

**AGREEMENT BETWEEN THE CITY OF LOS ANGELES
AND THE CITY OF LONG BEACH**

**ESTABLISHING COSTS TO BE SHARED
FOR THE SAN PEDRO BAY LONG TERM CARGO FORECAST STUDY
CONSULTANT SERVICES**

THIS AGREEMENT ("Agreement") is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Harbor Commissioners ("Port of Los Angeles"), and the CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners ("Port of Long Beach"), at its meeting of, _____, 2015. The Port of Los Angeles and the Port of Long Beach are sometimes referred to individually as a "Port" and collectively as the "Ports."

WHEREAS, a detailed estimate of future cargo volumes expected to be handled at the Ports is necessary for facilities planning and other Port business uses; and

WHEREAS the Ports benefit from having a single agreed upon forecast that reflects input from both Ports and common macro-economic and competitive inputs; and

WHEREAS, the staff at both Ports recommend that hiring an outside consultant for the purpose of developing the forecast is the best path forward at this time; and

WHEREAS, the Port of Long Beach, with input from Port of Los Angeles staff, undertook a competitive selection process to hire such a consultant and the Ports wish to share equally in the costs incurred therefrom, including the cost of the Forecast Consultant Agreement described in Section 1 below;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

Section 1. Forecast Consultant Agreement

The Port of Long Beach has entered into an agreement with Mercator International LLC ("Forecast Consultant"), to provide project management services, logistics expertise, and macro-economic forecasting services to assist the Ports in developing a long term San Pedro Bay cargo forecast. A copy of the Contract for Consulting Services is attached hereto as Exhibit A ("Forecast Consultant Agreement").

Section 2. Cost of the Consultant Agreement and Reimbursement Amount

The total cost of the Forecast Consultant Agreement shall not exceed \$320,000. Each Port shall contribute 50% of the cost for the Forecast Consultant Agreement, or equal amounts not to exceed \$160,000 each.

Section 3. Term of the Agreement

The term of this Agreement shall be a period of one year from the date last signed by either the Executive Director of the Port of Los Angeles or the Chief Executive of the Port of Long Beach. The Agreement may be terminated earlier than one year by either party as provided for in this Agreement.

Section 4. Responsibility for Administration of the Forecast Consultant Agreement

A. Contract administration for the Forecast Consultant Agreement shall be the responsibility of the Port of Long Beach. However, the Ports agree to meet in good faith to discuss progress and to resolve any disputes which may arise as to the quality or quantity of the work or questions regarding other contract terms.

B. If the Ports cannot resolve a given dispute, then the dispute shall be resolved by the Executive Director of the Port of Los Angeles and the Chief Executive of the Port of Long Beach. If they cannot reach agreement, then either Port may withdraw from participation in the sharing of costs under this Agreement upon ten days written notice to the other Port and shall be liable only for its share of costs accrued through the effective date of such withdrawal.

C. The Forecast Consultant Agreement shall contain a provision which allows for termination upon ten days written notice and for payment to the Forecast Consultant for work performed before termination. The Forecast Consultant Agreement shall require that the Forecast Consultant deliver to the Port of Long Beach all data gathered and all reports prepared prior to termination of the Forecast Consultant Agreement. All such data shall be shared with the Port of Los Angeles.

D. The Forecast Consultant Agreement shall contain Insurance and Indemnification sections which include the Port of Los Angeles, its Boards, Officers, Agents, Employees, Assigns and Successors in Interest to the same standards and coverage as the Port of Long Beach.

Section 5. Reimbursement of Monies Between Ports

It shall be the responsibility of the Port of Long Beach to pay all monies due the Forecast Consultant under the terms of the Forecast Consultant Agreement. Subject to the provisions of Section 8 below, the Port of Los Angeles agrees to reimburse the Port of Long Beach its share of the contracting costs actually paid to the Forecast Consultant, up to One Hundred Sixty Thousand Dollars (\$160,000), upon receipt of a billing statement or invoice from the Port of Long Beach and as soon as, in the ordinary course of Port of Los Angeles business, the same may be approved, audited and paid.

Section 6. Limitations on Reimbursement

A. The Port of Long Beach shall not be entitled to reimbursement for the cost of any extra work requested by the Forecast Consultant unless the Ports have executed an amendment to this Agreement. If the Forecast Consultant requests any extra work or extra monies, both Ports agree that this request shall be directed by the Port of Long Beach to the Port of Los Angeles, and both Ports shall decide whether payment for such extra work is appropriate.

B. The Port of Los Angeles shall not be responsible for any extra costs resulting from the negligence of the Port of Long Beach in the administration of the Forecast Consultant Agreement.

Section 7. Rights and Obligations

A. Ownership of Data and Records. Both Ports agree that all records, exhibits, work product and all related data collected or reproduced by the Forecast Consultant ("data and records"), for which the costs are shared pursuant to this Agreement, are to be the joint property of the Ports.

B. Notices. Any notices to be given under or pursuant to this Agreement shall be served by mail or by personal delivery. When so given, such notice shall be effective two calendar days after the date of mailing or upon personal delivery, if not mailed. For the purpose hereof, unless otherwise provided in writing by the parties hereto, the address of the Port of Long Beach and the proper person to receive any such notice on its behalf is the Chief Executive, Port of Long Beach, P.O. Box 570, Long Beach, California 90802. For the Port of Los Angeles, the proper person to receive notices on its behalf is the Executive Director, Port of Los Angeles, P.O. Box 151, San Pedro, California 90733.

C. Termination. Either Port shall have the right to terminate this Agreement upon ten calendar days written notice to the other Port provided, however, such termination shall not affect the respective obligations of the Ports for any reimbursement due to the Forecast Consultant (or any reimbursement due from the Port of Los Angeles to the Port of Long Beach, or any reimbursements due from the Port of Long Beach to the Port of Los Angeles) accrued through the effective date of termination. If termination of this Agreement occurs, the Port of Long Beach agrees to notify the Forecast Consultant of any change in the scope of work or specific work tasks, which may result from such termination.

D. Both Ports pledge to cooperate with each other and the Forecast Consultant to complete the work of this Agreement and the Forecast Consultant Agreement. Both Ports agree that each will absorb its respective staff costs necessary to implement and meet the obligations of this Agreement and the Consultant Agreement.

Section 8. Amendments

The terms of this Agreement shall be amended only in writing and signed by both parties.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date to the left of their signatures.

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

Date: _____, 2015

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: Heather M. McCloskey
Heather M. McCloskey, Deputy

Date: December 18, 2014

Account#	54290	W.O. #	
Ctr/Div#	0428	Job Fac.#	
Proj/Prog#	000		
Budget FY:		Amount:	
	14-15		100,000
	15-16		60,000
TOTAL			160,000

For Acct/Budget Div. Use Only

Verified by: [Signature]

Verified Funds Available: [Signature]

Date Approved: 12/17/2014

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

Date: _____, 2015

By: _____
Jon Slangerup
Chief Executive
Long Beach Harbor Department

APPROVED AS TO FORM:
CHARLES PARKIN, City Attorney

By: _____
Dominic Holzhaus
Principal Deputy City Attorney

Date: _____, 2015