

**AGREEMENT BETWEEN
THE UNITED STATES ARMY ENGINEER DISTRICT, MOBILE
AND
PATRICK HYNES, LLC.
FOR REMOVAL OF DREDGE DISPOSAL MATERIAL**

THIS AGREEMENT, as set forth below, between the **United States Army Engineer District, Mobile**, hereinafter the “**Mobile District**,” whose address is P.O Box 2288, Mobile, Alabama 36628, acting on behalf of the **United States of America**, and **Patrick Hynes**, hereinafter “**Patrick Hynes**,” organized and existing under the laws of the State of Alabama and doing business in the State of Alabama, whose address is [1311 West Highland Street, Lakeland, FL 33816](#), is premised upon the following conditions.

WHEREAS, the **Mobile District**, in operating and maintaining the navigable waterways of the United States for which the **Mobile District** has responsibility, requires periodic removal of dredge disposal material (hereinafter “material”) from its diked dredge disposal area located adjacent to said navigable waterways to insure adequate material capacity for continued use of this area; and

WHEREAS, **PATRICK HYNES** is hereby willing to accept a nonexclusive right to remove and use material from the **Mobile District**’s dredge material disposal area at Disposal Area Site Lower Princess, located at river mile 78.2, on the Black Warrior-Tombigbee (BWT) navigation system.

NOW THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt of which is hereby acknowledged, the **Mobile District** and **PATRICK HYNES** do hereby agree as follows:

1. The purpose of this agreement is to evidence the respective commitments of the **Mobile District** and **PATRICK HYNES** to the premises set forth above, to-wit:

(a). The **Mobile District** agrees to provide material from its Lower Princess disposal area to **PATRICK HYNES**. It is expressly understood by **PATRICK HYNES** that before removal and transport of material from the Lower Princess disposal area, all necessary environmental approval and regulatory clearances, as may be necessary, shall be obtained from the **Mobile District** or other state or Federal agencies for the removal, transport, or storage of the material.

(b). **PATRICK HYNES** agrees to remove the material, without reservation as to the type or character of the material being removed, from the Lower Princess site. It is estimated that under 800,000 cy of total material is available from this site, but not guaranteed, for removal from the Lower Princess site. The removal of material by **PATRICK HYNES** will be during calendar year 2010 and will extend for a five year period from the execution date of this agreement, unless otherwise extended in writing by the parties hereto. The **Mobile District** retains the absolute right to cancel this agreement before the above-stated period expires if **PATRICK HYNES** has not begun to expeditiously prosecute removal of material from the Lower Princess site within six

months of the execution date of this Agreement, or if **PATRICK HYNES** ceases to expeditiously prosecute removal of material from the Lower Princess site at anytime during the above-stated period, or if the **Mobile District** determines it is in its best interest to terminate said agreement for any reason. The execution date of this Agreement is the date the District Engineer for the **Mobile District** signs the Agreement. Failure to notify **PATRICK HYNES** or to exercise such right by the government at the end of said six month period shall not constitute a waiver of the Government's right to cancel at a later date.

(c). **PATRICK HYNES** affirms that it has the financial capability, equipment, and expertise to remove the material to meet the terms of the schedule of removal as set forth above.

2. **PATRICK HYNES** will be responsible, at its sole cost and expense, for the loading of all material at the Lower Princess area. Further, if Government provided access is not available or cannot be made available to Lower Princess, **PATRICK HYNES** will be responsible for obtaining its own access.

3. **PATRICK HYNES** shall notify the **Mobile District** in writing thirty (30) days prior to initiation of its removal of the material from the Lower Princess area of the beginning date of removal and loading in order that the **Mobile District** may coordinate the material removal with **PATRICK HYNES**.

4. The **Mobile District** for the **United States of America**, under the terms of this agreement, shall be not held responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the conditions agreed to herein, or for damages to the property of **PATRICK HYNES** or injuries to the person of its officers, agents, or employees or others who may be on the Lower Princess area at their invitation or the invitation of any one of them, and **PATRICK HYNES**, shall hold harmless and indemnify the **Mobile District** from any and all claims, but not including damages due to the fault or negligence of the **Mobile District** or its contractors. Further, these same terms and conditions set forth herein shall apply to the use of any Government-provided access by **PATRICK HYNES**. **PATRICK HYNES** also agrees to restore any damage to Lower Princess, including, but not limited to, any confinement diking or other property.

5. The **Mobile District** assumes no responsibility of the suitability for use or for the character of the material to be removed from the Lower Princess area. The conditions set forth in paragraph 4 above shall also apply to this paragraph.

6. The **Mobile District** reserves the right of principal use of the Lower Princess area, and **PATRICK HYNES** agrees that should Lower Princess be required for disposal of material by virtue of the **Mobile District's** dredging program, it will defer to any **Mobile District** management decision on material removal and capacity of the Lower Princess area while removing material under the terms of this Agreement.

7. **PATRICK HYNES** agrees that the nonexclusive right to remove material from the Lower Princess area is non-transferable and non-assignable to any other party, unless approval is obtained by the **Mobile District**.

IN WITNESS WHEREOF, the parties hereto, the **Mobile District** and **PATRICK HYNES**, by the authority of the undersigned signatories, have set their hands and seals this _____ day of _____, 2010.

**UNITED STATES ARMY ENGINEER
DISTRICT, MOBILE**

**Steven J. Roemhildt, P.E.
Colonel, Corps of Engineers
District Commander**

Witness: _____

**STATE OF ALABAMA
COUNTY OF MOBILE**

I, _____, a notary public, in and for said County in said State, hereby certify that Colonel Steven J. Roemhildt, P.E., whose name as District Engineer, Mobile District, U.S. Army Corps of Engineers, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, he, in his capacity as District Engineer, executed the same voluntarily on the day the same bears date.

Given under my hand this the _____ day of _____, 200__.

Notary Public

My Commission expires _____

PATRICK HYNES CONST. CO. INC.

Patrick Hynes

Witness: _____

**STATE OF FLORIDA
COUNTY OF POLK**

I, _____, a notary public, in and for said County in said State, hereby certify Patrick Hynes, whose name as Managing Director, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, he, in his capacity as Owner, and with full authority, executed the same voluntarily for and as the act of said limited corporation.

Given under my hand this the ____ day of _____, 2010.

Notary Public

My commission expires _____