



MEMORANDUM OF UNDERSTANDING

BETWEEN

THE UNITED STATES DEPARTMENT OF THE ARMY

AND

THE AMERICAN ASSOCIATION OF PORT AUTHORITIES

- I. **PURPOSE.** The purpose of this MOU is to declare a set of shared partnership principles to guide the Department of the Army and the public port authority members of the American Association of Port Authorities (AAPA) in developing and maintaining the nation's port and harbor infrastructure. The Shared Principles expressed below are intended to create a high-trust culture between our organizations, where we work seamlessly, exchange information freely, and spend the public's money wisely.

- II. **PARTNERSHIP IMPERATIVE.** The roles and responsibilities of the Department of the Army and public port authorities on harbor projects are set forth in numerous pieces of Federal, state and local legislation, regulation, and policy. Significantly, the Water Resources Development Act of 1986 (WRDA '86) requires that public port authorities provide, among other things, half of the cost of feasibility studies and between 35 and 60 percent of the cost of construction for Congressionally authorized harbor navigation projects. WRDA '86 also permits non-Federal sponsors to undertake feasibility studies at full non-Federal expense or to contribute in-kind services in lieu of cash on Department of the Army-led projects. The full cost of Federal maintenance of harbor projects is funded by port and harbor users. On regulatory actions related to port and harbor projects, public port authorities provide information, contractor support, and/or direct funds to the Department of the Army.

III. SHARED PRINCIPLES. These principles guide the partnership between the Department of the Army and public port authorities

- A. Recognize the mutual objectives of our organizations to the facilitation of commerce through the development, operation and maintenance of the nation's port and harbor infrastructure in an environmentally sustainable manner;
- B. Foster respect for and understanding of the unique public mission(s) and fiduciary responsibilities of our organizations;
- C. Recognize that our unique partnership relationship, which derives from being cost-sharing partners, does not undermine the responsibility of the Department of the Army to make independent decisions regarding the Federal interest in port and harbor projects;
- D. Cooperate in developing projects; allocating work between our organizations for the best utilization of assets; resolving disputes early; and, finding innovative and mutually beneficial solutions;
- E. Continuously improve our policies and practices for developing, operating and maintaining the nation's port and harbor infrastructure; and,
- F. Maintain open communication and seamless collaboration, and promote transparency and accountability in executing the provisions of individual project agreements.

IV. RESPONSIBILITIES. Within our authorities, we agree to communicate the Shared Principles contained in this MOU throughout our organizations and ensure that these principles are reflected in the formal and informal work of our organizations. Because of the benefits we expect to result from adherence to these partnership principles, we will strive to identify and reward those outstanding project teams that contribute to improving the partnership culture between our organizations.

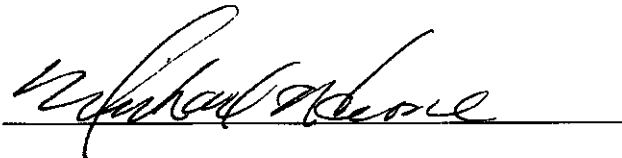
V. GENERAL PRINCIPLES

- A. This MOU may be modified or amended at any time by the mutual agreement of all parties in writing, and may be terminated by any party upon thirty (30) days prior written notice.
- B. Nothing in this MOU shall be construed as creating any right or benefit, substantive or procedural, enforceable at law, or of affording any preferential treatment, exclusive rights, or privileges, to any party.
- C. The parties intend to conduct the activities contemplated in this agreement in accordance with existing authorities. If any provisions of this MOU are determined to be inconsistent with existing laws or regulations or directives governing the signatories, then the provisions of this MOU not affected by a finding of inconsistency shall remain in full force and effect.

- D. This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the parties to the MOU will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors, if any, will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. While this MOU does not provide such specific authority, all such agreements shall reference this MOU. This MOU does not establish authority for the noncompetitive award of any contract or other agreement.
- E. This MOU in no way restricts the parties from participating with other public or private agencies, organizations, and individuals. All parties recognize the importance of continuing cooperation and participation with any and all stakeholders.

VI. **EFFECTIVE DATE.** This MOU becomes effective when signed by each signatory party and remains in effect until modified or terminated.

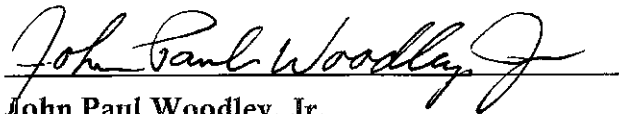
VII. **SIGNATORIES**



Michael A. Leone
Chairman of the Board
American Association of Port Authorities

MARCH 23, 2004

Date



John Paul Woodley, Jr.
Assistant Secretary of the Army (Civil Works)

MARCH 23, 2004

Date