Federal navigation project; and

(3) Environmental remediation related to dredging berths and Federal navigation channels.

b. Activities associated with expanded uses and environmental remediation related to dredging berths and Federal navigation channels for which the Section 2106 funds may be used include non-federal berth and access channel dredging and dredged material placement of material from berths, access channels, and legacy-contaminated sediments related to dredging berths and Federal navigation channels; necessary engineering and design and supervision administration, including hydrographic surveys, dredged material testing and monitoring, permitting; and, environmental documentation.

CECW-CO

SUBJECT: Implementation Guidance for Section 2106 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) – Additional Measures at Donor Ports and Energy Transfer Ports

6. Procedures:

a. Funding Notification: As funds are appropriated to carry out Section 2106, USACE Districts will notify the non-federal sponsors of qualifying donor ports and energy transfer ports of the estimated amount of funding to be provided based on the methodology for calculating the port's share, less reductions, if any, for savings & slippages, one percent holdbacks, across the board reductions, etc. The non-federal sponsor should provide written notice to the USACE District advising of whether the funds should be: 1) issued to the non-federal sponsor to carry out work for which Section 2106 funds are provided, 2) retained by the district to perform such work on behalf of the non-federal sponsor, or 3) transferred to the U.S. Customs and Border Protection to provide payments to shippers and importers.

b. Issuance of Funds: Following apportionment of Section 2106 funds:

(1) If a non-federal sponsor wants the Section 2106 funds to be used to provide payments to importers entering cargo or shippers transporting cargo through that port, HQUSACE will transfer, via the Intra-Governmental Payment and Collection (IPAC) system, those funds directly to the Commissioner of U.S. Customs and Border Protection (CBP). The CBP is responsible for making payments to importers and shippers and non-federal sponsors should work directly with the CBP regarding distribution of the funds.

(2) If a non-federal sponsor wants to perform work using the Section 2106 funds, the district and non-federal sponsor will execute the attached Memorandum of Agreement (MOA) (enclosure 2), which allows the district to provide funds to the non-federal sponsor and describes the non-federal sponsor's responsibilities regarding use of the funds and reporting requirements. After execution of the MOA and receipt of work allowances for Section 2106 funds, the district may provide funds to the non-federal sponsor. As required by the MOA, the non-federal sponsor must provide reports to the district detailing the use of the funds and the benefits achieved with the funds within 30 days after the end of each Federal fiscal year and within 30 days after completion of all work under the MOA.

(3) If a non-federal sponsor requests that the Corps perform work using the Section 2106 funds, and the Corps agrees, the district and non-federal sponsor will

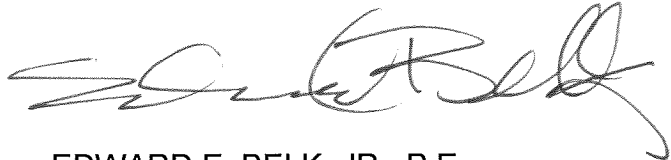
CECW-CO

SUBJECT: Implementation Guidance for Section 2106 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) – Additional Measures at Donor Ports and Energy Transfer Ports

execute the attached MOA (enclosure 3), which provides for retention of the funds by the district to carry out work.

c. Reporting Requirements: By October 31 of each year, each district with donor ports or energy transfer ports shall submit a report, including any information provided by the non-federal sponsors, through the Major Subordinate Command, to HQUSACE, Attn: CECW-CO detailing how the Section 2106 funds were expended and outlining the benefits achieved with the Section 2106 funds.

d. Report to Congress. Following receipt of the district reports, HQUSACE will prepare a report to Congress which provides an assessment of the impact of the amounts provided and used under Section 2106 on those ports that received funds and any impact on domestic harbors or ports that did not receive funds under this section.



Encls

EDWARD E. BELK, JR., P.E.  
Chief, Operations and Regulatory Division  
Directorate of Civil Works

CECW-CO

SUBJECT: Implementation Guidance for Section 2106 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) – Additional Measures at Donor Ports and Energy Transfer Ports

Section 2106. ADDITIONAL MEASURES AT DONOR PORTS AND ENERGY TRANSFER PORTS

(a) *DEFINITIONS.*-In this section:

(1) *CARGO CONTAINER.*-The term "cargo container" means a cargo container that is 1 Twenty-foot Equivalent Unit.

(2) *DONOR PORT.*-The term "donor port" means a port

(A) that is subject to the harbor maintenance fee under section 24.24 of title 19, Code of Federal Regulations (or a successor regulation);

(B) at which the total amount of harbor maintenance taxes collected comprise not less than \$15,000,000 annually of the total funding of the Harbor Maintenance Trust Fund established under section 9505 of the Internal Revenue Code of 1986;

(C) that received less than 25 percent of the total amount of harbor maintenance taxes collected at that port in the previous 5 fiscal years; and

(D) that is located in a State in which more than 2,000,000 cargo containers were unloaded from or loaded on to vessels in fiscal year 2012.

(3) *ENERGY COMMODITY.*-The term "energy commodity" includes-

(A) petroleum products;

(B) natural gas;

(C) coal;

(D) wind and solar energy components; and

(E) biofuels.

(4) *ENERGY TRANSFER PORT.*-The term "energy transfer port" means a port-

(A) that is subject to the harbor maintenance fee under section 24.24 of title 19, Code of Federal Regulation (or any successor regulation); and

(B)(i) at which energy commodities comprised greater than 25 percent of all commercial activity by tonnage in fiscal year 2012; and

(ii) through which more than 40,000,000 tons of cargo were transported in fiscal year 2012.

(5) *EXPANDED USES.*-The term "expanded uses" has the meaning given the term in section 210(f) of the Water Resources Development Act of 1986 (33 U.S. C. 2238(f)).

(6) *HARBOR MAINTENANCE TAX.*-The term "harbor maintenance tax" has the meaning given the term in section 210(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(f)).

(b) *AUTHORITY.*-

(1) *IN GENERAL.*-Subject to the availability of appropriations, the Secretary may provide to donor ports and energy transfer ports amounts in accordance with this section.

(2) *LIMITATIONS.*-Amounts provided under this section (A) for energy transfer ports shall be divided equally among all States with an energy transfer port; and

(B) shall be made available to a port as either a donor port or an energy transfer port and no port may receive amounts as both a donor port and an energy transfer port.

(c) *USE OF FUNDS.*-Amounts provided under this section may be used by a donor port or an energy transfer port-

(1) to provide payments to importers entering cargo or shippers transporting cargo through that port, as calculated by U.S. Customs and Border Protection according to the amount of harbor

CECW-CO

SUBJECT: Implementation Guidance for Section 2106 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) – Additional Measures at Donor Ports and Energy Transfer Ports

*maintenance taxes collected;*

*(2) for expanded uses; or*

*(3) for environmental remediation related to dredging berths and Federal navigation channels.*

*(d) ADMINISTRATION OF PAYMENTS.-If a donor port or an energy transfer port elects to provide payments to importers or shippers under subsection (c), the Secretary shall transfer the amount that would otherwise be provided to the port under this section that is equal to those payments to the Commissioner of U.S. Customs and Border Protection to provide the payments to the importers or shippers.*

*(e) REPORT TO CONGRESS.-*

*(1) IN GENERAL.-Not later than 18 months after the date of enactment of this section, the Secretary shall assess the impact of the authority provided by this section and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report on the results of that assessment, including any recommendations for amending or reauthorizing the authority.*

*(2) FACTORS.-In carrying out the assessment under paragraph (1), the Secretary shall assess-*

*(A) the impact of the amounts provided and used under this section on those ports that received funds under this section; and*

*(B) any impact on domestic harbors and ports that did not receive funds under this section.*

*(f) AUTHORIZATION OF APPROPRIATIONS.-*

*(1) IN GENERAL.-There is authorized to be appropriated to carry out this section \$50,000,000 for each of fiscal years 2015 through 2018.*

*(2) DIVISION BETWEEN DONOR PORTS AND ENERGY TRANSFER PORTS.-For each fiscal year, amounts made available to carry out this section shall be provided in equal amounts to donor ports and energy transfer ports.*

*(3) ADDITIONAL APPROPRIATIONS.-If the target total budget resources under subparagraphs (A) through (D) of section 2101(b)(1) are met for each of fiscal years 2015 through 2018, there is authorized to be appropriated to carry out this section \$50,000,000 for each of fiscal years 2019 through 2022.*

WRRDA Section 2106 Funding Distribution									
(Millions)									
The tables below illustrate alternative methods for calculating funding distribution for donor Ports and Energy Transfer Ports.									
The alternative methods include equal distribution, distribution based on the percentage of Harbor Maintenance Tax (HMT) paid, and split distribution based on 50% of the equal distribution and 50% of the HMT distribution.									
Appropriation (\$M) <u>1/</u>	25 Enter an amount, \$50 M is max WRRDA authorization								
Donor Port (50%) <u>2/</u>	12.5								
Energy Transfer (50%) <u>2/</u>	12.5								
	Distribution Method								
	Equal Port	HMT %	HMT Share	Split <u>4/ 5/</u>	Split <u>4/ 5/</u>	Calculated Share	Final Allocation <u>6/</u>		
1 Long Beach <u>3/</u>	\$2.083	24.10%	\$3.013	\$2.548	\$2.548	\$2.548	\$2.522		
2 Los Angeles	\$2.083	32.60%	\$4.075	\$3.079	\$3.079	\$3.048	\$3.048		
3 Miami	\$2.083	2.70%	\$0.338	\$1.210	\$1.210	\$1.198	\$1.198		
4 New York/New Jersey <u>3/</u>	\$2.083	28.90%	\$3.613	\$2.848	\$2.848	\$2.819	\$2.819		
5 Seattle	\$2.083	6.00%	\$0.750	\$1.417	\$1.417	\$1.403	\$1.403		
6 Tacoma	\$2.083	5.70%	\$0.713	\$1.398	\$1.398	\$1.384	\$1.384		
Total Donor Ports	\$12.500	100.00%	\$12.500	\$12.500	\$12.500	\$12.375	\$12.375		
	Distribution Method								
	Equal State <u>7/</u>	Equal Port	HMT %	HMT Share	Split <u>4/</u>	Calculated Share	Final Allocation <u>6/</u>		
1 Ports in Louisiana <u>8/</u>	\$2.500								
South Louisiana		\$0.500	23.80%	\$0.595	\$0.548	\$0.548	\$0.542		
New Orleans		\$0.500	18.40%	\$0.460	\$0.480	\$0.480	\$0.475		
Baton Rouge		\$0.500	15.10%	\$0.378	\$0.439	\$0.439	\$0.434		
Plaquemines		\$0.500	18.40%	\$0.460	\$0.480	\$0.480	\$0.475		
Lake Charles		\$0.500	24.30%	\$0.608	\$0.554	\$0.554	\$0.548		
2 Ports in Texas <u>9/</u>	\$2.500								
Houston		\$0.625	54.60%	\$1.365	\$0.995	\$0.995	\$0.619		
Beaumont		\$0.625	17.70%	\$0.443	\$0.534	\$0.534	\$0.619		
Corpus Christi		\$0.625	14.40%	\$0.360	\$0.493	\$0.493	\$0.619		
Texas City		\$0.625	13.30%	\$0.333	\$0.479	\$0.479	\$0.619		
3 Baltimore	\$2.500					\$2.500	\$2.475		
4 Long Beach <u>3/</u>									
5 Mobile	\$2.500					\$2.500	\$2.475		
6 New York/New Jersey <u>3/</u>									
7 Norfolk	\$2.500					\$2.500	\$2.475		
Total Energy Transfer Ports						\$12.500	\$12.375		
Notes:									
<u>1/</u> FY 2016 Appropriation was \$25 million.									
<u>2/</u> Section 2106 divides funds equally between Donor Ports and Energy Transfer Ports.									
<u>3/</u> Port of Long Beach and Port of New York/New Jersey qualified for both Donor Port and Energy Transfer Port eligible. Each chose to be a Donor Port for FY 2016 funding.									
<u>4/</u> "Split" is 50% Equal, plus 50% HMT percentage.									
<u>5/</u> The Joint Explanatory Statement accompanying the Energy and Water Development and Related Agencies Appropriations Act, 2016, provides that of funds provided in that Act for donor ports, 50 percent of the funds shall be allocated equally among the eligible donor ports and 50 percent shall be allocated based on each eligible donor port's percentage of the total Harbor Maintenance Tax revenues generated at such ports.									
<u>6/</u> All Statement of Managers amounts are subject to a 1% statutory deduction for emergency activities.									
<u>7/</u> Section 2106 specifies that funds provided for Energy Transfer Ports shall be divided equally among all states with Energy Transfer Ports.									
<u>8/</u> Louisiana ports chose the "Split" distribution.									
<u>9/</u> Texas ports chose the "Equal" distribution.									



MEMORANDUM OF AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
**[FULL NAME OF SPONSOR]**  
CONCERNING WORK USING FUNDS MADE AVAILABLE  
PURSUANT TO SECTION 2106 OF THE WATER RESOURCES REFORM AND  
DEVELOPMENT ACT OF 2014

This MEMORANDUM OF AGREEMENT (hereinafter "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 SPONSOR]** (hereinafter the "Sponsor") for the **[INSERT NAME OF PORT]** (hereinafter the "Port"), represented by **[TITLE OF SPONSOR'S REPRESENTATIVE SIGNING MOA]**.

WITNESSETH, THAT:

WHEREAS, section 2106 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2238) (hereinafter "Section 2106") authorizes the Secretary of the Army, subject to the availability of funds, to provide funds to donor ports and energy transfer ports to be used for certain purposes;

WHEREAS, the Port qualifies as **[INSERT, as applicable, either "a donor port" or "an energy transfer port"]**;

WHEREAS, funds have been appropriated in fiscal year 2016 to carry out Section 2106 and may be appropriated in subsequent fiscal years; and

WHEREAS, the Sponsor desires that the Government retain funds provided under Section 2106 for the Government to carry out expanded uses, as that term is defined in Section 210(f) of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2238(f)), or environmental remediation related to dredging berths and Federal navigation channels.

NOW, THEREFORE, the Parties agree as follows:

1. Using the funds that otherwise would have been provided to the Sponsor under Section 2106 (hereinafter "Section 2106 funds"), the Government shall carry out work in accordance with the Work Plan to be developed by the Government and the Sponsor. This work may include, but is not limited to, maintenance dredging of non-Federal berthing areas and access channels; placement of material dredged from berthing areas and access channels;

maintenance dredging and placement of legacy-contaminated sediment and sediment unsuitable for open water placement, if such dredging and placement would benefit commercial navigation at the harbor and such sediment is located in and affects the maintenance of a Federal navigation project; necessary engineering, design, and supervision and administration, including hydrographic surveys; dredged material testing and monitoring; permitting; and environmental documentation. While the Government will endeavor to limit costs to available Section 2106 funds, the Sponsor acknowledges that actual costs may exceed such amounts due to claims or other unforeseen circumstances and that the Sponsor is responsible for all costs, including any claims, related to work carried out by the Government under this MOA.

2. No later than thirty days after execution of this MOA, the Government and the Sponsor shall develop a Work Plan. The Work Plan shall identify the dredging and other work to be carried out using Section 2106 funds; the schedules for completion of compliance with applicable environmental laws and regulations and for initiation of dredging and other work; and the Government's cost estimates for various work items. On at least an annual basis, the Government and the Sponsor shall review the Work Plan and revise it as appropriate.

a. If the Government projects at any time that the costs of work under this MOA may exceed available Section 2106 funds, the Government shall provide written notice to the Sponsor, and the Government and Sponsor shall adjust the Work Plan to remain within available Section 2106 funds or the Sponsor may provide additional funds to cover such costs by delivering a check payable to "FAO, USAED [**Insert District and EROC Code**]" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government.

b. In the unlikely event that the costs of work exceed available Section 2106 funds, the Government shall provide written notice to the Sponsor of the amount involved, and no later than thirty calendar days after such notice, the Sponsor shall provide that full amount by one of the methods described in paragraph 2.a.

3. The Government shall provide the Sponsor with quarterly reports of obligations for work under this MOA. The first such report shall be provided within thirty calendar days after the final day of the first full quarter of the Government's fiscal year following execution of this MOA. Subsequent reports shall be provided within thirty calendar days after the final day of each succeeding quarter until the Government completes all work under this MOA.

4. In the exercise of their respective roles and responsibilities under this MOA, the Government and the Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

5. 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 Sponsor:

**[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.

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

7. Upon not less than thirty calendar days written notice to the other party, either party may elect to terminate performance of future work under this MOA. In the event of termination, the parties shall conclude their activities under this MOA. Termination has no effect on any obligation previously incurred

IN WITNESS WHEREOF, the parties have executed this MOA as of the day, month, and year first above written.

THE DEPARTMENT OF THE ARMY

[FULL NAME OF SPONSOR]

BY:           [SIGNATURE]            
      [TYPED NAME]  
      [Insert Colonel, U.S. Army or  
      Lieutenant Colonel, U.S. Army, as  
      applicable]  
      District Engineer

BY:           [SIGNATURE]            
      [TYPED NAME]  
      [Insert Full Title]

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

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

MEMORANDUM OF AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
**[FULL NAME OF SPONSOR]**  
CONCERNING THE PROVISION OF FUNDS  
PURSUANT TO SECTION 2106 OF THE WATER RESOURCES REFORM AND  
DEVELOPMENT ACT OF 2014

This MEMORANDUM OF AGREEMENT (hereinafter "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 SPONSOR]** (hereinafter the "Sponsor") for the **[INSERT NAME OF PORT]** (hereinafter the "Port"), represented by **[TITLE OF SPONSOR'S REPRESENTATIVE SIGNING MOA]**.

WITNESSETH, THAT:

WHEREAS, Section 2106 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2238) (hereinafter "Section 2106") authorizes the Secretary of the Army, subject to the availability of funds, to provide funds to donor ports and energy transfer ports to be used for certain purposes;

WHEREAS, the Port qualifies as **[INSERT, as applicable, either "a donor port" or "an energy transfer port"]**;

WHEREAS, funds have been appropriated in fiscal year 2016 to carry out Section 2106 and may be appropriated in subsequent fiscal years; and

WHEREAS, the Sponsor will use the funds provided under this MOA to carry out expanded uses, as that term is defined in Section 210(f) of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2238(f)), or environmental remediation related to dredging berths and Federal navigation channels.

NOW, THEREFORE, the Parties agree as follows:

1. Following apportionment of funds provided under Section 2106 and receipt of work allowances, the Government shall provide to the Sponsor the Port's share of such funds. For fiscal year 2016, the Port's share is \$\_\_\_\_\_.
2. The Sponsor shall use funds provided under this MOA to carry out expanded uses or environmental remediation related to dredging berths and Federal navigation channels, and

the Sponsor shall obtain all applicable licenses and licenses necessary to carry out such work. Activities for which these funds may be used include maintenance dredging of non-Federal berthing areas and access channels; placement of material dredged from berthing areas and access channels; maintenance dredging and placement of legacy-contaminated sediment and sediment unsuitable for open water placement, if such dredging and placement would benefit commercial navigation at the harbor and such sediment is located in and affects the maintenance of a Federal navigation project; necessary engineering, design, and supervision and administration, including hydrographic surveys; dredged material testing and monitoring; permitting; and environmental documentation.

3. By October 30<sup>th</sup> of each year, the Sponsor shall submit to the Government a report detailing the use of the funds and the benefits achieved with such funds, with a final report submitted no later than thirty days after completion of all work using the funds.

4. In the exercise of their respective roles and responsibilities under this MOA, the Government and the Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

5. 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 Sponsor:

**[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.

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

IN WITNESS WHEREOF, the parties have executed this MOA, which shall be effective upon the date it is signed by the District Engineer.

THE DEPARTMENT OF THE ARMY

[FULL NAME OF SPONSOR]

BY:           [SIGNATURE]            
      [TYPED NAME]  
      [Insert Colonel, U.S. Army or  
      Lieutenant Colonel, U.S. Army, as  
      **applicable**]  
      District Engineer

BY:           [SIGNATURE]            
      [TYPED NAME]  
      [Insert Full Title]

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

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