



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT CORPS OF ENGINEERS
915 WILSHIRE BOULEVARD, SUITE 1109
LOS ANGELES, CALIFORNIA 90017-3401

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

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

This Fourth Amendment to Memorandum of Agreement (“**FOURTH 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; entered into a Second Amendment to the MOA, effective January 1, 2017, with potential for increased funding and extending the duration of the MOA until December 31, 2019; and entered into a Third Amendment to the MOA, effective January 1, 2020 with potential for increased funding and extending the duration of the MOA until December 31, 2024; 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 Assistant Secretary of the Army (Civil Works), by memorandum dated January 19, 2018, 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 to extend the duration of the MOA an additional five years, and to further revise the terms and conditions of the MOA; and

WHEREAS, to date, the Port has deposited \$1,000,000 with the Corps pursuant to the MOA; and

WHEREAS, the Corps has determined additional funding from the Port may be necessary to continue to fund permit evaluation-related activities through December 31, 2029.

NOW, THEREFORE, the Parties agree as follows:

FOURTH AMENDMENT

1. ARTICLE II. – SCOPE OF WORK. This Article is amended in its entirety to read:

“A. The Corps will expedite permit application evaluation-related services for Port-designated priority projects under the jurisdiction of the Corps in exchange for funds provided by the Port as set forth below. The Corps’ Regulatory Program is funded as a congressionally appropriated line item in the annual Federal budget. Funds received from the Port will be added to the Regulatory budget of the Corps, in accordance with 33 U.S.C. 2352.

B. The Corps will provide staffing resources exclusively dedicated to expediting permit evaluation-related services, as described below, for Port-designated priority projects and/or other programmatic efforts to support efficient decision-making related to the Port's CWA section 404 and/or RHA section 10 and/or MPRSA section 103 permitting needs.

C. The Corps will establish a separate internal financial account to track receipt and expenditure of the funds associated with its review of permit applications for Port-designated priority projects. Corps Regulatory personnel will charge their time and expenses against the account when they perform work to either expedite permit application evaluation-related requests for Port-designated priority projects or undertake other programmatic efforts to support efficient decision-making related to the Port permitting needs.

D. Funds contributed by the Port hereunder will be expended by the Corps to defray the costs of Regulatory Division personnel (including salary, associated benefits, overhead and travel expenses) and other costs in order to expedite the evaluation of Port-designated priority projects. Activities covered by this MOA will include, but not be limited to, the following: application intake review, permit database entry, drawing correction, jurisdictional determinations, site visits, travel, preparing and distributing public notices, preparing and conducting public hearings, preparing correspondence, performing the public interest review, preparing draft permit decision documents, meetings with the Port and other agencies, and relevant training.

E. The Corps may expend funds provided by the Port to hire contractors to perform select duties, including but not limited to: site visits; preparing and providing technical materials, including environmental documentation; GIS-related services; and meeting coordination for the purpose of augmenting the resources available to the Corps for expediting its review of Port-designated priority projects. If such expenditures when combined with the costs of the

Regulatory Division personnel require funding in excess of the amount available under this MOA, then the Corps, as appropriate, shall not hire said contractors until and unless additional funds are provided by the Port and the Parties execute a written amendment to this MOA.

F. The Corps will not expend funds provided by the Port for costs associated with the review of the Corps' work undertaken by supervisors or other persons or elements of the Corps in the decision-making chain of command. However, if a supervisor is performing staff work and not supervisory oversight, funds may be used. The Corps will not expend funds provided by the Port to defray the costs of activities related to the Corps' enforcement functions but may use funds provided by the Port to defray costs of activities related to permit compliance functions. Enforcement functions are defined as activities not permitted by the Corps but requiring Corps authorization. Permit compliance functions are defined as Corps oversight of Corps-permitted activities.

G. If the funds provided by the Port are expended and not replenished, any remaining Port-designated priority projects will be handled like those of any permit applicant."

2. ARTICLE III. – INTERAGENCY COMMUNICATIONS. This Article is amended in its entirety to read:

"To provide for consistent and effective communication between the Corps and the Port, each party appoints the following Principal Representative to serve as its central point of contact on matters relating to this MOA:

For the Port:

Lisa Wunder, Acting Director
Environmental Management Division
425 S. Palos Verdes Street
San Pedro, CA 90731
(310) 732-7688
LWunder@portla.org

For the Corps:

Dr. Theresa Stevens
Senior Project Manager, North Coast Branch
60 South California Street, Suite 201
Ventura, CA 93001-2598
(805) 585-2146
Theresa.Stevens@usace.army.mil

Dr. Lia Protopapadakis F.

Project Manager, North Coast Branch, Los Angeles and San Bernardino Counties Section
915 Wilshire Blvd., Suite 1109
Los Angeles, CA 90017
(213) 320-8990 (cell)
Lia.Protopapadakis@usace.army.mil

Additional representatives may also be appointed to serve as points of contact on specific permit actions. The Principal Representative for each party may be changed upon written notification to the other party.”

3. ARTICLE IV. – RESPONSIBILITIES OF THE PARTIES. Article IV.A. opening paragraph and subparagraphs 1 and 3 are amended to read:

“A. Port will provide adequate resources to fund Corps regulatory personnel for the purpose of timely review of Port-designated priority projects and other identified activities. To facilitate the Corps’ reviews and activities, Port will:

1. Provide adequate information regarding Port-designated priority projects, Port-designated priority project designs, scheduling requirements, and other specific activities to initiate permit evaluation. Information required for the Corps to deem a permit application complete thereby allowing initiation of the permit review process can be found in Corps regulations at 33 C.F.R. §§ 325.1(d), 325.3(a), and in the General Conditions of the Nationwide Permit Program. Upon request, Port shall provide supplemental information necessary to complete the permit application. Additional information required to complete the permit evaluation process may exceed what is needed to initiate the process (33 C.F.R. § 325.1(e)). On a case-by-case basis, if requested by the Corps, Port shall provide such additional information so as to ensure the Corps may complete the permit application review in a timely manner.

3. In consultation with the Corps, schedule Corps involvement in Port designated priority projects. The list of initial Port-designed priority projects under this MOA was provided in Appendix A; currently, all permit applications submitted by the Port where it is the applicant or co-applicant constitute a Port-designated priority project.”

4. ARTICLE IV. – RESPONSIBILITIES OF THE PARTIES. Article IV.B. is amended in its entirety to read:

“B. The Corps shall supplement or reassign its existing Regulatory Division personnel, which currently reviews Port projects on a routine basis, with qualified personnel within projected funding levels provided by the Port. The Corps shall use the funds provided to defray the costs of salaries and associated benefits and to reimburse travel expenses in order to:

1. Expedite review of Port permit requests in accordance with the purpose, terms, and conditions of this MOA or any amendments thereto.

2. Following any pre-application meetings and/or discussions to clarify the scope of anticipated permit application review processes, provide the Port with an estimated schedule to complete the permit evaluation process for each application submitted. The Port shall

be able to comment on these schedules and adjust their priorities, or provide additional resources per Article V.E, below.

3. Consult with the Port regarding an adjustment or establishment of relative priorities if the current and/or projected workload of Port-designated priority projects and programmatic efforts exceeds Corps' ability to provide the services specified in this MOA.

4. Provide the Port with a Quarterly Report of progress made under this MOA, or in accordance with an alternative schedule as agreed to by the Parties to this MOA. Quarterly reports shall be based on the calendar year rather than fiscal year. Quarterly reports will describe work completed during the reporting period via timesheet submittals, including a transmittal letter describing any improvements the Corps has completed in coordinating and improving the efficiency of permit application reviews, and a summary of expenditures made during the quarter.

5. Designate and identify to the Port a Regulatory Project Manager for each Port-designated priority project.

6. Meet with the Port as needed to discuss progress under this MOA.

7. Prior to expiration of the MOA, hold a final meeting with the Port to review a summary of permit streamlining and other activities under this MOA, as well as provide recommendations for future coordination between the Parties.”

5. ARTICLE V – FUNDING. This Article is amended in its entirety to read:

“A. The total compensation paid to the Corps under the MOA, as modified by the FIRST AMENDMENT, the SECOND AMENDMENT, the THIRD AMENDMENT, and the FOURTH AMENDMENT shall not exceed One Million Three Hundred Thousand Dollars (\$1,300,000).

B. Any time the monies in the account referenced in Article II.C reaches \$100,000, the Corps will provide the Port with an invoice (“Invoice”) for \$100,000. Each Invoice shall be provided on Corps letterhead and include (1) the Corps’ name and address, (2) Corps’ remittance address, if different, and (3) amount. Invoices shall be submitted by the Corps to:

Lisa Wunder, Acting Director
Environmental Management Division
425 S. Palos Verdes Street
San Pedro, CA 90731
(310) 732-7688
LWunder@portla.org

C. The Port will make a lump sum payment to the Corps of the total amount specified in the Corps’ Invoice(s). Payments by the Port are to be made by electronic funds transfer in accordance with Standard Operating Procedure UFC 08 (Appendix B to this MOA) or check payable to the Finance and Accounting Officer and sent to the following address:

U.S. Army Corps of Engineers, Los Angeles District
Attn: EROC: L1
5722 Integrity Drive
Millington, TN 38054

D. 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.

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. The Port will have the option of (i) making a payment to the Corps for the incremental amount, provided the total amount of payments to the Corps does not exceed the total funding amount specified in Article V.A, (ii) increasing the total funding amount specified in Article V.A through an amendment to this MOA, or (iii) agree to a reduced level of service."

6. ARTICLE XI- EFFECTIVE DATE AND DURATION. This Article is amended 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, 2029, or 2) the MOA is terminated pursuant to Article X.B."

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

IN WITNESS WHEREOF, this FOURTH 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.

THE CITY OF LOS ANGELES, acting by and through its Board of Harbor Commissioners

By signing below, I attest that I have no personal, financial, beneficial, or familial interest in this agreement.

By: _____

Date: _____

EUGENE D. SEROKA
Executive Director

Attest: _____

AMBER M. KLESGES
Board Secretary

APPROVED AS TO FORM:
HYDEE FELDSTEIN SOTO, City Attorney
STEVEN Y. OTERA, General Counsel

By: _____

MINAH PARK, Deputy City Attorney

Date: 8/1/24

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

By: _____

ANDREW J. BAKER
Colonel, U.S. Army
Commander and District Engineer

Date: _____

Attest: _____

AMBER M. KLESGES
Board Secretary

APPROVED AS TO FORM:
HYDEE FELDSTEIN SOTO, City Attorney
STEVEN Y. OTERA, General Counsel

By: _____

Date: _____

MINAH PARK, Deputy City Attorney

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

By:  _____

Date: August 8, 2024

ANDREW J. BAKER
Colonel, U.S. Army
Commander and District Engineer