



REPLY TO
ATTENTION OF

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

**SECOND AMENDMENT
TO
MEMORANDUM OF AGREEMENT (5001595)
BETWEEN
SAN DIEGO COUNTY WATER AUTHORITY
AND
THE UNITED STATES ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT**

SUBJECT: Second Amendment to Memorandum of Agreement between the San Diego County Water Authority and the U.S. Army Corps of Engineers, Los Angeles District

This Second Amendment to Memorandum of Agreement ("SECOND AMENDMENT"), made the 16th day of December 2016, is entered into by the San Diego County Water Authority (hereinafter "Water Authority") 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 December 18, 2009, for expedited and priority review of Water Authority-designated priority projects by the Corps; and

WHEREAS, the Parties entered into a First Amendment to the MOA, effective December 18, 2012, to modify some terms and extend the duration of the MOA to December 31, 2016; 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 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, \$370,864.80 has been expended under the current terms of the MOA through November 2, 2016, leaving a balance of approximately \$28,815.20 in available funds; and

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WHEREAS, the Parties desire to further extend the duration of the MOA and provide additional funding.

NOW, THEREFORE, the Parties agree as follows:

SECOND AMENDMENT

1. Article IV.A. – RESPONSIBILITIES OF THE PARTIES. Article IV.A. 1. is modified in its entirety to read:

“A. The Water Authority shall:

1. 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 31 of the Nationwide Permit Program as published in the Federal Register. Upon request, the Water Authority shall provide supplemental information necessary to complete the permit application. Additional information [33 CFR Part 325.1(e)] required to complete the permit evaluation process may exceed what is needed to initiate the process. On a case-by-case basis, if requested by the Corps, Water Authority shall provide such additional information so as to ensure the Corps can effectively accomplish the required review.”

2. Article VI. – FUNDING. Article VI is modified in its entirety to read:

“ARTICLE VI. – FUNDING

A. It is anticipated that previous funds provided by the Water Authority are sufficient to fund all work anticipated under this MOA through December 31, 2017.

B. No later than September 1, 2017 and September 1 of each subsequent year that this MOA remains in effect, the Corps will provide the Water Authority with an anticipated cost invoice (“Invoice”) that provides an updated budget estimate of costs for the next calendar year, including any proposed changes in the level of staffing, less any estimated carry-over of unobligated funds from the prior calendar year. Revisions agreed to by the Parties will be incorporated into a revised budget estimate. Invoices shall be submitted by the Corps to:

Mr. Robert R. Yamada
Director of Water Resources
San Diego County Water Authority
4677 Overland Avenue
San Diego, California 92123

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C. Prior to the Corps incurring any expenditure to expedite permit evaluation-related activities as specified in this MOA, the Water Authority will make an annual lump sum payment to the Corps in the total amount specified in the Invoice(s). Payments by the Water Authority shall be made payable to the Finance and Accounting Officer and submitted to:

U.S. Army Corps of Engineers, Los Angeles District
Finance and Accounting Officer
915 Wilshire Blvd.
Los Angeles, CA 90017
Attn: Carlos M. Tabares

D. The Corps will carry-over any unobligated funds from year to year, or will refund such unobligated funds if this MOA expires or is terminated.

E. 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 Water Authority at least 90 days prior to fund exhaustion of the incremental amount of funds needed to defray the remaining anticipated costs. The Water Authority will either increase the funding amount or agree to a reduced level of service."

3. Article X. - MISCELLANEOUS. Paragraph B, Survival, is deleted in its entirety.

4. Article XII. - EFFECTIVE DATE. This Article is modified in its entirety to read:

“ARTICLE XII. - 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 XI.A, this MOA shall remain in force until the MOA is terminated pursuant to Article XI.B.”

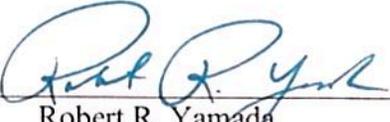
5. Integration. This SECOND AMENDMENT represents the entire understanding of the Parties regarding changes to the MOA and First Amendment. All other terms and conditions of the MOA remain in full force and effect.

[REMAINDER LEFT INTENTIONALLY BLANK]

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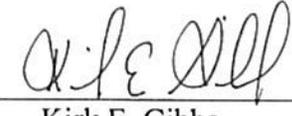
IN WITNESS WHEREOF, this SECOND AMENDMENT is executed by the Water Authority, acting by and through its Board of Directors or designated management authority, and by the U.S. Army Corps of Engineers, through its authorized officer.

San Diego County Water Authority

By: 
Robert R. Yamada
Director of Water Resources

Date: 11-17-16

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

By: 
Kirk E. Gibbs
Colonel, US Army
Commander and District Engineer

Date: 12-16-16