

**THIRD AMENDMENT TO AGREEMENT
BETWEEN THE CITIES OF
LONG BEACH AND LOS ANGELES**

**TO SHARE THE COST OF HOSTING
THE PORT-OWNED DRAYAGE TRUCK REGISTRY**

THIS THIRD AMENDMENT to Agreement to Share the Cost of Hosting the Port-Owned Drayage Truck Registry is entered into by the CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners (“Long Beach”), and the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Harbor Commissioners (“Los Angeles”) (Long Beach and Los Angeles shall be collectively referred to herein as the “Ports”).

1. Recitals

This Third Amendment is entered into in the context of the following facts and objectives:

1.1 Los Angeles and Long Beach jointly developed the Port-Owned Drayage Truck Registry (“PDTR”), a database containing information regarding registered trucks and motor carriers that is used by the Ports to manage their respective Clean Trucks Programs.

1.2 Long Beach agreed to host the PDTR on its servers and provide the staff to operate and maintain the PDTR.

1.3 Los Angeles agreed to reimburse Long Beach for half of its cost in hosting the PDTR.

1.4 The Ports entered into an Agreement to Share the Cost of Hosting the Port-Owned Drayage Truck Registry in 2012 (Los Angeles Agreement Number 12-3049; Long Beach Agreement Number HD-7936), which was amended by First Amendment dated February 25, 2015 (Los Angeles Agreement Number 14-3049-A; Long Beach Agreement Number HD-7936A); and which was further amended by Second Amendment dated January 10, 2018 (Los Angeles Agreement Number 17-3049-B; Long Beach Agreement Number HD-7936B) (collectively, the “Agreement”).

1.5 The Ports now wish to extend the term of the Agreement for three additional years at the same annual rates for hosting and contingency.

2. Paragraph 2 of the Agreement is hereby amended and restated in its entirety as follows:

"2. **Term.** The term of this Agreement shall commence on March 22, 2012 and shall terminate on December 31, 2023 unless earlier terminated by a party as provided in Section 3 of this Agreement."

3. Each Port's 50% share of annual costs shall continue at the rates set forth in Paragraph 6 of the Agreement: (1) annual hosting costs of \$9,000 (\$750 per month x 12 months) and (2) annual contingency costs of \$25,000 maximum.

4. Exhibit A of the Agreement, Scope of Work and Costs, is hereby amended and restated in the form of the attached Exhibit A.

5. **Counterparts and Electronic Signatures.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which when taken together shall constitute one agreement. The words "execution," "signed," "signature," and words of like import in this Agreement shall include images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, "pdf", "tif" or "jpg") and other electronic signatures (including, without limitation, DocuSign). The use of electronic signatures herein, or in any amendments to this Agreement, and any electronic records related to this Agreement (including, without limitation, any contract or other record created, generated, sent, communicated, received, or stored by electronic means), shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the California Uniform Electronic Transaction Act, the New York State Electronic Signatures and Records Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code. Each party hereto hereby agrees that such electronically signed and/or electronically transmitted signatures shall be conclusive proof, admissible in judicial proceedings, of such party's execution of this Agreement.

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6. Except as expressly provided in this Third Amendment, the Agreement remains unchanged and in effect.

THE CITY OF LOS ANGELES HARBOR DEPARTMENT, a municipal corporation, acting by and through its Executive Director of the Harbor Department

Date: _____, 2020

By:

Eugene D. Seroka
Executive Director

Attest:

Secretary

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

By:

Joy M. Crose

Date: Dec 10, 2020

Joy M. Crose
Asst. General Counsel

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

Date: _____, 2020

By:

Mario Cordero
Executive Director

APPROVED AS TO FORM:
CHARLES PARKIN, City Attorney

By:

Dawn A. McIntosh
Deputy

Date: _____, 2020

Account#	W.O. #
Ctr/Div#	Job Fac.#
Proj/Prog#	
Budget FY:	Amount:
TOTAL	
<u>For Acct/Budget Div. Use Only</u>	
Verified by:	_____
Verified Funds Available:	_____
Date Approved:	_____

FUNDS AVAILABLE STAMP
12/09/2020

THIRD AMENDMENT TO AGREEMENT
BETWEEN THE CITIES OF
LONG BEACH AND LOS ANGELES

TO SHARE THE COST OFF HOSTING
THE PORT-OWNED DRAYAGE TRUCK REGISTRY

Account#	59967	W.O. #	78090
Ctr/Div#	0330	Job Fac.#	637-00
Proj/Prog#	000		
Budget FY:		Amount:	
2020/2021		\$0	
2021/2022		\$34,000	
2022/2023		\$34,000	
2023/2024		\$34,000	
TOTAL		\$102,000	
For Acct/Budget Div.	<i>Flu</i>	Flora Khaw	2020.12.10
Verified by:	<i>Jolie</i>	08:32:52 -08'00'	Digitally signed by Frank Liu
Verified Funds Available		Date: 2020.12.10	13:27:15 -08'00'
Date Approved:	12/10/20		

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____



EXHIBIT A

SCOPE OF WORK AND COSTS

Long Beach shall furnish all staffing, services, materials, equipment, and all other items necessary to perform the Scope of Work at its cost and expense. Long Beach shall warrant that its personnel or subcontractors are qualified to perform the services as determined in its reasonable discretion.

System Support

Los Angeles and Long Beach agree that Long Beach will maintain staff support for the PDTR during standard working hours, M-F, 7:30am-4:30pm. Los Angeles is aware that Long Beach staff work different schedules and that Long Beach will manage all schedules to maintain proper staffing and service levels.

Los Angeles and Long Beach agree that off-hours systems support will be predetermined and assigned on a published schedule. Long Beach agrees to provide notification to Los Angeles of staffing, schedule or support changes via periodic e-mails.

PDTR Costs

Hosting Costs

Los Angeles and Long Beach agree to share equally in PDTR support charges which include any third party costs for customer service, software changes, PDTR application support, and charge card management.

Monthly Hosting Charges Over 3 Years

The monthly charges are for infrastructure costs/charges, including rack space, servers use, storage area network (SAN) space, power, cooling, Internet bandwidth, Network Operations Center monitoring tools, external Border Gateway Protocol Internet failover and 24x7 server personnel support and disaster recovery.

Monthly Hosting Charge:	\$ 1,500 per month
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On an annual basis, Long Beach will prepare and send an invoice of Monthly Hosting Charges for the prior 12-month period, with a prior year breakdown showing total hosting costs, and a charge allocated at 50% for payment by Los Angeles. The agreement has an annual review clause to verify that the \$1,500 monthly expense is covering POLB's monthly costs. If an adjustment is required, both parties would have to agree on a new monthly cost which would then begin on the next annual billing cycle. Funds required to handle this potential additional expense would be covered by the contingency funds described in the Contingency Costs section below.

Contingency Costs

There are potential costs that could arise each year due to a necessity to upgrade the system or any other unforeseen issues that may be required to maintain the system. All contingency costs shall be authorized by the Chief Information Officers of the two Ports. Los Angeles agrees to reimburse Long Beach for fifty percent (50%) of those costs up to a maximum not-to-exceed \$25,000 per year.

Contingency Costs = \$50,000/year x 3 years = \$150,000

Since the costs are shared, the each Harbor Department's total contingency cost would be half of the \$150,000, or \$75,000.

Detailed Cost Breakdown

Total projected future costs for this amendment are as follows:

	Total Cost	Cost Share Breakdown – 3 Years	
		POLB	POLA
Projected Monthly Cost (1/21- 12/23)	\$54,000.00	\$27,000.00	\$27,000.00
Contingency Costs – Maximum amount not to exceed	\$150,000.00	\$75,000.00	\$75,000.00
Total:	\$204,000.00	\$102,000.00	\$102,000.00

Service Level Agreement Targets & Reporting

Los Angeles and Long Beach desire to have excellent application service availability. Los Angeles and Long Beach agree that Long Beach Information Management team shall make commercially reasonable efforts to ensure the PDTR is available 24 hours per day, every day of the year, except for scheduled maintenance periods during low activity. Scheduled maintenance periods will be clearly stated on the Login page of the PDTR web portal and communicated via e-mail to the registered PDTR users at least 3 days before the period.

Los Angeles and Long Beach agree that the targeted system quality is:

- At least 99.95% full system availability during non-maintenance periods.
- No more than 70% average CPU utilization over any 5 minute period of time for any server.
- No less than 20% free space on any hard disk storage system used by the system.
- Level 1 Errors – Begin professional resolution efforts within 1 hour of receiving error notification. Summary of efforts must be e-mailed every 2 hours detailing issues and attempts at resolution.

- Level 2 Errors – Begin professional resolution efforts within 4 hours of receiving error notification. Summary of efforts must be e-mailed every 4 hours detailing issues and attempts at resolution.
- Level 3 Errors – Begin professional resolution efforts within 8 business hours of receiving error notification. Summary of efforts must be emailed every 8 business hours detailing issues and attempts at resolution.

Error Level Definitions:

- Level 1 Error – PDTR and/or PDTR Web Portal is unavailable to all users
- Level 2 Error – PDTR and/or PDTR Web Portal is experiencing updating or processing errors, reporting capabilities not working properly, but the system is substantially usable and available to all users
- Level 3 Error – PDTR and/or PDTR Web Portal is exhibiting minor field or page display errors, but the system is substantially usable and available to all users

Los Angeles and Long Beach agree that Long Beach will publish a report to the PDTR website certifying the measurements above by the 5th working day after the end of the preceding month.

Disaster Planning & Recovery

Los Angeles and Long Beach agree to Long Beach developing, planning, and testing of the PDTR disaster recovery process. Los Angeles agrees to participate in the testing and verification of the disaster recovery process and share equally in the incidental costs, if any, of the testing and verification.