

MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE PORT OF LOS ANGELES
CONCERNING THE PROVISION OF FUNDS
PURSUANT TO SECTION 2106 OF THE WATER RESOURCES REFORM AND
DEVELOPMENT ACT OF 2014, AS AMENDED

This MEMORANDUM OF AGREEMENT (hereinafter "MOA") is entered into this _____ day of _____, _____, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander for Los Angeles District (hereinafter the "District Commander"), and the City of Los Angeles (hereinafter the "Non-Federal Sponsor") acting by and through its Board of Harbor Commissioners, commonly known as the "Port of Los Angeles."

WITNESSETH, THAT:

WHEREAS, Section 2106 of the Water Resources Reform and Development Act of 2014, as amended (33 U.S.C. 2238c) (hereinafter "Section 2106") and Section 102 of the Water Resources Development Act of 2020 (hereinafter "Section 102"), authorizes the Secretary of the Army, subject to the availability of funds, to provide funds to donor ports and energy transfer ports to be used for expanded uses, as that term is defined in Section 210(f)(4) of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2238(f)(4));

WHEREAS, the Port qualifies as a donor port;

WHEREAS, funds have been appropriated in fiscal year 2024 to carry out Section 2106 and Section 102 and may be appropriated in subsequent fiscal years; and

NOW, THEREFORE, the Parties agree as follows:

1. Following apportionment of funds provided under Section 2106 and Section 102 and receipt of work allowances, the Government shall provide to the Non-Federal Sponsor the Port's share of such funds. For fiscal year 2024, the Port's share is \$60,606,000.
2. The Non-Federal Sponsor shall use funds provided under this MOA to carry out one or more of the expanded uses as defined in 33 U.S.C. 2238(f)(4). Funds provided under this MOA may also be used for engineering, design, construction, and supervision and administration, including hydrographic surveys; dredged material testing and monitoring; permitting; and environmental documentation necessary to carry out the work.
3. The Non-Federal Sponsor shall be responsible for compliance with all applicable laws and regulations, including obtaining all applicable licenses and permits necessary to carry out such work and provide written documentation of such compliance to the Government before initiating the work. The Non-Federal Sponsor shall coordinate with appropriate

regulatory agencies on the handling of all materials under this MOA. For any project carried out addressing 33 U.S.C. 2238(f)(4)(B), regarding the maintenance dredging and disposal of legacy-contaminated sediment, the non-Federal interest, in accordance with applicable law and coordination with applicable regulatory agencies, shall report compliance with the regulatory agencies throughout the execution of the work.

4. In carrying out its obligations under this MOA, the Non-Federal Sponsor shall comply with requirements of Federal laws and implementing regulations, if applicable, including, but not limited to: Section 601 of the Civil Rights Act of 1964 (P.L. 88-352), as amended (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; the Age Discrimination Act of 1975 (42 U.S.C. 6102); and the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Army Regulation 600-7 issued pursuant thereto.

5. By September 30th of each year, the Non-Federal Sponsor shall submit to the Government a report detailing the use of the funds and the benefits achieved with such funds, with a final report submitted no later than thirty days after completion of all work using the funds.

6. In the exercise of their respective roles and responsibilities under this MOA, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

7. No funds provided pursuant to this MOA shall be used to supplement or in lieu of any cleanup or response for any hazardous, toxic, and radioactive wastes, which includes any material listed as a "hazardous substance" (42 U.S.C. 9601(14)) regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA") (42 U.S.C. 9601-9675) or for any other regulated material in accordance with any applicable laws and regulations. The funds may only be used for "expanded uses" that benefit commercial navigation at a harbor accessible to a Federal navigation channel as defined in 33 U.S.C. 2238(f)(4).

8. As between the Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the owner, transporter, arranger, operator, and the sole responsible party in any way for any activities carried out under this MOA for purposes of any liability under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA") (42 U.S.C. 9601-9675) and shall be the sole responsible party for any other regulated material in accordance with any other applicable laws and regulations.

9. The Government may conduct, or arrange for the conduct of, audits of the costs for work carried out under this MOA. Government audits shall be conducted in accordance with applicable Government cost principles and regulations.

10. Notices.

a. Any notice, request, demand, or other communication required or permitted to be given under this MOA shall be deemed to have been duly given if in writing and either delivered personally or mailed by registered or certified mail, with return receipt, as follows:

Port of Los Angeles
425 S. Palos Verdes St. San Pedro, CA 90732

If to the Government:
District Commander
U.S. Army Corps of Engineers, Los Angeles District
915 Wilshire Blvd. Los Angeles, CA 90017

b. A party may change the recipient or address to which such communications are to be directed by giving written notice to the other party in the manner provided in this paragraph.

11. This MOA may be amended only by written, mutual agreement of the parties.

12. Upon not less than thirty calendar days written notice to the other party, either party may elect to terminate this MOA. In the event of termination, the parties shall conclude their activities under this MOA. Termination has no effect on any obligation previously incurred under this MOA.

IN WITNESS WHEREOF, the parties have executed this MOA, which shall be effective upon the date it is signed by the District Commander.

THE DEPARTMENT OF THE ARMY

CITY OF LOS ANGELES, ACTING BY
AND THROUGH ITS BOARD OF
HARBOR COMMISSIONERS,
COMMONLY KNOWN AS THE "PORT OF
LOS ANGELES"

BY: _____
Andrew J. Baker
Colonel, U.S. Army
District Commander

BY: _____
Eugene Seroka
Executive Director

DATE: _____

DATE: _____

ATTEST: _____
Board Secretary

APPROVED AS TO FORM AND LEGALITY

Sept. 12, 2024
HYDEE FELDSTEIN SOTO, City Attorney
STEVEN Y. OTERA, General Counsel

By: 
Kenneth Mattfeld, Assistant City Attorney