

**SECOND AMENDMENT
TO
MEMORANDUM OF AGREEMENT
BETWEEN
CITY OF LONG BEACH
AND
THE U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT**

This Second Amendment to Memorandum of Agreement (“SECOND AMENDMENT”), made the 6th day of September, 2016, is entered into by and between the City of Long Beach, a municipal corporation (hereinafter the “City”), and the United States Army Corps of Engineers, Los Angeles District (hereinafter the “Corps”), collectively referred to as the “Parties.”

RECITALS

WHEREAS, the Parties entered into a Memorandum of Agreement (“MOA”), effective December 20, 2012, for expedited and priority review of City-designated priority projects by the Corps; and

WHEREAS, the Parties entered into a First Amendment to the MOA (“FIRST AMENDMENT”), effective November 19, 2014, increasing funding and extending the duration of the MOA until December 31, 2016; and

WHEREAS, the MOA is set to expire 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 Department of the Army; 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 extend the duration of the MOA an additional three years and to further revise the terms and conditions of the MOA; and

WHEREAS, the City has deposited \$290,000 with the Corps pursuant to the MOA as a result of the Corps crediting carry-over of unobligated funds from payments due under the MOA up to January 20, 2016; and

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

HD-8105B

NOW, THEREFORE, the Parties agree as follows:

SECOND AMENDMENT

1. Article V. – FUNDING. Paragraphs A and B of this Article are modified 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 Twenty Thousand Dollars (\$920,000) paid as follows:

1. \$290,000 was paid to the Corps between execution of the MOA and January 20, 2016.
2. \$210,000 on or before January 20, 2017.
3. \$210,000 on or before January 20, 2018.
4. \$210,000 on or before January 20, 2019.

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. If unobligated funds are carried-over, the City will be notified of the estimated carry-over amount at least 4 weeks prior to the deadline for the next annual payment and the actual carry-over amount will be credited toward the next payment due under Paragraph A.”

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

“Article X - EFFECTIVE DATE AND DURATION

This MOA as amended will become effective on the date of signature by the last Party. Unless amended or modified pursuant to Article VIII.A., this amended 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 VIII.B.”

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

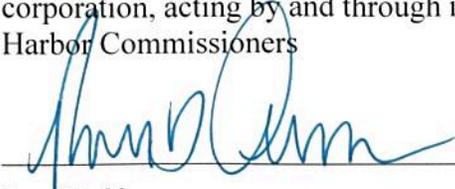
[REMAINDER LEFT INTENTIONALLY BLANK]

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

THE CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners

11/22, 2016

For

By: 

Jon W. Slangerup
Chief Executive
Long Beach Harbor

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

September 6, 2016

By:



Kirk E. Gibbs
Colonel, U.S. Army
Commander and District Engineer

The foregoing document is hereby approved as to form.

CHARLES PARKIN, City Attorney

November 17, 2016

By: 

Charles M. Gale, Principal Deputy
Dawn A. McIntosh