



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

**SECOND AMENDMENT
TO
MEMORANDUM OF AGREEMENT
BETWEEN
COUNTY OF SAN DIEGO
AND**

THE UNITED STATES ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

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

This Second Amendment to Memorandum of Agreement ("SECOND AMENDMENT"), made the 28th day of June, 2013, is entered into by the County of San Diego (hereinafter "County") 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 Parties entered into a Memorandum of Agreement ("MOA"), dated July 6, 2007, for expedited and priority review of County-designated priority projects by the Corps; and

WHEREAS, section 214 of the Federal Water Resources Development Act of 2000, Public Law 106-541 ("WRDA 2000") as amended by Public Law 111-315, 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, Public Law 111-315, signed into law on December 18, 2010, extended the sunset clause of section 214 of WRDA 2000 to December 31, 2016; and

WHEREAS, the Parties entered into a First Amendment to the MOA effective June 29, 2010, extending the duration of the MOA until July 1, 2013; and

WHEREAS, \$128,955.66 had been expended under the current term of the MOA through April 6, 2013, leaving a balance of \$71,044.34 in available funds; and

WHEREAS, the Parties desire to further amend the MOA to extend the duration of the MOA until December 31, 2016 and provide additional funding.

NOW, THEREFORE, the Parties agree as follows:

SECOND AMENDMENT

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1. Article V. IMPARTIAL DECISION-MAKING. This article is deleted in its entirety.

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

“ARTICLE VI. - FUNDING

A. It is anticipated that an additional \$128,955.66 is needed to fund all work under this MOA through December 31, 2016. This amount includes costs for overhead, staffing, and associated support personnel, and any additional services that may be required pursuant to Article II.E.

B. Prior to the Corps incurring any expenditure to expedite permit evaluation-related activities as specified in this MOA, County will make the lump sum payment identified in Article VI.A. to the Corps. Payment by County shall be submitted to:

U.S. Army Corps of Engineers, Los Angeles District
Finance and Accounting Officer
P.O. Box 532711
Los Angeles, CA 90053-2325
Attn: Carlos M. Tabares

C. 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 County at least ninety (90) days prior to fund exhaustion of the incremental amount of funds needed to defray the remaining anticipated costs. County will either agree to a reduced level of service or the Corps and County will agree to execute an amendment to this MOA to increase funds.

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

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

4. Article XI – AMENDMENT, MODIFICATION AND TERMINATION. This Article is modified in its entirety to read:

A. This MOA may be modified or amended only by written, mutual agreement of the Parties.

B. Either party reserves the right to terminate this MOA without cause upon thirty (30) days written notice to the other party. In the event of termination, County 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 any ongoing contracts in support of the provision of services by the Corps under this MOA.

C. Within ninety (90) calendar days of termination of the MOA, or the expiration of the MOA, the Corps shall provide County with a final statement of expenditures. Within sixty

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(60) calendar days after submittal of the Corps' final statement of expenditures, the Corps shall directly remit to County the unexpended balance of the advance payment, if any. Funds may be provided to the County either by check or electronic funds transfer.

5. 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 whichever of these events occurs first: 1) December 31, 2016 or 2) the MOA is terminated pursuant to Article XI.B.”

6. Article XIII. – INTEGRATION. This Article is modified in its entirety to read:

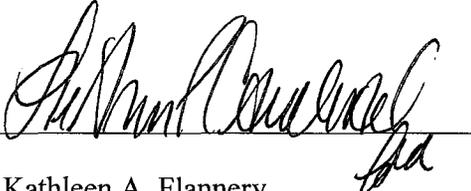
“This SECOND AMENDMENT represents the entire understanding of the Parties regarding the MOA and changes to the MOA and First Amendment. All other terms and conditions of the MOA and First Amendment remain in full force and effect.”

[REMAINDER LEFT INTENTIONALLY BLANK]

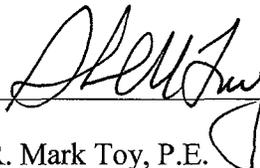
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IN WITNESS WHEREOF, this SECOND AMENDMENT is executed by the County, acting by and through its Public Works Director or designated management authority, and by the U.S. Army Corps of Engineers, through its authorized officer.

For the County of San Diego:

By: 
Kathleen A. Flannery
Deputy Director,
Department of Public Works

For the U.S. Army Corps of Engineers:

By: 
R. Mark Toy, P.E.
Colonel, US Army
Commander and District Engineer

Date: June 24, 2013

Date: 28 June 2013

APPROVED AS TO FORM:

By: Thomas C. Bowler
Counsel

Date: June 24, 2013