



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CALIFORNIA 90017

**FIRST AMENDMENT
To
MEMORANDUM OF AGREEMENT (137197)
BETWEEN
THE PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT,
THE REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY,
AND
THE U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT**

SUBJECT: First Amendment to Memorandum of Agreement between Pima County Regional Flood Control District, the Regional Transportation Authority of Pima County, and United States Army Corps of Engineers, Los Angeles District

This First Amendment to Memorandum of Agreement ("FIRST AMENDMENT") is entered into by Pima County Regional Flood Control District (hereinafter the "DISTRICT"), the Regional Transportation Authority of Pima County (hereinafter the "RTA"), and 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, 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"), dated March 15, 2012, for expedited and priority review of DISTRICT and RTA-designated priority projects by the Corps; and

WHEREAS, the MOA is set to expire December 31, 2016; and

WHEREAS, section 214 of the Federal Water Resources Development Act of 2000, Public Law 106-541 ("WRDA 2000") 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 Chief of Engineers, by memorandum dated September 2, 2015, 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 Parties desire to extend the duration of the MOA an additional four years to December 31, 2020; and

WHEREAS, the Corps has determined additional funding from the DISTRICT and RTA is necessary to continue to fund permit evaluation-related activities through December 31, 2020.

NOW, THEREFORE, the Parties agree as follows:

FIRST AMENDMENT

1. Article IV – RESPONSIBILITIES OF THE PARTIES. Paragraph B.2. of Article IV is deleted in its entirety and replaced with the following:

“2. Upon submittal of new permit applications and following any meetings and discussions to clarify the scope of anticipated permit application review processes, Corps staff will provide the DISTRICT and RTA with an estimated schedule to complete the permit evaluation process for each application submitted. The DISTRICT and RTA shall be able to comment on these schedules and adjust priorities per Appendix A, or provide additional resources per Article V.D.”

2. Article V -FUNDING. This entire Article is deleted in its entirety and replaced with the following:

“A. Within 30 days of execution of this MOA, the DISTRICT and RTA shall pay the anticipated costs expected to be incurred through September 30, 2017 at the level specified in the Corps’ budget estimate, which is included as Appendix B to this MOA and incorporated herein by reference. Separate amounts for DISTRICT and RTA priority projects shall be indicated.

B. No later than July 1 of each year that this MOA remains in effect, the Corps will provide the DISTRICT and RTA with an anticipated cost invoice (“Invoice”) that provides an updated budget estimate of costs for the next Federal fiscal year, including any proposed changes in level of staffing, less any estimated carry-over of unobligated funds, as provided in Article V.E, from the prior Federal fiscal year. Separate amounts for DISTRICT and RTA priority projects shall be specified. Each Invoice shall be provided on Corps letterhead, and include (1) the Corps’ name and address, (2) Corps’ remittance address, if different, (3) service dates, and (4) total amount. Revisions agreed to by the Parties will be incorporated into a revised budget estimate(s). Invoices will be submitted by the Corps to:

Pima County Regional Flood Control District
201 North Stone Avenue, 9th Floor
Tucson, Arizona 85701 – 1207

C. Prior to the Corps incurring any expenditure to expedite permit evaluation-related activities as specified in this MOA, the DISTRICT and RTA will each make a lump sum payment to the Corps of the total amount specified in the Appendix B budget estimate or the Corps’ Invoice(s). Payments by the DISTRICT and RTA are to be made by check

payable to the Finance and Accounting Officer and sent to the following address, unless the Corps provides a different remittance address in the Invoice:

U.S. Army Corps of Engineers, Los Angeles District
Finance and Accounting Officer
915 Wilshire Blvd.
Los Angeles, CA 90053-2325
Attn: Carlos M. Tabares

D. If the Corps' actual costs for providing the agreed upon level of service will at any time during the term of this MOA exceed the amount of funds available, the Corps will notify the DISTRICT and RTA at least ninety (90) days prior to fund exhaustion of the incremental amount of funds needed to defray the remaining anticipated costs. The DISTRICT and RTA will have the option of (i) making a payment to the Corps for the incremental amount, provided the total amount of payments to the Corps does not exceed the total funding amount, (ii) increasing the total funding amount through an amendment to this MOA, or (iii) agreeing to a reduced level of service.

E. The Corps will carry-over any unobligated funds from year to year, or will refund such unobligated funds if this MOA is terminated pursuant to Article IX.B or expires in accordance with Article XI."

3. Article X – MISCELLANEOUS. Paragraph B of Article X is deleted in its entirety.
4. Article XI - EFFECTIVE DATE. This Article is deleted in its entirety and replaced with the following:

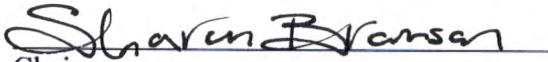
"This MOA and any amendments will become effective on the date of signature by the last Party. Unless amended or modified pursuant to Article IX.A., this MOA shall remain in force until whichever of these events occurs first: 1) December 31, 2020 or 2) the MOA is terminated pursuant to Article IX.B."
5. Integration. This FIRST AMENDMENT represents the entire understanding of the Parties regarding the changes to the MOA. All other terms and conditions of the MOA remain in full force and effect.

[Signatures follow on next two pages]

IN WITNESS WHEREOF, this FIRST AMENDMENT is executed by DISTRICT and RTA, acting by and through their respective Boards of Directors, and by the U.S. Army Corps of Engineers, through its authorized officer.


PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT

BOARD OF SUPERVISORS


Chair

Date: DEC 13 2016

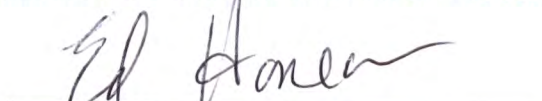
ATTEST:


Robin Brigode, Clerk of the Board

APPROVED AS TO FORM:

By: 
Deputy County Attorney
ANDREW FLAGG

REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY


Chairman, Board of Directors

APPROVED AS TO FORM:

By: 
Counsel for RTA

Date: 12-21-16

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

By: 

Kirk E. Gibbs
Colonel, U.S. Army
Commander and District Engineer

Date: 4 NOV 16