

**MEMORANDUM OF AGREEMENT  
BETWEEN  
CALIFORNIA DEPARTMENT OF TRANSPORTATION  
AND  
U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT**

THIS MEMORANDUM OF AGREEMENT (“MOA”) is entered into as of this 7<sup>th</sup> day of June, 2010, between the California Department of Transportation (hereinafter the “Caltrans”) and the Department of the Army, represented by the United States Army Corps of Engineers, Los Angeles District (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; and

WHEREAS, Section 214 of the Federal Water Resources Development Act of 2000, Public Law 106-541 (“WRDA 2000”), as amended by Public Law 111-120, provides as follows:

- (a) In general. - The Secretary [of the Army], after public notice, may accept and expend funds contributed by non-Federal public entities to expedite the evaluation of permits under the jurisdiction of the Department of the Army.
- (b) Effect on permitting. - In carrying out this section, the Secretary shall ensure that the use of funds accepted under subsection (a) will not impact impartial decision-making with respect to permits, either substantively or procedurally.
- (c) Duration of authority. - The authority provided under this section shall be in effect from December 31, 2009 through December 31, 2010; and

WHEREAS, the Secretary of the Army has delegated the responsibility of carrying out Section 214 of the WRDA 2000 to the Chief of Engineers and his delegated representatives; and

WHEREAS, the Chief of Engineers, by memorandum dated March 29, 2004, as modified October 1, 2008, has authorized the District and Division Engineers of the Corps to accept and expend funds contributed by non-Federal entities subject to certain limitations; and

WHEREAS, Caltrans is a non-Federal public entity and requires expedited and priority review of certain projects by the Corps; and

WHEREAS, the Corps has indicated that it is not able, without additional resources, to expedite the evaluation of Caltrans projects; and

WHEREAS, Caltrans believes it is in the best interests of the taxpayers of the State of California to provide funds to the Corps to streamline and expedite Corps environmental review under

section 404 of the Clean Water Act (“CWA”) and/or section 10 of the Rivers and Harbors Act (“RHA”) for Caltrans-designated priority projects; and

WHEREAS, Caltrans and the Corps have entered into Standard Agreement 43A0275 (“Standard Agreement”) attached as **Appendix A** and incorporated by this reference, through which Caltrans is providing funding to the Corps; and

WHEREAS, this MOA establishes the responsibilities and operating procedures of the Parties with respect to priority reviews and other activities covered in the Standard Agreement; and

WHEREAS, this MOA is intended to: (1) enable the Parties to fully consider, address, and protect environmental resources early in the development of proposed transportation actions; (2) avoid conflicts late in project development through close coordination during early transportation planning and development stages; (3) provide sufficient information to the Corps for timely analysis of project effects and to assist Caltrans in developing appropriate mitigation measures; (4) maximize the effective use of limited Corps personnel resources by focusing attention on projects that would most affect aquatic resources; (5) provide a mechanism for expediting project coordination when necessary; and (6) provide procedures for resolving disputes in this resource partnering effort.

NOW, THEREFORE, the Parties agree as follows:

## AGREEMENT

### Article I. - PURPOSE AND AUTHORITIES

A. This MOA is entered into by the Parties for the purpose of establishing a mutual framework governing the respective responsibilities of the Parties for the acceptance and expenditure of funds contributed by Caltrans to provide expedited permit evaluation-related services for Caltrans-designated priority projects under the jurisdiction of the Corps. This MOA is not intended as the exclusive means of obtaining review of Caltrans’ projects. This MOA is a vehicle by which Caltrans will obtain expedited permit evaluation-related services outside of the ordinary Corps review process.

B. The Corps enters into this MOA pursuant to the authority granted under section 214 WRDA 2000, as amended. Caltrans enters into this MOA pursuant to authority granted under State law.

### Article II. - SCOPE OF WORK

A. Caltrans will provide funds to the Corps to expedite permit evaluation related services for Caltrans-designated priority projects under the jurisdiction of the Corps. The Corps’ regulatory program is funded as a Congressionally appropriated line item in the annual Federal budget. Funds received from Caltrans will be added to the Corps’ regulatory budget in accordance with the provisions of section 214 of WRDA 2000.

The Corps will provide staffing resources exclusively dedicated to expediting permit evaluation related services, as described in Article II.D., below, for Caltrans-designated priority projects and/or other programmatic efforts to support efficient decision-making related to Caltrans' CWA section 404 and/or RHA section 10 permitting needs.

B. The Corps will establish a separate internal financial account to track receipt and expenditure of the funds associated with its review of permit applications submitted by Caltrans. Corps regulatory personnel will charge their time and expenses against the account when they perform work to either expedite evaluation of permit applications designated by Caltrans as a priority or undertake other programmatic efforts to support efficient decision-making related to Caltrans' CWA section 404 and/or RHA section 10 permitting needs. Corps regulatory personnel will focus on the work as prioritized by Caltrans, and if no or few projects are designated by Caltrans as a priority, Corps personnel will then work on other programmatic efforts for Caltrans.

C. Funds contributed by Caltrans hereunder will be expended by the Corps to defray the costs of regulatory staff (including salary, associated benefits, overhead and travel expenses) and other costs in order to expedite the evaluation of priority permit applications designated by Caltrans. Such activities will include, but not be limited to, the following: jurisdictional determinations; site visits; travel; federal register preparation; public notice preparation and distribution; public hearings; preparation of correspondence; public interest review; preparation and review of environmental documentation; meetings with Caltrans and resource agencies; and any other permit evaluation related responsibilities that may be mutually agreed upon.

D. The Corps may expend Caltrans funds to hire contractors to perform select duties, including but not limited to site visits; preparing and providing technical materials, including environmental documentation; GIS-related services; and meeting coordination for the purpose of augmenting the resources available to the Corps for expediting priority projects and activities designated by the Caltrans. If such expenditures, when combined with the costs of the regulatory staff specified in Article II.D, require funding in excess of the amount available under the Standard Agreement and/or this MOA, then said contractors shall not be hired by the Corps until and unless additional funds are provided by Caltrans and the Parties execute a written amendment to the Standard Agreement and/or this MOA, as appropriate.

E. The Corps will *not* expend Caltrans funds for costs associated with the review of Regulatory Project Managers' work by supervisors or other persons or elements of the Corps in the decision-making chain of command. However, if a supervisor is performing staff work and not supervisory oversight, funds may be used. The Corps will *not* expend funds contributed by Caltrans to defray the costs of activities related to the Corps' enforcement functions, but *may* use Caltrans funds to defray costs of activities related to compliance functions.

F. If the funds provided by Caltrans are expended and not replenished, any remaining priority permit applications will be handled like those of any permit applicant, in a manner decided by the assigned Regulatory Project Manager and his or her supervisor.

### Article III. - INTERAGENCY COMMUNICATIONS

To provide for consistent and effective communication between the Parties, each party will appoint a Principal Representative to serve as its central point of contact on matters relating to this MOA. Additional representatives may also be appointed to serve as points of contact on specific actions or issues. Each party will issue a letter to the other designating the Principal Representative for each party within fifteen (15) days of MOA execution. The Principal Representative for each party may be changed upon written notification to the other party.

### Article IV. - RESPONSIBILITIES OF THE PARTIES

A. Caltrans will provide adequate resources, though the Standard Agreement and this MOA, to fund additional Corps staff for the purpose of timely review of designated priority projects and other identified activities. To facilitate the Corps' reviews and activities, Caltrans will:

1. Identify individual projects and other activities requiring priority involvement by the Corps under this MOA. A list and accompanying statement of priority will be provided at an initial meeting between the Parties. The Parties will review the list and revise it as necessary at quarterly meetings described below.

2. Actively engage Corps personnel in scoping, planning, and development of Caltrans projects through various means, including, but not limited to, meetings, field visits, conference calls, video teleconferencing, and electronic correspondence.

3. Provide adequate information regarding projects and other specific activities to initiate permit evaluation. Information required for the Corps to deem a permit application complete thereby allowing initiation of the permit review process can be found in Corps regulations at 33 C.F.R. §§ 325.1(d), 325.3(a), and in General Condition 27 of the Nationwide Permit Program as published in the Federal Register (72 Fed. Reg. 11194, dated March 12, 2007). Nationwide permit requests shall be submitted using the Corps' South Pacific Division's Pre-Construction Notification Form, as appropriate. Upon request, Caltrans shall provide additional information necessary to complete the application and/or pre-construction notification. If additional information [33 C.F.R. § 325.1(e) or General Condition 27 ] is requested by the Corps, Caltrans shall provide such additional information necessary to ensure the Corps can effectively accomplish the required review (see Appendix D for a list of recommended additional information to be submitted with the application/pre-construction notification to assist the Corps in expediting the permit evaluation process).

4. In consultation with the Corps, establish realistic schedules for the Corps' involvement in designated priority projects. Work closely with the Corps to resolve workload conflicts and adjust project priorities and schedules in order to make optimal use of available Regulatory Program staff resources. If overlaps or conflicts occur in the schedules for designated priority projects, Caltrans will work with the Corps to resolve such overlaps or schedule conflicts.

5. Request meetings in writing to the Corps by mail or e-mail. Meeting requests must provide sufficient lead-time for scheduling and establishing travel authorizations. Such requests must include an agenda that clearly characterizes what is expected from the Corps' participation and the desired outcome of the meeting. Written materials attached to the request must contain sufficient information to enable the Corps staff to prepare for, and actively participate in the meeting.

6. Request the Corps' participation in the National Environmental Policy Act/CWA Section 404 integration process in writing, in accordance with the April 2006 Memorandum of Understanding titled *National Environmental Policy Act and Clean Water Act Section 404 Integration Process for Federal Aid Surface Transportation Projects in California* ("Integration MOU").

7. Identify one lead representative from each of the Caltrans district offices to attend the quarterly coordination meetings with the Corps either in person, via telephone, or videoconference and to serve as the Caltrans representative for coordination of permit-related activities for designated priority project.

8. Coordinate quarterly meetings between the Corps and the Caltrans Districts and headquarters.

9. Participate, to the extent allowable and at Caltrans' own expense, in Corps sponsored training.

B. The Corps shall supplement or reassign its existing Regulatory Program personnel, which currently reviews Caltrans projects on a routine basis, with qualified personnel within projected funding levels provided by Caltrans pursuant to the Standard Agreement. The Corps shall use the funds provided to defray the costs of salaries and associated benefits and to reimburse travel expenses in order to:

1. Participate actively in the scoping, planning, and development of Caltrans projects by attending meetings and field reviews, when requested, and identifying critical issues, key decision points, and potential conflicts as early as possible. Participation includes sharing, when appropriate, the most current regulatory and aquatic resources information. The level of participation will be determined by the project's relative priority as identified on the project list provided by Caltrans pursuant to paragraph IV.A.1. above.

2. Participate with other federal, state, and local agencies to facilitate early coordination of projects. The level of participation will be determined by the project's relative priority as identified on the project list provided by Caltrans pursuant to paragraph IV.A.1. above.

3. Participate in State and regional level transportation planning meetings, their related activities, and the review of the environmental elements of any planning documents, as requested. The level of participation will be determined by the project's relative priority as identified on the project list provided by Caltrans pursuant to paragraph IV.A.1. above.

4. As appropriate, use a coordinated process as required under section 6002 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users, the Integration MOU or another mutually agreed upon process to develop and review draft and final environmental impact statements and other environmental documents, and provide timely agency comments.

5. Participate actively in the development of programmatic approaches to address CWA and other environmental issues and prepare for emergency situations.

6. Attend appropriate training sponsored by Caltrans and/or Federal Highway Administration (FHWA).

7. Follow the process established by and comply with the terms of the Integration MOU upon request by Caltrans submitted in accordance with paragraph IV.A.6. above.

8. Consult with Caltrans regarding an adjustment of priorities if the current and/or projected workload of projects and activities exceeds the Corps' ability to provide the services specified herein or negotiate additional funding in accordance with paragraph VI.E.

9. In accordance with the Standard Agreement, Exhibit D, paragraph 2, provide quarterly progress reports to Caltrans documenting all pending Caltrans permit applications and all permit decisions completed during the quarter for Caltrans projects. For the list of completed actions, the processing time for each permit application will also be included. In addition, these progress reports shall include a summary of expenditures under this MOA, for the period covered by the progress report and cumulatively for both the current federal fiscal year and for the life of the MOA.

10. At the conclusion of services under this MOA, provide a final statement of expenditures for the MOA in accordance with the Standard Agreement, Exhibit B, paragraph 3.G. including a summary report of progress made under this MOA to Caltrans. This summary report will be submitted no later than November 30, 2012, or in the event the Parties terminate the MOA prior to that date, within sixty (60) days of the date of termination. The summary report will also identify any recommendations for improving consultation and coordination among the Parties. To avoid duplicative reporting, the Corps may use the final statement of expenditures and summary report to meet its quarterly progress reporting requirement for the final quarter of the period covered by this MOA.

11. Meet with staff and management representatives from Caltrans on a quarterly or other mutually agreed upon schedule to review commitments, collaborate on issues, remedy outstanding concerns, consider revisions to the provisions of this MOA, and to monitor activities under this MOA in accordance with the performance measures identified in **Appendix B** to this MOA. Representatives from the FHWA and/or other agencies may also be invited, if appropriate and agreed to by the Parties.

C. Performance Measures

1. The Parties have agreed to a set of performance measures for the purpose of evaluating activities under this MOA and the Standard Agreement. These performance measures are included as Appendix B to this MOA and incorporated herein by reference.

2. These performance measures may be revised by mutual agreement of the Parties without necessitating a formal amendment to this MOA or the Standard Agreement.

Article V. - FUNDING

A. Within 30 days of execution of this MOA, Caltrans shall pay the anticipated costs expected to be incurred through September 30, 2010, at the level specified in the Corps' budget estimate, which is included as **Appendix C** to this MOA and incorporated herein by reference. Maximum payable under this MOA shall not exceed \$1,262,063.

B. The Corps' budget estimate will be revised to reflect costs for subsequent years that this agreement remains in effect by mutual agreement of the Parties without necessitating a formal revision or amendment to this MOA or the Standard Agreement, provided the revisions do not result in an increase in the total funding amount specified in the Standard Agreement.

C. No later than September 1, 2010, and annually thereafter for each year that this agreement remains in effect, the Corps will provide Caltrans with an invoice and updated budget estimate that provides an estimate of costs for the next federal fiscal year, including any proposed changes in the level of staffing. Revisions agreed to by the Parties will be incorporated into a revised budget estimate.

D. Prior to incurring any expenditure, Caltrans will make an annual lump sum payment to the Corps. Upon receipt of the Corps' invoice and updated budget estimate and in accordance with normal Caltrans payment procedures, Caltrans will make an annual lump sum payment, in advance, of the total amount specified in the invoice and updated budget estimate.

E. If the Corps' actual costs for providing the agreed upon level of service will exceed the amount of funds available, it will promptly notify Caltrans of the amount of funds needed to defray the costs. Caltrans will either initiate an amendment to this MOA to increase the funding amount, or agree to a reduced level of service.

F. Caltrans may elect to extend the services of the Corps beyond Federal fiscal year 2012, subject to: 1) Article V.H below, 2) additional funding by Caltrans, and 3) written amendment to the Standard Agreement and this MOA.

G. The Corps will expedite the evaluation of permit applications as specified in the Standard Agreement and this MOA only after funds have been transferred to the Corps. Payments by Caltrans are to be made to:

U.S. Army Corps of Engineers, Los Angeles District  
Regulatory Division P.O. Box 532711

Los Angeles, CA 90053-2325  
Attn: Sandra Villaneda

H. The Corps will neither accept nor expend funds under this MOA after December 31, 2010, unless Federal law extends or makes permanent the Corps' authority under Section 214 of the WRDA 2000 to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits.

#### Article VI. - APPLICABLE LAWS

The applicable statutes, regulations, policies, directives, and procedures of the United States will govern this MOA and all documents and actions pursuant to it. Unless otherwise required by law, all expediting of permit applications undertaken by the Corps will be governed by Corps regulations, policies and procedures.

#### Article VII. - DISPUTE RESOLUTION

In the event of a dispute, the Parties agree to use their best efforts to resolve the dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the Parties. The Parties agree that, in the event such measures fail to resolve the dispute, they shall proceed in accordance with the Standard Agreement, Exhibit C, paragraph C.4. It is further agreed that in the event there is a conflict between a provision of this MOA and the Standard Agreement, the Standard Agreement is controlling (to the maximum extent permitted by law).

#### Article VIII. - PUBLIC INFORMATION

A. Justification and explanation of Caltrans programs or projects before other agencies, departments and offices will not be the responsibility of the Corps. The Corps may provide, upon request from Caltrans, any assistance necessary to support justification or explanations of activities conducted under this MOA. In general, the Corps is responsible only for public information regarding Corps regulatory activities. Caltrans will give the Corps advance notice before making formal, official statements regarding Corps activities funded under this MOA.

B. The Corps shall comply with the requirements of the Standard Agreement in the event it receives a request under the Freedom of Information Act for information designated by Caltrans as confidential. The Corps shall immediately notify the Caltrans Principle Representative upon receipt of any such request and will forward a copy of the request to the Caltrans Principle Representative.

#### Article IX. - MISCELLANEOUS

##### A. Other Relationships or Obligations

1. This MOA will not affect any pre-existing or independent relationships or obligations between the Parties.

2. The Corps' participation in this MOA does not imply endorsement of Caltrans projects nor does it diminish, modify, or otherwise affect Corps statutory or regulatory authorities.

B. Survival

Under the provisions of Section 214 of the WRDA 2000 as extended, no funds may be expended pursuant to this MOA after December 31, 2010. However, if prior to this date, this statutory authority is extended, then provisions of this MOA shall remain in force until the sunseting of section 214 of WRDA 2000, as further extended, or the expiration date as provided in this MOA, whichever is earlier.

C. Severability

If any provision of this MOA is determined to be invalid or unenforceable, the remaining provisions will remain in force and unaffected to the fullest extent permitted by law and regulation.

Article X. - AMENDMENT, MODIFICATION AND TERMINATION

A. This MOA may be modified or amended only by written, mutual agreement of the Parties. Either party reserves the right to terminate this MOA without cause upon thirty (30) days written notice to the other party, or sooner by mutual written agreement, or immediately in the event of a material breach. In the event of termination, Caltrans will continue to be responsible for all costs incurred by the Corps in performing expedited environmental permit review services up to the time of notice and for the costs of closing out or transferring any ongoing contracts in support of the provision of services by the Corps under this MOA.

B. Upon termination or expiration of the MOA, the Corps shall immediately provide Caltrans with a final statement of expenditures. The Corps agrees to remit to Caltrans the unexpended balance of the advance payment within sixty (60) calendar days after the final statement of expenditures, if so requested by Caltrans, and subject to the availability of funds. Funds may be provided to Caltrans either by check or electronic funds transfer.

Article XI. - EFFECTIVE DATE AND DURATION

This MOA will become effective on the date of signature by the last Party, and approval by Department of General Services. This MOA shall remain in force until whichever of these events occurs first: 1) December 31, 2010, unless the sunset clause of section 214 of WRDA 2000 is extended or section 214 is made permanent, in which case the MOA will remain in effect for the duration of the statutory extension but not to exceed the time period specified in the Standard Agreement, whichever date is earlier; or 2) the MOA is terminated pursuant to Article X; or 3) the Standard Agreement expires or is terminated pursuant to its terms.

Article XII. - INTEGRATION

This MOA, including any documents incorporated by reference or attachments thereto, constitute the entire agreement between the Parties. All prior or contemporaneous agreements,

understandings, representations and statements, oral or written, are merged herein and shall be of no further force or effect.

IN WITNESS WHEREOF, this MOA is executed as of the date stated in the introductory clause by the California Department of Transportation acting by and through its authorized officer, the Chief, Division of Environmental Analysis and by the U.S. Army Corps of Engineers, through its authorized officer.

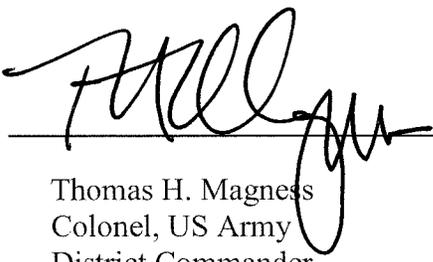
CALIFORNIA DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_

Jay Norvell, Chief  
Division of Environmental Analysis  
California Department of Transportation

Date: \_\_\_\_\_

U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

By:  \_\_\_\_\_

Thomas H. Magness  
Colonel, US Army  
District Commander

Date: 6/7/2010

**Appendix A: Standard Agreement 43A0275**

AGREEMENT NUMBER <b>43A0275 -TO-001</b>
REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

**California Department of Transportation (hereinafter also known as Department or Caltrans)**

CONTRACTOR'S NAME

**U.S. Army Corps of Engineers, Los Angeles District (USACE) (hereinafter also known as Contractor)**

2. The term of this Agreement is: **May 17, 2010** or upon DGS approval, whichever is later through **September 30, 2012.**

3. The maximum amount of this Agreement is: **\$1,262,063.00**  
 One million two hundred sixty-two thousand sixty-three dollars and no cents.

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference, made a part of the Agreement. The parties may amend this Agreement as permitted by law.

**The entire Memorandum of Agreement is contained on the following 38 pages.**

*Items shown with an Asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>*

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

<b>CONTRACTOR</b>		<i>California Department of General Services Use Only</i>
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) <b>U.S. Army Corps of Engineers, Los Angeles District (USACE)</b>		
BY (Authorized Signature) 	DATE SIGNED (Do not type) <b>6-8-10</b>	
PRINTED NAME AND TITLE OF PERSON SIGNING <b>David J. Castanon, Chief, Regulatory Division</b>		
ADDRESS <b>USACOE-Los Angeles District 915 Wilshire Blvd. Los Angeles, CA 90017-3401</b>		
<b>STATE OF CALIFORNIA</b>		
AGENCY NAME <b>Department of Transportation</b>		<input type="checkbox"/> Exempt per:
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING <b>Tom Sanborn, Branch Chief</b>		
ADDRESS <b>Division of Procurement and Contracts, MS 65 1727 30<sup>th</sup> Street, Sacramento, CA 95816</b>		

## Appendix B: Performance Measures

### **I. Background and Purpose**

The following performance standards and measures have been established for this MOA. Caltrans' Principle Representative will work with the Caltrans districts to review and evaluate the Corps' performance on a quarterly basis. The Corps' performance will be compared with the agreed-upon performance measures; inadequate performance may lead to re-evaluation of the MOA and Standard Agreement.

### **II. Document/Project Reviews**

- A. Substance of Comments: Comments provided by the Corps on applications and documents submitted by Caltrans should provide as much technical assistance, expertise and guidance as possible and should be in keeping with the highest of environmental standards. Comments should be justifiable and consistent with issues.
- B. Timeliness: The following standards apply to the Corps' review of applications, documents and responses to requests for comments and/or concurrence:
  - 1. The target turnaround time for reaching a decision on "reporting" nationwide permits (NWP) shall be 20 working days upon receipt of a complete pre-construction notification package. The 20-day time period is considered met if the Corps issues a Deny Without Prejudice for authorizations requiring a CWA Section 401 Water Quality Certification and/or a Consistency Certification pursuant to the Coastal Zone Management Act (CZMA). This target turnaround time does not apply for reporting NWPs that require Endangered Species Act consultation and/or National Historic Preservation Act coordination. For Standard Individual Permits (SIPs) the target turnaround time is 120 working days upon receipt of a complete application package. The 120-day time period is considered met if the Corps issues a Provisional Permit for authorizations requiring a CWA Section 401 Water Quality Certification and/or Consistency Certification pursuant to the CZMA. In addition, the target turnaround time does not apply to SIPs that require Endangered Species Act consultation, National Historic Preservation Act coordination, permit/approval from the Corps other than a Department of the Army CWA Section 404 or RHA section 10 permit, and/or preparation of an Environmental Impact Statement.
  - 2. All mandatory reviews, written responses, concurrences, agreements and recommendations will be provided within statutory or otherwise agreed-to timeframes (e.g., response to Integration MOU requests for concurrence or agreement).

3. Evaluation of the Corps' timeliness will be based on review of a random selection of projects and comments provided by customer service surveys conducted by Caltrans. Rating of timeliness will use a scale such as: Outstanding (95-100% on time); Commendable (85-94% on time); Satisfactory (75-84% on time); and Needs Improvement (less than 75% on time).

### **III. Technical Assistance/Programmatic Activities**

- A. Project Meetings: Corps personnel should attend or otherwise actively participate in, and/or facilitate priority project meetings requiring their input or expertise. These meetings will be identified and mutually agreed to as early as possible so as to make most efficient use of staff time. In the event that such a priority project meeting must be missed, the Corps should coordinate with the host to determine if assistance can be provided by other means. It is understood and agreed that meetings should not be used as a means to solicit the Corps to do the basic environmental work expected of Caltrans. Holding meetings to present supporting materials and information and resolve environmental issues, as well as to review work accomplished, is acceptable but must be balanced so as to ensure that substantive issues will be addressed.
- B. Field Reviews: Maximum use and initiation of field reviews is encouraged. Corps personnel should make every effort to participate in field reviews with Caltrans personnel. If such requests for field reviews conflicts with meeting deadlines for other priority projects, Corps staff will notify Caltrans of this as early as possible so that alternative arrangements can be made. Additional field reviews should be scheduled as needed.
- C. Standards: The Corps' participation and attendance in field reviews/meetings, will be rated by Caltrans as follows: Outstanding (active participation in 90% of agreed to meetings); Commendable (active participation in 80% of agreed to meetings); and Satisfactory (active participation in 75% of agreed to meetings). Further evaluation and corrective actions, which both parties agree upon, may be needed if attendance and participation fall below 75%. The Corps is expected to participate in 100% of the quarterly MOA status meetings held in accordance with Article IV.B(11) of the MOA.
- D. Programmatic Activities: Caltrans and the Corps shall participate in the development of programmatic approaches as time allows. At the Corps' discretion, funds not otherwise expended on priority project evaluation/processing may be used for programmatic activities involving Caltrans.

### **IV. Reporting**

Article IV.B(9) of the MOA requires the Corps to submit quarterly progress reports to Caltrans. 100% compliance with these requirements is expected. These will begin the month after the MOA is signed by all Parties and approval by Department of General Services. The Corps will also work with Caltrans to examine baseline

information regarding previous review activities. This information may be used for comparison and evaluation of new efforts under this MOA as well as to adjust performance measures where necessary.

**Appendix C: Corps' Budget Estimate**

**Cost Proposal: CALTRANS - U.S. Army Corps of Engineers, Los Angeles District Technical Assistance and Environmental Coordination Agreement for TEA-21 and SAFETEA Activities**

Tasks	Federal Fiscal Year 2010 (May 1, 2010 - September 30, 2010)			Federal Fiscal Year 2011 (October 1, 2010 - September 30, 2011)		
	Staff	Days	Rate	Staff	Days	Rate
<b>Personnel Costs</b>						
Project Scoping, Planning and Development		25	\$986		35	\$1,026
State and Regional Transportation Coordination		20	\$986		30	\$1,026
NEPA/404 Integration Technical Assistance		95	\$986		100	\$1,026
Jurisdictional Determinations		40	\$986		40	\$1,026
EIS Reviews		40	\$986		40	\$1,026
In-house Technical Services (Counsel, Archeo., H&H)		15	\$986		15	\$1,026
Administrative Reporting		15	\$986		25	\$1,026
Support work of GS-11 for misc. activities and permitting		130	\$739		150	\$768
		<b>380</b>			<b>435</b>	
<b>Subtotal Personnel Costs</b>			<b>\$342,605</b>			<b>\$407,576</b>
<b>Direct Costs:</b>						
Corps Organized Training w/Caltrans attendance: CRAM or NEPA			\$20,000			\$20,000
Travel and Transportation 20 trips @ \$200/trip			\$4,000			\$4,000
			<b>\$24,000</b>			<b>\$24,000</b>
<b>Total:</b>		<b>380</b>	<b>\$366,605</b>		<b>435</b>	<b>\$431,576</b>
<b>Rate Calculations</b>						
(all costs above for GS12/13 unless otherwise noted)						
			<b>Federal Fiscal Year 2010</b>			<b>Federal Fiscal Year 2011</b>
			<i>includes estimated 4% COLA</i>			<i>includes estimated 4% COLA</i>
Basic Hourly Rate	GS-11	GS-12/13	GS-13/14	GS-11	GS-12/13	GS-13/14
Daily Rate (hourly rate x 8 hours)	\$34.65	\$46.28	\$55.02	\$36.04	\$48.13	\$57.22
Effective Daily Rate (w/ benefits @ 54%)	\$277.20	\$370.24	\$440.16	\$288.29	\$385.05	\$457.77
Overhead (Departmental 34% + District 39% = 73% total)	\$426.89	\$570.17	\$677.85	\$443.96	\$592.98	\$704.96
	\$311.63	\$416.22	\$494.83	\$324.09	\$432.87	\$514.62
<b>Total Daily Rate (Effective Daily Rate + OH)</b>	<b>\$738.52</b>	<b>\$986.39</b>	<b>\$1,172.67</b>	<b>\$768.06</b>	<b>\$1,025.85</b>	<b>\$1,219.58</b>

**Cost Proposal: CALTRANS - U.S. Army Corps of Engineers, Los Angeles District Technical Assistance and Environmental Coordination Agreement for TEA-21 and SAFETEA Activities**

Federal Fiscal Year 2012 (October 1, 2011 - September 30, 2012)				
Tasks	Staff	Days	Rate	Cost
<b>Personnel Costs</b>				
Project Scoping, Planning and Development		45	\$1,067	\$48,010
State and Regional Transportation Coordination		35	\$1,067	\$37,341
NEPA/404 Integration Technical Assistance		100	\$1,067	\$106,688
Jurisdictional Determinations		40	\$1,067	\$42,675
In-house Technical Services (Counsel, Archeo., H&H)		15	\$1,067	\$16,003
EIS Reviews		40	\$1,067	\$42,675
Administrative Reporting		25	\$1,067	\$26,672
Support work of GS-11 for misc. activities and permitting		150	\$799	\$119,817
		<b>450</b>		<b>\$439,882</b>
<b>Direct Costs:</b>				
Corps Organized Training w/Caltrans attendance: CRAM or NEPA				\$20,000
Travel and Transportation 20 trips @ \$200/trip				\$4,000
				<b>\$24,000</b>
<b>Total:</b>		<b>450</b>		<b>\$463,882</b>
<b>Rate Calculations</b> (all costs above for GS12/13 unless otherwise noted)				
		<b>Federal Fiscal Year 2012</b> <i>includes estimated 4% COLA</i>		
Basic Hourly Rate	GS-11	GS-12/13	GS-13/14	
Daily Rate (hourly rate x 8 hours)	\$37.48	\$50.06	\$59.51	
Effective Daily Rate (w/ benefits @ 54%)	\$299.82	\$400.45	\$476.08	
Overhead (Departmental 34% + District 39% = 73% total)	\$461.72	\$616.70	\$733.16	
	\$337.06	\$450.19	\$535.21	
<b>Total Daily Rate (Effective Daily Rate + OH)</b>	<b>\$798.78</b>	<b>\$1,066.88</b>	<b>\$1,268.36</b>	

## **Appendix D: Recommended Additional Information**

It is recommended Caltrans submit the following additional information with its application/pre-construction notification to help expedite the permit evaluation process:

For Pre-Construction Notifications (PCNs):

- A preliminary field assessment of functions and services by indicating whether the feature exhibits medium to high hydrologic, water quality, and habitat integrity; whether the feature is important to associated or adjacent critical habitat, protected species, or public or protected open spaces.
- Detailed description of project activities by providing:
  - Description and plans detailing temporary impacts including: grading, clearing and grubbing, and water diversion activities; location of construction staging areas, access areas, and borrow and storage sites; and the duration of these activities.
  - Descriptions and plans detailing permanent impacts including: location, size, and depth of structures or fill material; quantity and composition of fill material; changes in topography and vegetation;
  - Description and/or plans of operational or long term activities. The impacts must be clearly depicted and accurately characterized by providing a detailed description and quantification (in estimated acres of impacts) of the project temporary, permanent, and cumulative impacts on special aquatic sites and other waters of the U.S., including the type of impact (e.g., habitat removal, fragmentation, introduction of exotic species) and its magnitude. These effects must be evaluated at the appropriate local or regional context.
  - Description of avoidance and minimization measures in design should be well documented and quantified in terms of acres of impacts avoided associated with each avoidance or minimization measure.
- Detailed (rapid assessment or better) assessment of the functions and services of special aquatic sites and other waters of the U.S. is necessary to provide adequate analysis of impacts. The assessment should determine which functions are performed by the wetland/waters, the services of those functions, and how the project will affect the continued performance of the identified functions. The precise assessment methodology for characterizing the functions and services of aquatic resources should be determined in close consultation with the Corps.
- Documentation which includes the consideration of temporary, permanent, and cumulative impacts on biological resources, including federally listed endangered and threatened species and designated critical habitat, or on cultural resources, including sites listed on the National Register of Historic Places or National Historic Landmark. Provide copies of associated environmental assessments, including a Biological Assessment, Cultural Resources Survey, and any applicable NEPA corespondance/concurrence received from participating agencies.

- A compensatory mitigation plan designed to offset permanent losses of waters of the U.S., including a statement describing how temporary losses of waters of the U.S. will be minimized to the maximum extent practicable; or, justification explaining why compensatory mitigation should not be required.
  - Any compensatory mitigation proposed should be based on the watershed approach and should comply with the final Mitigation Rule issued by the EPA and the Corps on April 10, 2008, and any Corps-issued Habitat Mitigation and Monitoring Guidelines.
  - A description of any compensatory mitigation proposed should specify amount, type, and location of compensatory mitigation, including any out-of-kind compensation, or indicate the intention to use an approved mitigation bank or in-lieu fee program.
  - If mitigation proposal includes project activities to create, restore, enhance waters of the U.S. and aquatic ecosystems, a draft Mitigation and Monitoring Plan shall be submitted which includes information required by the Mitigation Rule and Regulatory Guidance Letter (RGL) 08-03.

For Standard Individual Permits (SIPs):

- Detailed descriptions, with engineering layouts on aerials and cross sections, of project alternatives, including the preferred project alternative.
- Brief discussion of the reasons for considering but eliminating alternatives from further detailed study. An alternative is practicable if it is available and capable of feasible implementation after taking into consideration cost, existing technology, and logistics in light of the overall project purpose.
- Baseline environmental evaluation:
  - A preliminary field assessment of functions and services by indicating whether the feature exhibits medium to high hydrologic, water quality, and habitat integrity; whether the feature is important to associated or adjacent critical habitat, protected species, or public or protected open spaces.
  - Maps that include other relevant data such the 100-year floodplain, biological reserves or preserves, wildlife crossings, and habitat conservation planning core and linkage areas.
- Detailed description of project activities by providing:
  - Description and plans detailing temporary impacts including: grading, clearing and grubbing, and water diversion activities; location of construction staging areas, access areas, and borrow and storage sites; and the duration of these activities.
  - Descriptions and plans detailing permanent impacts including: location, size, and depth of structures or fill material; quantity and composition of fill material; changes in topography and vegetation;
  - Description and/or plans of operational or long term activities. The impacts must be clearly depicted and accurately characterized by providing a detailed

description and quantification (in estimated acres of impacts) of the project temporary, permanent, and cumulative impacts on special aquatic sites and other waters of the U.S., including the type of impact (e.g., habitat removal, fragmentation, introduction of exotic species) and its magnitude. These effects must be evaluated at the appropriate local or regional context.

- Description of avoidance and minimization measures in design should be well documented and quantified in terms of acres of impacts avoided associated with each avoidance or minimization measure.
- Detailed (rapid assessment or better) assessment of the functions and services of special aquatic sites and other waters of the U.S. is necessary to provide adequate analysis of impacts. The assessment should determine which functions are performed by the wetland/waters, the services of those functions, and how the project will affect the continued performance of the identified functions. The precise assessment methodology for characterizing the functions and services of aquatic resources should be determined in close consultation with the Corps.
- Documentation which includes the consideration of temporary, permanent, and cumulative impacts on biological resources, including federally listed endangered and threatened species and designated critical habitat, or on cultural resources, including sites listed on the National Register of Historic Places or National Historic Landmark. Provide copies of associated environmental assessments, including a Biological Assessment, Cultural Resources Survey, and any applicable NEPA corespondance/concurrence received from participating agencies.
- A compensatory mitigation plan designed to offset permanent losses of waters of the U.S., including a statement describing how temporary losses of waters of the U.S. will be minimized to the maximum extent practicable; or, justification explaining why compensatory mitigation should not be required.
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  - A description of any compensatory mitigation proposed should specify amount, type, and location of compensatory mitigation, including any out-of-kind compensation, or indicate the intention to use an approved mitigation bank or in-lieu fee program.
  - If mitigation proposal includes project activities to create, restore, enhance waters of the U.S. and aquatic ecosystems, a draft Mitigation and Monitoring Plan shall be submitted which includes the information required in the Mitigation Rule and RGL 08-03.