

AGREEMENT NO.

AGREEMENT BETWEEN
THE CITY OF LOS ANGELES AND
ALTASEA AT THE PORT OF LOS ANGELES

THIS AGREEMENT ("Agreement") is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation ("City"), acting by and through its Board of Harbor Commissioners ("Board") and ALTASEA AT THE PORT OF LOS ANGELES, a California non-profit public benefit corporation, 222 W. 6th Street, Suite 1010, San Pedro, California 90731 ("AltaSea").

WHEREAS, City and AltaSea entered into Lease No. 904 effective December 23, 2013 ("Lease") for a fifty-year term which authorizes AltaSea to construct, operate and maintain a world class urban marine research facility commonly known as "AltaSea at the Port of Los Angeles" on property owned and controlled by the Los Angeles Harbor Department ("Department"); and

WHEREAS, AltaSea proposes to utilize Warehouses 58, 59 and 60 as authorized pursuant to the Lease under its interim use provisions, as well as a portion of Berth 57 pursuant to the issuance of a Revocable Permit or similar authorization by the Department, for a research and development business hub and incubator in accordance with the permitted uses under the Lease ("Project"); and

WHEREAS, AltaSea has applied for grant funding through the U.S. Economic Development Administration ("EDA") to fund infrastructure improvements at the Project site ("Infrastructure Project"); and

WHEREAS, in accordance with EDA regulations, the Department, as property owner, is required to be a co-applicant with AltaSea in order to be awarded an EDA grant; and

WHEREAS, the purpose of this Agreement is to establish the relationship between the Department and AltaSea as co-applicants for the EDA grant award;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. AltaSea and the Department agree to be co-applicants for an EDA grant to assist AltaSea in funding the Infrastructure Project.
2. Any Infrastructure Project costs or expenditures not funded by an EDA grant award shall be the sole responsibility of AltaSea. The Department shall not be responsible for any costs or expenditures of the Infrastructure Project.
3. AltaSea shall be responsible for complying with the Lease, as it exists now or may be amended from time to time, for acceptance of any parcels or portions of parcels in order to construct the Project.

4. AltaSea and the Port of Los Angeles agree that they will be bound by the application forms and award documents that they execute and any applicable statutes and regulations as provided for in this Agreement.
5. The parties agree to the terms of the following application materials, each of which are included with this Agreement as Exhibit A:
 - i. SF-424, Application for Federal Assistance.
 - ii. SF-424C, Budget Information – Construction Programs
 - iii. SF-424D, Assurances - Construction Programs.
 - iv. ED-900, General Application for EDA Programs
 - v. ED-900A, Additional EDA Assurances for Construction or Non-Construction Investments.
 - vi. ED-900B, Beneficiary Information Form
 - vii. ED-900C, EDA Application Supplement for Construction Programs, including Environmental Narrative and Appendix “A” - Applicant Certification Clause
 - viii. ED-900E, Calculation of Estimated Relocation and Land Acquisition Expenses
 - ix. ED-900P, EDA Proposal Form
 - x. Form CD-511, Certification Regarding Lobbying.
 - xi. Disclosure of Lobbying Activities, where lobbying for the Project is conducted.

In addition to items (i) through (xi) in Section 5 above, AltaSea submitted additional documents to the EDA as part of the EDA grant application process, which are listed in Exhibit B. These documents were prepared separately from the application materials and each party either has access to or possession of these materials.

6. AltaSea and the Department, after review and approval by the Board as stated herein, agree to comply with each of the following grant award documents:
 - i. The Award Documents which include:
 - a. The Financial Assistance Award.
 - b. The ED-508 Budget accompanying the Award.
 - c. The Special Award Conditions.
 - ii. The Economic Development Administration publication Standard Terms and Conditions (Construction Projects) for Public Works and Development Facilities and Economic Adjustment Assistance, dated March 12, 2013.

- iii. The Economic Development Administration publication, Summary of EDA Construction Standard, amended December 3, 2010, which is sent to Recipients by the Project Engineer after EDA receives an executed original Financial Assistance Award.
- iv. The provisions of the United States Statutes codified in the United States Code and EDA regulations, codified in the Code of Federal Regulations and any Federal Register announcements applicable to EDA Public Works projects.

Items (i) through (iii) of Section 6 above shall be presented to the Board for review and approval, and upon their execution by the Executive Director where required, shall be considered a part of this Agreement and included as Exhibit B.

7. AltaSea and the Port of Los Angeles agree that the following responsibilities of the administration of any grant awarded by the EDA will be as follows:
 - i. AltaSea shall file all EDA project reports.
 - ii. AltaSea shall be the party designated to receive and distribute grant funds and file EDA financial reports.
 - iii. AltaSea shall be responsible for all bidding, award and management of the construction projects that occur on the property described in the grant award documents.
 - iv. Notwithstanding other statements in this Agreement, the parties agree that AltaSea shall be solely responsible for completing all EDA grant award obligations, including the creation of jobs at the Project site.
8. All applications and agreements related to the award and acceptance of the EDA grant which are required to be signed by the Department shall be subject to the review and approval as to form and legality by the City of Los Angeles City Attorney's Office.
9. Each party to this Agreement shall issue a certified resolution providing that the signatory executing the Agreement is authorized to sign the Agreement on behalf of that party.
10. In consideration of the Department co-applying with AltaSea for the EDA grant, AltaSea undertakes and agrees to defend, indemnify and hold harmless the City and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, in the event that AltaSea fails to fulfill any obligations of the EDA grant award arising in any manner by reason of any acts, errors, omissions or misconduct incident to the completion or

performance of the Infrastructure Project or fulfillment of the EDA grant award obligations by AltaSea or its subcontractors of any tier. Rights and remedies available to the City under this provision are cumulative of those provided for in the Lease and those allowed under the laws of the United States, the State of California, and the City. The parties agree that this indemnification term shall survive the termination or cancellation of this Agreement.

11. In the event of any conflict between this Agreement (or any portion thereof) and Lease No. 904 between AltaSea and City as in effect on the effective date of this Agreement, as it may be amended from time to time or if superseded by a subsequent lease ("AltaSea Lease"), the terms of the AltaSea Lease shall prevail.
12. Subject to the provisions of Charter Section 373, the effective date of this Agreement shall be the date of its execution by the Department's Executive Director upon authorization of the Board. AltaSea is aware that pursuant to Charter Section 373 and Administrative Code Section 10.5, this Agreement requires approval by City Council prior to becoming effective.
13. This Agreement shall be in full force and effect commencing from the effective date and shall continue until the earlier of the following occurs:
 - a. EDA grant award obligations are completed to the satisfaction of the EDA;
or
 - b. The occurrence of any event which necessitates the cancellation of this Agreement by the City.

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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, by its Board of Harbor Commissioners

Dated: _____

By _____
EUGENE D. SEROKA
Executive Director

Attest: _____
AMBER M. KLESGES
Board Secretary

ALTASEA AT THE PORT OF LOS ANGELES

Dated: 4/29/16

By Jenny Krusoe
Jenny Krusoe, Executive Director
(Print/type name and title)

Attest Krista Swingle
Krista Swingle, Manager Ops + Finance.
(Print/type name and title)

APPROVED AS TO FORM AND LEGALITY

April 29, 2016
MICHAEL N. FEUER, City Attorney
JANNA B. SIDLEY, General Counsel

By Heather M. McCloskey
Heather M. McCloskey, Deputy