

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**HANCOCK COUNTY, MISSISSIPPI**  
**AND**  
**THE CITY OF DIAMONDHEAD, MISSISSIPPI**

This **MEMORANDUM OF UNDERSTANDING** (this "Agreement") is executed by and between **HANCOCK COUNTY, MISSISSIPPI** (the "County"), a political subdivision of the State of Mississippi, acting by and through its Board of Supervisors, and the **CITY OF DIAMONDHEAD, MISSISSIPPI** (the "City" or "Diamondhead"), a political subdivision of the State of Mississippi, acting by and through its City Council, and is effective as of the 20<sup>th</sup> day of May, 2024.

**WITNESSETH:**

**WHEREAS**, Section 17-13-1 *et seq.* of the Mississippi Code of 1972, as amended and supplemented from time to time (the "Code") authorizes the County and the City to enter into agreements with each other for the purposes of obtaining financial assistance from the United States of America, or any department or agency thereof, and to provide for the method of expenditure of funds obtained; and

**WHEREAS**, the County and the City wish to construct certain public drainage improvements that are within the confines of the City of Diamondhead, including projects for bank stabilization, within the city limits of and on property owned by Diamondhead, and ancillary items related thereto; and

**WHEREAS**, the County and the City are desirous of securing by various means the funds necessary for the construction of the Projects, with the City designating local city funds for the construction and the County making available GOMESA funds to assist the City with the funding of the project; and

**WHEREAS**, the County and the City have determined that it is in the best interest of both parties hereto to construct the Project;

**WHEREAS**, the described GOMESA funds are County funds and must be expended from the County and for purposes restricted to the categories eligible under the GOMESA implementing statute;

**WHEREAS**, the balance of project funds exceeding the \$2,000,000 of GOMESA Funds from the County will be paid from the City; and

**WHEREAS**, the County and the City desire to work in coordination and cooperation with each other in a government-to-government relationship for the benefit of both parties; and

**NOW, THEREFORE**, in consideration of the mutual covenants and promises set forth herein, and other good and valuable consideration, the County and the City do hereby agree as follows:

**I. PURPOSE**

The purpose of this Cooperative Agreement is to establish a protocol for, and define the respective responsibilities and obligations of the County and the City with respect to their joint and cooperative efforts to complete the bank stabilization project located in Diamondhead. The Project is further described as being that drainage project planned by the City of Diamondhead for drainage improvements, including the bank stabilization, which has an initial opinion of probable cost of \$3,040,000.

**II. CONTACT PERSONS**

It is understood by both parties that the County executes all its orders and directives through its Board of Supervisors. It is understood by both parties that the City executes all of its orders and directives through its City Council.

Unless otherwise notified in writing to the contrary, the appropriate contact person (the "County Designated Officer") for the County for matters pertaining to this Cooperative Agreement shall be:

Hancock County Board of Supervisors  
President, Board of Supervisors  
Scotty Adam, President  
Jimmie Ladner, County Administrator  
854 Highway 90, Suite A  
Bay St. Louis, Mississippi 39520  
Telephone: 228-467-0172  
Facsimile: 228-467-2691

Unless otherwise notified in writing to the contrary, the appropriate contact person (the "City Designated Officer") for the City for matters pertaining to this Cooperative Agreement shall be:

City of Diamondhead  
Jon McCraw, City Manager  
Diamondhead City Hall  
5000 Diamondhead Circle  
Diamondhead, MS 39525  
T. (228) 222-4626

By notice to the other party hereunder, the County Designated Officer or the City Designated Officer may designate representatives to carry out the purposes of this Agreement.

All notices given hereunder shall be by U.S. Certified Mail, return receipt requested, or by facsimile and shall be effective only upon receipt by the addressee at the above addresses or telephone numbers.

### **III. ADMINISTRATION AND RESPONSIBILITIES OF THE PARTIES**

It is understood and agreed that this undertaking is pursuant to the authority set forth in Section 17-13-1 of the Code, which expressly authorizes the City and County to enter into this agreement to secure and provide for expenditures of funds from the City's local funds and GOMESA respectively.

A separate entity or administrative body is not created under the Agreement. In addition to the requirements below, each entity will structure the contracts within their best efforts so as to ensure the ability of the use of City local funds and/or GOMESA funds for the construction, except for the reservation of the County.

#### **A. The County hereby covenants, warrants and agrees as follows:**

1. To make available for use on the Project GOMESA funds in an amount not to exceed \$2,000,000 committed to that this as an eligible purpose for items under the subject drainage/bank stabilization project. The County shall have no obligation to commit any funds in an amount to exceed that \$2,000,000 GOMESA allocation, even if necessary to complete the work. Further, the County's allocation herein shall be limited to the extent the funds would be committed to a purpose eligible under the GOMESA statute. The County's obligations for payment shall not exceed the amount of the GOMESA funds available to it. The County's use of the funds is contingent upon the construction being compliant with the uses allowed of GOMESA funds and the City having other funds available for completion of the work. ~~Also, the County's funds will not be utilized for engineering or other administrative or services fees for the project.~~
2. To reimburse the City for its payment of invoices upon receipt from the City of paid invoices to contractors for work performed on the Project. The City shall submit all invoices to the County Designated Officer with copy to Jimmie Ladner.
3. To assist the City in every reasonable and appropriate manner in providing any State or Federal entity with financial, statistical and other records and reports as may be requested for audit purposes or required by state and federal regulations and guidelines.

#### **B. The City hereby covenants, warrants and agrees as follows:**

1. To perfect all functions necessary to complete the Projects, including design, right-of-way acquisition, and construction.

2. To conform the Projects to appropriate details and requirements of the GOMESA.
- ~~3. To provide construction engineering for the Projects through a consultant engineer contract to be paid using City local funds without GOMESA reimbursement.~~
4. To proceed with the advertisement, receipt of bids, and opening of bids in accordance with State Contract Procurement law, GOMESA procurement law, standard procedures, and coordinate with the County to ensure the County's compliance with all state, federal, local, and GOMESA requirements, and to fulfill any other requirements applicable to use of GOMESA funds.
5. To award the contract or contracts for construction of the Projects.
6. To timely pay all consultants, contractors, and other persons and firms who perform work on the Projects and provide and submit to the County invoices and all appropriate information from contractors, and others reflecting actual expenditures, along with any other documentation required by the County.
7. If the funds provided by the County are not sufficient to pay fully the complete cost of the Projects, the City shall defray such additional expense as may be necessary to complete the Projects substantially in accordance with the plans and specifications.
8. Upon satisfactory completion, to accept the Project and to maintain it in accordance with all applicable state and federal laws and regulations.
9. To comply, in the conduct of the Projects, with the provisions of Title VI of the 1964 Civil Rights Act.
10. To assist the County in every reasonable and appropriate manner in providing any state or federal agency with financial, statistical and other records and reports as may be requested for audit purposes or required by state and federal regulations and guidelines.
11. Any costs not eligible for GOMESA reimbursement shall not be the liability of the County, but of the City.
12. To comply with any other applicable state, local and federal laws and regulations, and any requirements regarding the work.
13. The City shall be the owner of the work and shall be the recipient of ownership of the completed work following construction. The City acknowledges and understands that it (to the exclusion of the County) is solely responsible for any contractual duties of the owner in any

construction, administrative, engineering, architectural or other contract related to the project. The County shall have no responsibility or obligation to those contractual requirements.

#### **IV. GENERAL PROVISIONS AND RESPONSIBILITIES**

1. This Agreement is made in the best interests of the citizens of the City and Hancock County, Mississippi, and is expected to provide standard health, safety and welfare benefits. The parties hereto agree to cooperate in good faith, to the end that the Projects are completed in the most-timely manner possible.
2. The County has agreed to make available for the Projects certain funds made available through GOMESA as described above, but will not be responsible for any additional funding. The City asserts that it has sufficient funds available from other sources to complete the Projects, regardless of whether any additional funds are made available through any agency of the State of Mississippi or United States.
3. No provision of this Agreement is intended, nor shall it be construed, to grant any right, title, or interest to any party or third party not a signatory hereto.

#### **V. AMENDMENTS**

This Agreement may be amended in writing as mutually agreed upon by the parties.

#### **VI. TERMINATION**

Prior to award of any contract for the construction phase of the Projects, this agreement may be terminated by either party on fourteen (14) days' written notice. Once a contract for the construction of the Projects has been awarded, this agreement may only be terminated by written agreement of the parties. In either event, the party requesting termination shall be responsible for all reasonable and necessary costs to close out any awarded contract(s) unless one of the parties elects to continue the project at its sole expense, without recourse. Termination of this agreement shall not, in and of itself, be considered as cancellation of any other contract made in furtherance of this agreement.

This agreement shall not create rights in any person(s) or entity(ies) not a signatory hereto.

#### **VII. DISPOSITION OF PROPERTY**

Throughout the operation of this Agreement and following its expiration, all property affected by the Project is owned by the City before the effective date hereof shall remain property of the City.

**VIII. SEVERABILITY**

Should any provision of this Cooperative Agreement be found to be unconstitutional, or otherwise be contrary to the laws of the State of Mississippi or the United States of America, to the extent that it is reasonably possibly to do so, the remainder of this Agreement shall remain in full force and effect.

**IX. AUTHORITY**

Authority for this Agreement has been granted by the Mississippi State Legislature pursuant to Section 17-13-1 *et seq.* of the Code.

**SO EXECUTED AND AGREED THIS \_\_\_\_\_ DAY OF May, 2024.**

**HANCOCK COUNTY, MISSISSIPPI**

By: \_\_\_\_\_

President, Board of Supervisors, Scotty Adam

Attest:

By: \_\_\_\_\_

Clerk

**CITY OF DIAMONDHEAD, MISSISSIPPI**

By: \_\_\_\_\_

City Manager, Jon McCraw

Attest:

By: \_\_\_\_\_