

**FIFTH AMENDMENT
TO MEMORANDUM OF AGREEMENT
BETWEEN THE SAN DIEGO UNIFIED PORT DISTRICT
AND THE U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT**

This Fifth Amendment to the Memorandum of Agreement (“FIFTH AMENDMENT”) is entered into by the San Diego Unified Port District (hereinafter the “Port”) and the Los Angeles District of the United States Army Corps of Engineers (hereinafter the “Corps”), collectively referred to as the “Parties”.

RECITALS

WHEREAS, the Corps has jurisdiction over certain activities occurring in waters of the United States, including wetlands, pursuant to section 404 of the Clean Water Act of 1972, as amended, and navigable waters of the United States pursuant to section 10 of the Rivers and Harbors Act of 1899, as amended; and

WHEREAS, the Parties entered into a Memorandum of Agreement (“MOA”), effective April 24, 2012, 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 28, 2016, for expedited and priority review of Port-designated priority projects by the Corps; and

WHEREAS, the Parties entered into a Second Amendment to the MOA, effective April 20, 2020 for expedited and priority review of Port-designated priority projects by the Corps; and

WHEREAS, the Parties entered into a Third Amendment to the MOA, effective June 23, 2021 for expedited and priority review of Port-designated priority projects by the Corps; and

WHEREAS, the Parties entered into a Fourth Amendment to the MOA, effective December 21, 2022 for expedited and priority review of Port-designated priority projects by the Corps; and

WHEREAS, section 214 of the Federal Water Resources Development Act of 2000, Public Law 106-541, 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 Department of the Army; 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 MOA is set to expire December 31, 2025; and

WHEREAS, the Parties desire to amend this MOA by extending the duration of the MOA to December 31, 2028 and by increasing the maximum amount payable to be consistent with the Corps' anticipated costs through December 31, 2028, included as an update to **Appendix B** to this MOA.

NOW, THEREFORE, the Parties agree as follows:

The FIFTH AMENDMENT to the MOA shall increase the anticipated costs expected to be incurred through December 31, 2028, at \$125,000, the level specified in the Corps' budget estimate, which is included as an update to **Appendix B**, dated February 1, 2025, to the MOA attached hereto and incorporated herein by reference.

The FIFTH AMENDMENT to the MOA shall set a maximum amount payable under the MOA of \$715,000, which takes into account amounts previously paid to the Corps under the MOA and the Corps' anticipated costs through December 31, 2028. The Parties agree that this maximum amount payable may be increased through future amendments to this MOA or by following the invoice procedures set forth in Article V.B.

Article XI, Effective Date and Duration, of the MOA, is modified in its entirety to read:

“Article XI – EFFECTIVE DATE AND DURATION

This MOA and any amendments will become effective on the date of signature by the last Party. Unless amended or modified pursuant to Article IX.A., this MOA shall remain in force until whichever of these events occurs first: 1) December 31, 2028; or 2) the MOA is terminated pursuant to Article IX.B.”

Except as amended herein all terms and conditions of the MOA, the First Amendment, the Second Amendment, the Third Amendment and the Fourth to the MOA remain in full force and effect. This includes, without limitation, MOA Articles IV.A.3 and IX.A, allowing for changes to the priority project list through mutual agreement of the Principal Representatives of each party without requiring an amendment to the MOA. The MOA is on file in the Port's Office of the District Clerk as Document No. 58897, dated April 24, 2012. The First Amendment, Second Amendment Third and Fourth Amendment to the MOA is on file in the Port's Office of the District Clerk as Document No. 65760, dated October 28, 2016, Document No. 71115, dated April 20, 2020, Document No. 72899, dated June 24, 2021, and Document No. 74765, dated December 21, 2022, respectively.

IN WITNESS WHEREOF, this FIFTH AMENDMENT to the MOA is executed as of the dates indicated below by the Port, acting by and through its authorized officer, and by Corps, through its authorized officer and is effective as of the date of the signature of the last Party.

SAN DIEGO UNIFIED PORT DISTRICT

Dated: _____

By: _____

Jason Giffen
Vice President, Planning & Environment

APPROVED AS TO FORM:
Port General Counsel

By: _____

Name:

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

Dated: _____

By: _____

Andrew J. Baker
Colonel, U.S. Army
Commanding

Appendix A: Port Priority Projects

February 1, 2025

This list of priority projects under this MOA includes the following:

Aquaculture and Blue Technology projects including shellfish and seaweed aquaculture
 Chula Vista Harbor Park beach improvements and boat launch ramp
 B Street Pier maintenance dredging/knockdown
 Imperial Beach Pier improvements
 Navy Pier improvements
 Living Shorelines projects
 National City Marine Terminal extension
 Shore power installation
 Overwater Structure Credits Coordination for various Port projects to assist in EFH and CZMA processing for such permit actions as the Chula Vista H St. Pier project and other future projects where overwater shading issues with NMFS require coordination efforts
 Regional General Permit #72 projects
 Caulerpa eradication projects
 Tenth Avenue Marine Terminal and Cruise Ship Terminal Projects
 ECOconcrete expansion projects including Harbor Island and Sweetwater Channel
 Port Stimulus Projects
 Habitat Friendly Shoreline Structures
 Grand Caribe Isle South shoreline erosion
 Driscoll's wharf redevelopment
 Stormwater improvements
 Kellogg Beach sand replenishment
 South San Diego Bay Wetland Mitigation Bank Development as mitigation for various Port priority projects including the future National City Marine Terminal extension, and Cruise Ship terminal projects

	Remaining Portion of Federal Fiscal Year 2026			Federal Fiscal Year 2027		
	FY26 (January 1, 2026 to September 30, 2026)			FY27 (October 1, 2026 to September 30, 2027)		
Tasks	Staff Days	Total Daily Rate (\$)	Costs (\$)	Staff Days	Total Daily Rate (\$)	Costs (\$)
Participate at Public meetings/workshops/training and Integrated Natural Resources Management Plan meetings with the Navy/Port and other Port meetings/telcons with Corps	2.00	\$1,426.00	\$2,852.00	2.00	\$1,484.00	\$2,968.00
Federal, State and Regional Agency Coordination/Meetings	2.00	\$1,426.00	\$2,852.00	3.00	\$1,484.00	\$4,452.00
Pre-Application Document Review	2.00	\$1,426.00	\$2,852.00	4.00	\$1,484.00	\$5,936.00
Jurisdictional Delineation Reviews - Eelgrass/Caulerpa surveys/High Tide Line & Mean High Water Mark reviews/Midflat JDs/wetlands	1.00	\$1,426.00	\$1,426.00	1.00	\$1,484.00	\$1,484.00
Jurisdictional determinations - High Tide Line/ Mean High Water Mark/Eelgrass/Wetlands determinations	1.00	\$1,426.00	\$1,426.00	1.00	\$1,484.00	\$1,484.00
Permit Application Review	10.00	\$1,426.00	\$14,260.00	12.00	\$1,484.00	\$17,808.00
Compliance Inspections/Field Visit	1.00	\$1,426.00	\$1,426.00	2.00	\$1,484.00	\$2,968.00
In-house technical services (counsel, archeological reviews, cultural/tribal etc.)	5.00	\$1,426.00	\$7,130.00	5.00	\$1,484.00	\$7,420.00
Administrative Reporting	6.00	\$1,426.00	\$8,556.00	7.00	\$1,484.00	\$10,388.00
Technical Review/Support	2.00	\$1,851.00	\$3,702.00	2.00	\$1,925.00	\$3,850.00
Sub Total Personnel Costs			\$46,482.00			\$58,758.00
Direct Costs: (travel and transportation) @\$100/trip	1.00	\$100.00	\$100.00	2.00	\$100.00	\$200.00
Sub Total Direct Costs			\$100.00			\$200.00
Total for FY26/FY27			\$46,582.00			\$58,958.00
Total for FY28/FY29			\$79,427.00			
Grand Total for Fifth Amendment			\$184,967.00			

Rate Calculations

all costs above for GS 11/10 or GS 12/10 unless otherwise noted for GS/13-GS/14

	Federal Fiscal Year 2026 includes estimated 4% COLA			Federal Fiscal Year 2027 includes estimated 4% COLA		
	GS-11	GS-12/10	GS-13/10/GS14/10	GS-11	GS-12/10	GS-13/10/GS14/10
Basic Hourly Rate	\$52.25	\$62.62	\$81.54	\$54.34	\$65.12	\$84.80
Daily Rate (hourly rate x 8 hours)	\$418.00	\$500.95	\$649.92	\$434.72	\$520.99	\$675.92
Effective Daily Rate w/ benefits @1.7%	\$710.59	\$851.61	\$1,104.86	\$739.01	\$885.67	\$1,149.05
Overhead (Department 23.5% + District 44% = 67.5%)	\$479.65	\$574.84	\$745.78	\$498.84	\$597.83	\$775.61
Total Daily Rate (Effective Daily Rate +OH)	\$1,190.24	\$1,426.45	\$1,850.64	\$1,237.85	\$1,483.51	\$1,924.67

	Federal Fiscal Year 2028			Portion of Federal Fiscal Year 2029		
	FY28 (October 1, 2027 to September 30, 2028)			FY29 (October 1, 2028 to December 31, 2028)		
Tasks	StaffDays	Total Daily Rate (\$)	Costs (\$)	StaffDays	Total Daily Rate (\$)	Costs (\$)
Participate at Public meetings/workshops/training and Integrated Natural Resources Management Plan meetings with the Navy/Port and other Port meetings/telcons with Corps	2.00	\$1,543.00	\$3,086.00	0.50	\$1,605.00	\$802.50
Federal, State and Regional Agency Coordination/Meetings	3.00	\$1,543.00	\$4,629.00	0.50	\$1,605.00	\$802.50
Pre-Application Document Review	4.00	\$1,543.00	\$6,172.00	2.00	\$1,605.00	\$3,210.00
Jurisdictional Delineation Reviews - Eelgrass/Caulerpa surveys/High Tide Line & Mean High Water Mark reviews/Mudflat JDs/wetlands	1.00	\$1,543.00	\$1,543.00	0.00	\$1,605.00	\$0.00
Jurisdictional determinations - High Tide Line/ Mean High Water Mark/Eelgrass/Wetlands determinations	1.00	\$1,543.00	\$1,543.00	0.00	\$1,605.00	\$0.00
Permit Application Review	12.00	\$1,543.00	\$18,516.00	4.00	\$1,605.00	\$6,420.00
Compliance Inspections/Field Visit	2.00	\$1,543.00	\$3,086.00	0.00	\$1,605.00	\$0.00
In-house technical services (counsel, archeological reviews, cultural/tribal etc.)	5.00	\$1,543.00	\$7,715.00	1.00	\$1,605.00	\$1,605.00
Administrative Reporting	7.00	\$1,543.00	\$10,801.00	2.00	\$1,605.00	\$3,210.00
Technical Review/Support	2.00	\$2,002.00	\$4,004.00	1.00	\$2,082.00	\$2,082.00
Sub Total Personnel Costs			\$61,095.00			\$18,132.00
Direct Costs: (travel and transportation)@\$100/trip	2.00	\$100.00	\$200.00	0.00	\$100.00	\$0.00
Sub Total Direct Costs			\$200.00			\$0.00
Total for FY28/FY29			\$61,295.00			\$18,132.00

Federal Fiscal Year 2028 includes estimated 4% COLA			Federal Fiscal Year 2029 includes estimated 4% COLA		
GS-11	GS-12/10	GS-13/10/GS14/10	GS-11	GS-12/10	GS-13/10/GS14/10
\$56.51	\$67.73	\$88.19	\$58.77	\$70.44	\$91.72
\$452.11	\$541.83	\$702.95	\$470.19	\$563.50	\$731.07
\$768.57	\$921.10	\$1,195.02	\$799.32	\$957.95	\$1,242.82
\$518.79	\$621.75	\$806.64	\$539.54	\$646.62	\$838.90
\$1,287.36	\$1,542.85	\$2,001.65	\$1,338.86	\$1,604.56	\$2,081.72

Previous Balance - Amendment #4	\$60,000
Additional funding - Amendment #5	\$125,000
Total WRDA Funding - FY26 to FY29	\$185,000