THE PORT OF LOS ANGELES
425 S. Palos Verdes Street | Post Office Box 151 | San Pedro, CA 90733-0151 | TEL/TDD 310 SEA-PORT | www.portoflosangeles.org

Eric Garcetti | *Mayor, City of Los Angeles*
Board of Harbor Commissioners | Ambassador Vilma S. Martinez, *President* | David Arian, *Vice President* | Patricia Castellanos | Anthony Pirozzi, Jr. | Edward R. Renwick
Eugene D. Seroka | *Executive Director*

RECEIVED
DEC 16 2016
Regulatory Division

December 13, 2016

Theresa Stevens, Ph.D.
U.S. Army Corps of Engineers
Los Angeles District
Ventura Field Office
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

Dear Theresa:

SUBJECT: EXECUTED SECOND AMENDMENT TO AGREEMENT #2900

Attached for your records is executed Second Amendment to Agreement #2900 between the U.S. Army Corps of Engineers and the City of Los Angeles, Harbor Department.

If you need additional information about this agreement, please contact Lisa Ochsner, Project Manager, at (310) 732-3412 or via email at lochsner@portla.org.

Sincerely,

Guadalupe Diaz

GUADALUPE DIAZ
Sr. Management Analyst

GD:jh

Attachments

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT CORPS OF ENGINEERS
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CALIFORNIA 90017-3401

Harbor Department
Agreement 16-2900-5
City of Los Angeles

SECOND AMENDMENT TO MEMORANDUM OF AGREEMENT BETWEEN CITY OF LOS ANGELES AND U.S. ARMY CORPS OF ENGINEERS' LOS ANGELES DISTRICT

SUBJECT: Second Amendment to Memorandum of Agreement between the City of Los Angeles and the U.S. Army Corps of Engineers' Los Angeles District

This Second Amendment to Memorandum of Agreement ("**SECOND AMENDMENT**") is entered into by the City of Los Angeles, a municipal corporation, acting by and through the Board of Harbor Commissioners (hereinafter "**Port**") and United States Army Corps of Engineers' Los Angeles District (hereinafter "**Corps**"), collectively referred to as the "**Parties**."

RECITALS

WHEREAS, the Parties entered into a Memorandum of Agreement ("**MOA**"), effective October 29, 2010, for expedited and priority review of Port-designated priority projects by the Corps; and

WHEREAS, the Parties entered into a First Amendment to the MOA, effective October 24, 2013, increasing funding and extending the duration of the MOA until December 31, 2016; and

WHEREAS, section 214 of the Federal Water Resources Development Act of 2000, Public Law 106-541 ("**WRDA 2000**"), as amended and codified at 33 U.S.C. 2352, authorizes the Secretary of the Army, after public notice, to accept and expend funds contributed by a non-Federal public entity to expedite the evaluation of a permit of that entity related to a project or activity for a public purpose under the jurisdiction of the Corps; and

WHEREAS, the Chief of Engineers, by memorandum dated September 2, 2015, has authorized the District and Division Engineers of the Corps to accept and expend funds contributed by non-Federal public entities subject to certain limitations; and

WHEREAS, the Parties desire to modify the MOA, including Appendix A, extend the duration of the MOA an additional three years, and to further revise the terms and conditions of the MOA; and

WHEREAS, to date, the Port has deposited $800,000 with the Corps pursuant to the MOA; and

SUBJECT: Second Amendment to Memorandum of Agreement between the City of Los Angeles and the U.S. Army Corps of Engineers' Los Angeles District

WHEREAS, the Corps has determined additional funding from the Port may be necessary to continue to fund permit evaluation-related activities through December 31, 2019; and

NOW, THEREFORE, the Parties agree as follows:

SECOND AMENDMENT

1. ARTICLE V – FUNDING. This Article is modified in its entirety to read:

"A. The total compensation paid to the Corps under the MOA, as modified by the FIRST AMENDMENT and this SECOND AMENDMENT, shall not exceed Nine Hundred Thousand Dollars ($900,000) paid as follows:

1. $ 800,000 was paid to the Corps between execution of the MOA and October 24, 2015 and is currently held in an account with a remaining balance of $349,154.01 as of October 1, 2016;

2. $100,000 will be paid when the funds available to the Corps in the account referenced above reaches $100,000 and there is more than one year remaining before the MOA expires.

This payment schedule can be changed by mutual agreement of the parties but may not exceed the total compensation unless approved through an amendment.

B. The Corps will carry-over any unobligated funds from year to year, or will refund such unobligated funds if this MOA is terminated or expires in accordance with Article X. C of this MOA.

C. Expediting of permit actions by the Corps will be provided under this MOA only after funds have been received by the Corps.

D. Prior to the Corps incurring any expenditure to expedite permit evaluation-related activities as specified in the MOA, the Port will make a lump sum payment to the Corps in the total amount specified in Article V.A.2. Payment by the Port is to be made by electronic or wire transfer of funds or made payable to Finance and Accounting Officer and mailed to:

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division
915 Wilshire Boulevard, Suite 930
Los Angeles, CA 90017-3401
Attn: Sophia Ma, Budget Analyst

E. If the Corps' actual costs for providing the agreed upon level of service will at any time during the term of this MOA exceed the amount of funds available, the Corps will

notify the Port at least ninety (90) days prior to fund exhaustion of the incremental amount of funds needed to defray the remaining anticipated costs. Port will either initiate an amendment to this MOA to increase the funding amount or agree to a reduced level of service.

F. The Corps will establish a separate internal account to track receipt and expenditure of the funds associated with its review of permit applications submitted by the Port. Corps regulatory personnel will charge their time and expenses against the account when they perform work to either expedite resolution of permit requests designated by the Port as a priority or undertake other programmatic efforts to support efficient decision-making related to the Port's permitting needs. Corps regulatory personnel will focus on the work as prioritized by the Port, and if no or few projects are designated by the Port as a priority, Corps personnel will then work on other programmatic efforts."

2. ARTICLE XI- EFFECTIVE DATE AND DURATION. This Article is modified in its entirety to read:

"This MOA and any amendments will become effective on the date of signature by the last Party. Unless amended or modified pursuant to Article X.A., this MOA shall remain in force until whichever of these events occurs first: 1) December 31, 2019, or 2) the MOA is terminated pursuant to Article X.B."

3. APPENDIX A. This Appendix is replaced in its entirety with an updated Appendix A attached hereto.

4. Integration. This SECOND AMENDMENT represents the entire understanding of the Port and the Corps regarding changes to the MOA and FIRST AMENDMENT. All other terms and conditions of the MOA remain in full force and effect.

[Remainder Left Intentionally Blank]

SUBJECT: Second Amendment to Memorandum of Agreement between the City of Los Angeles and the U.S. Army Corps of Engineers' Los Angeles District

IN WITNESS WHEREOF, this SECOND AMENDMENT is executed by the City of Los Angeles, acting by and through its Board of Harbor Commissioners, and by the U.S. Army Corps of Engineers Los Angeles District, through its authorized officer.

FOR THE CITY OF LOS ANGELES, by its Board of Harbor Commissioners

By: _____ Date: 12-2-2016

EUGENE D. SEROKA
Executive Director

Attest: _____

Secretary

APPROVED AS TO FORM:
MICHAEL N. FEUER, City Attorney
JANNA B. SIDLEY, General Counsel

By: _____ Date: 10.31.16

Deputy City Attorney

U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

By: _____ Date: _____

KIRK E. GIBBS
Colonel, U.S. Army
Commander and District Engineer

SUBJECT: Second Amendment to Memorandum of Agreement between the City of Los Angeles and the U.S. Army Corps of Engineers' Los Angeles District

IN WITNESS WHEREOF, this SECOND AMENDMENT is executed by the City of Los Angeles, acting by and through its Board of Harbor Commissioners, and by the U.S. Army Corps of Engineers Los Angeles District, through its authorized officer.

FOR THE CITY OF LOS ANGELES, by its Board of Harbor Commissioners

By: _____ Date: _____

EUGENE D. SEROKA
Executive Director

Attest: _____

Secretary

APPROVED AS TO FORM:
MICHAEL N. FEUER, City Attorney
JANNA B. SIDLEY, General Counsel

By: _____ Date: _____

Deputy City Attorney

U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

By: _____ Date: 1 DEC 16

KIRK E. GIBBS
Colonel, U.S. Army
Commander and District Engineer

SUBJECT: Second Amendment to Memorandum of Agreement between the City of Los Angeles and the U.S. Army Corps of Engineers' Los Angeles District

Account#	54260	W.O. #	—
Ctr/Div#	1000	Job Fac.#	—
Proj/Prog#	000		

Budget FY:	Amount:
16/17	$0
17/18	$0
18/19	$100,000
19/20	$0
TOTAL	$100,000

For Acct/Budget Div. Use Only

Verified by: [illegible]

Verified Funds Available: [illegible]

Date Approved: 10/31/16

Appendix A: Port-designated priority projects
(Dated: May 2016)

Berths 121-131 [Yang Ming] Container Terminal Redevelopment
Berths 226-236 [Everport] Container Terminal Improvements
AltaSea at the Port of Los Angeles
Berths 148-151 [Phillip 66] MOTEMS Improvements
Berth 163 [Nustar] MOTEMS Improvements
Berth 164 [Valero] MOTEMS Improvements
Berths 187-190 [Vopak] MOTEMS Improvements
Berths 238-239 [ExxonMobil] MOTEMS Improvements
Cerritos Yacht Anchorage Slope Revetment
Berth 194 Sea Wall Replacement
Jankovich Relocation
Catalina Freight Relocation
Wilmington Boatyard Redevelopment
Berth 240 Sea Wall Reconstruction
Berths 214-220 Wharf Rehabilitation
Berths 224-232 Wharf Rehabilitation
Dredge Permitting
Eelgrass at Cabrillo Beach
Mitigation Banking Documents