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

REPLY TO
ATTENTION OF

# THIRD AMENDMENT
# TO
# MEMORANDUM OF AGREEMENT
# BETWEEN
# METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
# AND
# THE U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

Metropolitan Water District Agreement Number 142627
SUBJECT: Third Amendment to Memorandum of Agreement between the Metropolitan Water District of Southern California and the U.S. Army Corps of Engineers, Los Angeles District

This Third Amendment to Memorandum of Agreement ("THIRD AMENDMENT"), made the _____ day of _____, 2020, is entered into by and between the Metropolitan Water District of Southern California (hereinafter the "District") 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"), effective June 1, 2014, for expedited and priority review of District-designated priority projects by the Corps; and

WHEREAS, the Parties entered into a First Amendment to the MOA, effective September 29, 2016, to extend the duration of the MOA three additional years; and

WHEREAS, the Parties entered into a Second Amendment to the MOA, effective September 19, 2018, to extend the duration of the MOA two additional years; and

WHEREAS, the MOA is set to expire September 30, 2020; and

WHEREAS, the Parties desire to further amend the MOA to modify some terms and extend the duration of the MOA an additional two years; 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 Assistant Secretary of the Army (Civil Works), by memorandum dated January 19, 2018, 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 Corps has determined the existing funding from the District is sufficient to continue to fund permit evaluation-related activities through September 30, 2022; and

NOW, THEREFORE, the Parties agree as follows:

THIRD AMENDMENT

1. Article III- INTERAGENCY COMMUNICATIONS. This Article is modified in its entirety to read:

"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 for matters relating to this MOA. Additional representatives may also be appointed to serve as points of contact on specific actions or issues. For the purposes of this MOA, the District's Principle Representative will be Ms. Jennifer Harriger, Interim Manager, Environmental Planning Section and the Corps' Principle Representative will be Dr. Aaron Allen, Chief, North Coast Branch, Regulatory Division. Either Principle Representative may be changed upon written notification to the other party."

2. Article IV - NOTICES. Paragraph A of this Article is modified in its entirety to read:

"Article IV - NOTICES

A. All notices, statements, or payments specified in this MOA shall be deemed to have been duly given if in writing and delivered personally, or electronically mailed, or mailed by first-class registered, certified mail, or express delivery service, as follows:

If to District:

Interim Manager
Environmental Planning Section
Metropolitan Water District of Southern California
700 N. Alameda Street
Los Angeles, CA 90012
E-mail: jharriger@mwdh2o.com

If to the Corps:

Chief, North Coast Branch
Regulatory Division
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Boulevard, Suite 930
Los Angeles, CA 90017
E-mail: Aaron O. Allen@usace.army.mil

With a copy in all instances to:

District Counsel
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Boulevard, Suite 930
Los Angeles, CA 90017"

3. Article VI - FUNDING. Paragraph A of this Article is modified in its entirety to read:

"Article VI – FUNDING

A. Funding Period.

1. Funding period: June 1, 2014 - September 30, 2022"

4. Article X- EFFECTIVE DATE AND DURATION. This Article is modified in its entirety to read:

"Article X - EFFECTIVE DATE AND DURATION

This MOA as amended will become effective on the date of signature by the last Party. Unless amended or modified pursuant to Article VIII.A., this amended MOA shall remain in force until whichever of these events occurs first: 1) September 30, 2022; or 2) the MOA is terminated pursuant to Article VIII.B."

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

IN WITNESS WHEREOF, the THIRD AMENDMENT is executed by the Metropolitan Water District of Southern California, acting by and through its Assistant General Manager/Chief Administrative Officer, and by the Los Angeles District U.S. Army Corps of Engineers, through its authorized officer.

FOR THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

By: Shane Chapman Date: 8/19/20

Shane Chapman
Assistant General Manager/Chief Administrative Officer

APPROVED AS TO FORM:
Catherine M. Stites
Senior Deputy General Counsel

Deputy

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

By: BALTEN.JULIE.ANNE.1098296626 Digitally signed by BALTEN.JULIE.ANNE.1098296626 Date: 2020.07.29 14:17:54 -07'00' Date: July 29, 2020

Julie A. Balten
Colonel, U.S. Army
Commander and District Engineer

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

REPLY TO
ATTENTION OF

# SECOND AMENDMENT
# TO
# MEMORANDUM OF AGREEMENT
# BETWEEN
# METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
# AND
# THE U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

Metropolitan Water District Agreement Number 142627
SUBJECT: Second Amendment to Memorandum of Agreement between the Metropolitan Water District of Southern California and the U.S. Army Corps of Engineers, Los Angeles District

This Second Amendment to Memorandum of Agreement ("SECOND AMENDMENT"), made the 20th day of August, 2018, is entered into by and between the Metropolitan Water District of Southern California (hereinafter the "District") 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"), effective June 1, 2014, for expedited and priority review of District-designated priority projects by the Corps; and

WHEREAS, the Parties entered into a First Amendment to the MOA, effective September 29, 2016, to extend the duration of the MOA three additional years; and

WHEREAS, the MOA is set to expire September 30, 2019; and

WHEREAS, the Parties desire to further amend the MOA to modify some terms and extend the duration of the MOA an additional year; 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, the Corps has determined the existing funding from the District is sufficient to continue to fund permit evaluation-related activities through September 30, 2020; and

NOW, THEREFORE, the Parties agree as follows:

SECOND AMENDMENT

1. Article III- INTERAGENCY COMMUNICATIONS. This Article is modified in its entirety to read:

"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 for matters relating to this MOA. Additional representatives may also be appointed to serve as points of contact on specific actions or issues. For the purposes of this MOA, the District's Principle Representative will be Ms. Jennifer Harriger, Team Manager, Environmental Planning Section and the Corps' Principle Representative will be Dr. Aaron Allen, Chief, North Coast Branch, Regulatory Division. Either Principle Representative may be changed upon written notification to the other party."

2. Article IV - NOTICES. This Article is modified in its entirety to read:

"Article IV - NOTICES

All notices, statements, or payments specified in this MOA shall be deemed to have been duly given if in writing and delivered personally, or electronically mailed, or mailed by first-class registered, certified mail, or express delivery service, as follows:

If to District:

Team Manager
Environmental Planning Section
Metropolitan Water District of Southern California
700 N. Alameda Street
Los Angeles, CA 90012
E-mail: jharriger@mwdh2o.com

If to the Corps:

Chief, North Coast Branch
Regulatory Division
U.S. Army Corps of Engineers

Los Angeles District
915 Wilshire Boulevard, Suite 930
Los Angeles, CA 90017
E-mail: Aaron O. Allen@usace.army.mil

With a copy in all instances to:

District Counsel
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Boulevard, Suite 930
Los Angeles, CA 90017

B. A party may change the address to which such communications are to be directed by giving written notice to the Corps or to the District in the manner provided in this Article.

C. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed."

3. Article V - RESPONSIBILITIES OF THE PARTIES. Paragraph A.1 of this Article is modified in its entirety to read:

"1. Provide adequate information regarding District-designated Priority Projects, scheduling requirements, 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 32 of the Nationwide Permit Program. Upon request, the District shall provide supplemental information necessary to complete the permit application. Additional information [33 C.F.R. § 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, the District shall provide such additional information so as to ensure the Corps can effectively accomplish the required review."

4. Article VI - FUNDING. Paragraphs A and B of this Article are modified in their entirety to read:

"Article VI – FUNDING

A. Funding Period.

1. Funding period: June 1, 2014 - September 30, 2020

B. Funding amount.

1. Total estimated costs for the funding period are $240,000.00."

5. Article X- EFFECTIVE DATE AND DURATION. This Article is modified in its entirety to read:

"Article X - EFFECTIVE DATE AND DURATION
This MOA as amended will become effective on the date of signature by the last Party. Unless amended or modified pursuant to Article VIII.A., this amended MOA shall remain in force until whichever of these events occurs first: 1) September 30, 2020; or 2) the MOA is terminated pursuant to Article VIII.B."

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

IN WITNESS WHEREOF, the SECOND AMENDMENT is executed by the Metropolitan Water District of Southern California, acting by and through its Assistant General Manager/Chief Administrative Officer, and by the Los Angeles District U.S. Army Corps of Engineers, through its authorized officer.

FOR THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

By: Shane Chapman Date: 8/20/18

Shane Chapman
Assistant General Manager/Chief Administrative Officer

APPROVED AS TO FORM:
Catherine M. Stites
Senior Deputy General Counsel

Deputy

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

By: Date: 10 Sep 18

Aaron C. Barta, PMP
Colonel, U.S. Army
Commander and District Engineer

## Appendix A: District-Designated Priority Projects

(Dated: August 13, 2018)

District-designated Priority Projects under this MOA include the following:

1. Right-of-Way and Infrastructure Protection Program (RWIPP)

    a. Orange County Operating Region
    b. Western San Bernardino Operating Region
    c. Riverside/San Diego Operating Region
    d. Los Angeles Operating Region

2. Pre-Stressed Concrete Cylinder Pipe Rehabilitation Program (PCCP)

3. Regional Recycled Water Program (RRWP)

4. Colorado River Aqueduct (CRA) Conduit Erosion Protection Project

5. Upper Feeder San Gabriel Tower Upgrades Project

6. West Valley Feeder No. 1 Stage 3 Project

7. Foothill Feeder Inspection Project (mitigation/restoration component only)

8. Orange County Feeder Blow-Off Structure Rehabilitation Project

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

REPLY TO
ATTENTION OF

# FIRST AMENDMENT
# TO
# MEMORANDUM OF AGREEMENT
# BETWEEN
# METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
# AND
# THE U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

SUBJECT: First Amendment to Memorandum of Agreement between the Metropolitan Water District of Southern California and the U.S. Army Corps of Engineers, Los Angeles District

This First Amendment to Memorandum of Agreement ("FIRST AMENDMENT"), made the 29th day of September 2016, is entered into by and between the Metropolitan Water District of Southern California (hereinafter the "District"), 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"), effective June 1, 2014, for expedited and priority review of District-designated priority projects by the Corps; and

WHEREAS, the MOA is set to expire September 30, 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, the Parties desire to extend the duration of the MOA an additional three years; and

WHEREAS, the Corps has determined the existing funding from the District is sufficient to continue to fund permit evaluation-related activities through September 30, 2019; and

NOW, THEREFORE, the Parties agree as follows:

FIRST AMENDMENT

1. Article XII- EFFECTIVE DATE AND DURATION. This Article is modified in its entirety to read:

"Article XII - EFFECTIVE DATE AND DURATION

This MOA as amended will become effective on the date of signature by the last Party. Unless amended or modified pursuant to Article VIII.A., this amended MOA shall remain in force until whichever of these events occurs first: 1) September 30, 2019; or 2) the MOA is terminated pursuant to Article X.B."

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

[REMAINDER LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the FIRST AMENDMENT is executed by the Metropolitan Water District of Southern California, acting by and through its Manager of Engineering Services, and by the Los Angeles District U.S. Army Corps of Engineers, through its authorized officer.

FOR THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

By: _____ Date: 9/29/16

Gordon Johnson
Manager
Engineering Services Group

APPROVED AS TO FORM:
Joseph Vanderhorst
Deputy General Counsel

_____
Deputy

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

By: _____ Date: _____

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

IN WITNESS WHEREOF, the FIRST AMENDMENT is executed by the Metropolitan Water District of Southern California, acting by and through its Manager of Engineering Services, and by the Los Angeles District U.S. Army Corps of Engineers, through its authorized officer.

FOR THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

By: _____ Date: _____

Gordon Johnson
Manager
Engineering Services Group

APPROVED AS TO FORM:
Joseph Vanderhorst
Deputy General Counsel

_____
Deputy

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

By: _____ Date: 9/27/6

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

**MEMORANDUM OF AGREEMENT**
**BETWEEN**
**METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**
**AND**
**U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT**

**Metropolitan Water District Agreement Number 142627**

THIS MEMORANDUM OF AGREEMENT ("MOA") is entered into between the Metropolitan Water District of Southern California (hereinafter the "District") 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 pursuant to Section 404 of the Clean Water Act ("CWA") of 1972, as amended, and navigable waters of the United States pursuant to Section 10 of the Rivers and Harbors Act of 1899 ("RHA"), as amended; 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, the authority provided under Section 214 of the WRDA 2000 is presently in effect until December 31, 2016; 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, the Corps has indicated it is not able, without additional resources, to expedite the evaluation of District permit applications that have a public purpose; and

WHEREAS, the District is a non-Federal public entity and believes it is in its best interest to provide funds to the Corps pursuant to this MOA to streamline and expedite Corps' review under Section 404 of the CWA and/or Section 10 of the RHA for District-designated priority projects, as more fully described in this MOA; and

WHEREAS, the Corps issued an initial public notice dated November 8, 2013, regarding its intent to accept and expend funds contributed by the District; and

WHEREAS, in a memorandum dated December 19, 2013, the Corps' District Engineer determined that expenditure of funds received from the District is appropriate, and an informational public notice dated January 15, 2014, regarding the decision has been issued; and

WHEREAS, it is understood and acknowledged by all Parties that the Corps' review of the District's permit applications for District-designated priority projects will be completely impartial and in accordance with all applicable Federal laws and regulations; and

WHEREAS, this MOA establishes the responsibilities and operating procedures of the Parties with respect to the Corps' priority review of District-designated priority projects requiring a Corps' permit pursuant to Section 404 of the CWA and/or section 10 of the RHA; 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 actions; (2) avoid conflicts late in project development through close coordination during early planning and development stages; (3) provide sufficient information to the Corps for timely analysis of project effects and to assist the District 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 Corps' acceptance and expenditure of funds contributed by the District to provide expedited permit evaluation-related services for District-designated priority projects requiring Corps' approval pursuant to Section 404 of the CWA and/or Section 10 of the RHA, as listed in **Appendix A** to this MOA ("Priority Projects"). This MOA is not intended as the exclusive means of obtaining review of Priority Projects proposed by the District. This MOA is a vehicle by which the District will obtain expedited permit evaluation-related services, outside of the ordinary Corps review process.

B. The District enters into this MOA pursuant to its authority under, inter alia, Section 122 of the Metropolitan Water District Act (California Statutes (1969), ch. 209).

C. The Corps enters into this MOA pursuant to its authority under Section 214 of the WRDA 2000, as amended.

D. This MOA is specific to Section 404 of the CWA and/or Section 10 of the RHA permit reviews only. A separate agreement may be required between District and the Corps to expedite environmental technical assistance, coordination services, review, and concurrence of documentation prepared to comply with Section 14 of the RHA, as amended.

Article II. - SCOPE OF WORK

A. The District will provide funds to the Corps to expedite permit evaluation related services for District-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. The District will provide the Corps with funds in accordance with the provisions of Section 214 of WRDA 2000, as amended.

B. The Corps will provide staffing resources exclusively dedicated to expediting permit evaluation related services, as described below, for District-designated Priority Projects and/or other programmatic efforts to support efficient decision-making related to the District's CWA Section 404 and/or RHA Section 10 permitting needs.

C. 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 the District for Priority Projects. Corps Regulatory personnel will charge their time and expenses against the account when they perform work to either expedite permit evaluation related requests for Priority Projects or undertake other programmatic efforts to support efficient decision-making related to the District's permitting needs. The Corps will provide to the District, upon reasonable notice and at the District's expense, access to or copies of the financial records and supporting documentation related to the expenditure of funds pursuant to this MOA.

D. Funds contributed by the District hereunder will be expended by the Corps to defray the costs of Regulatory Division personnel (including salary, associated benefits, overhead and travel expenses) and other costs in order to expedite the evaluation of Priority Project permit applications. The fully-burdened cost per hour for Regulatory personnel will vary from $51.90 (GS-7/1 Regulatory Project Manager) to $142.34 (GS-13/10 Senior Regulatory Project Manager). Activities covered by this MOA will include, but not be limited to, the following: application intake review, permit database entry, drawing correction, jurisdictional determinations, site visits, travel, preparing and distributing public notices, preparing and conducting public hearings, preparing correspondence, performing the public interest review, preparing draft permit decision documents, meetings with the District and other agencies, and relevant training.

E. The Corps may expend funds provided by the District 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 its review of District-designated Priority Projects. If such expenditures when combined with the costs of the Regulatory Division personnel require funding in excess of the amount available under this MOA, then the Corps, as appropriate, shall not hire said contractors until and unless

additional funds are provided by the District and the Parties execute a written amendment to this MOA.

F. The Corps will not expend funds provided by the District for costs associated with the review of the Corps' work undertaken 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.

G. The Corps will not expend funds provided by the District to defray the costs of activities related to the Corps' enforcement functions, but may use funds provided by the District to defray costs of activities related to permit compliance functions.

H. If the funds provided by the District are expended and not replenished, any remaining District-designated Priority Projects will be handled like those of any permit applicant.

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. For the purposes of this MOA, the District's Principal Representative will be Ms. Deirdre West, Environmental Planning Team Manager, Engineering Services Group and the Corps' Principal Representative will be Dr. Aaron Allen, Chief, North Coast Branch, Regulatory Division. Either Principal Representative may be changed upon written notification to the other party.

Article IV. - NOTICES

All notices, statements, or payments specified in this MOA shall be deemed to have been duly given if in writing and delivered personally, given by prepaid telegram, or mailed by first-class, registered, or certified mail, as follows:

If to District:

Manager, Environmental Planning Team
Metropolitan Water District of Southern California
Engineering Services Group
700 N. Alameda Street
Los Angeles, CA 90012

If to the Corps:

Chief, North Coast Branch
Regulatory Division
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Boulevard, Suite 930

Los Angeles, CA 90017

With a copy in all instances to:

District Counsel
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Boulevard, Suite 930
Los Angeles, CA 90017

B. A party may change the address to which such communications are to be directed by giving written notice to the Corps or to the District in the manner provided in this Article.

C. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

Article V. - RESPONSIBILITIES OF THE PARTIES

A. The District will provide adequate resources to fund existing or additional Corps Regulatory personnel for the purpose of expediting the review of District-designated Priority Projects and other identified activities. To facilitate the Corps' reviews and activities, the District will:

1. Provide adequate information regarding District-designated Priority Projects, scheduling requirements, 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. Upon request, the District shall provide supplemental information necessary to complete the permit application. Additional information [33 C.F.R. § 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, the District shall provide such additional information so as to ensure the Corps can effectively accomplish the required review.

2. In consultation with the Corps, establish the specific order of priority of the District-designated Priority Projects as listed in **Appendix A** to this MOA. The District-designated Priority Projects included in Appendix A and the order of priority of those District-designated Priority Projects may be changed by the District's Principal Representative without requiring an amendment to this MOA. Such changes shall be submitted to the Corps' Principal Representative in writing in the manner provided by Article IV and will be effective upon receipt thereof.

3. To the best of its ability, ensure the participation of all essential personnel during the permit evaluation or compliance process.

4. Work closely with the Corps to adjust priorities and schedules in order to optimize available Regulatory Division staff resources. While the District will make every effort not to overlap project schedules, occasional overlaps may occur and the District's Principal Representative will work with the Corps to prioritize such overlaps.

5. Provide funding pursuant to the terms of this MOA.

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

1. Expedite review of the District-designated Priority Projects as identified in Appendix A (or any amendments thereto) in accordance with the purpose, terms, and conditions of this MOA or any amendments thereto. The Corps shall not redirect resources from, or otherwise postpone, permit applications related to non-priority projects submitted by the District through the standard Corps review process.

2. Render decisions for non-notifying Nationwide Permit verification applications for Priority Projects submitted by District within 45 calendar days of receipt of a complete application, to the greatest extent possible.

3. Following any pre-application meetings and/or discussions to clarify the scope of anticipated permit application review processes, provide the District with an estimated completion date for the permit evaluation process for each complete application submitted (for projects that require endangered species consultations with the U.S. Fish and Wildlife Service (USFWS) and/or Section 106 consultation with the State Historic Preservation Officer (SHPO), the Corps will only be able to provide an estimated completion date if the USFWS and/or SHPO provide an estimated completion date for the given consultation) . The District shall be able to comment on the estimated completion date and adjust the order or list of Priority Projects per Appendix A, or provide additional resources per Article VI below.

4. Consult with the District regarding an adjustment of priorities or amendments to Appendix A if the current and/or projected workload of Priority Projects and activities exceeds the Corps' ability to provide the services specified herein or negotiate additional funding in accordance with Article VI below.

5. Provide the District a brief quarterly summary report of progress made under this MOA and an itemization of the expenditures for each Priority Project to date as stipulated in **Appendix B** within twenty one (21) calendar days of the end of each quarter. Activities covered by this MOA will be itemized for each permit decision rendered for Priority Projects during the quarter and for each permit application for Priority Projects submitted by the District pending at the end of the quarter (see Article II above for a description of the activities covered by this MOA). This report will describe achievements, including any improvements the Corps has documented in coordinating and improving the efficiency of environmental reviews. The report also will identify any recommendations for improving consultation and coordination

among the Parties to this MOA and will provide an estimate of costs expected for the ensuing quarter. The report shall not be in excess of five (5) pages of narrative per report.

6. Designate and identify to the District a Regulatory Project Manager(s) and his/her specific responsibilities for each Priority Project. If possible, the Corps will designate the same Project Manager for all major District-designated Priority Project permit applications to ensure consistency and maintain efficiency of the review process.

7. Meet with District as needed to discuss progress under this MOA.

8. Prior to expiration of the MOA, hold a final meeting with the District to review a summary of permit streamlining and other activities under this MOA, as well as provide recommendations for future coordination between the Parties.

Article VI. - FUNDING

A. Funding Periods.

1. First funding period: May 1, 2014 - September 30, 2014

2. Second funding period: October 1, 2014 - September 30, 2015

3. Third funding period: October 1, 2015 - September 30, 2016

B. Funding amounts.

1. Total estimated costs for the first funding period are $100,000.00.

2. Total estimated costs for the second funding period are $240,000.00.

3. Total estimated costs for the third funding period are $240,000.00.

4. Total funding for this MOA is $580,000.00.

C. Prior to the Corps incurring any expenditure to expedite permit evaluation-related activities as specified in this MOA, the District will make a lump sum payment to the Corps for each funding period specified in subparagraph A in the total amount specified in subparagraph B, above. Prior to each funding period, the Corps shall send notice to the District in substantially the form attached hereto as **Appendix C** stating the funding amount due as set forth above, and identifying any carry-over in the amounts previously paid by the District. Payments by the District 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 Boulevard, Suite 930
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 is terminated or expires in accordance with Article X.

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 District at least ninety (90) days prior to fund exhaustion of the incremental amount of funds needed to defray the remaining anticipated costs. The District will either initiate an amendment to this MOA to increase the funding amount, or agree to a reduced level of service.

Article VII. - 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 VIII. - 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 refer the dispute for resolution to an appropriate forum in accordance with Federal law.

Article IX. - PUBLIC INFORMATION

Justification and explanation of the District's programs or projects before other agencies, departments and offices will not be the responsibility of the Corps. The Corps may provide, upon request from the District, 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. The District will give the Corps, as appropriate, advance notice before making formal, official statements regarding activities funded under this MOA.

Article X. - AMENDMENT, MODIFICATION, AND TERMINATION

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

B. Any party reserves the right to terminate its participation in this MOA without cause upon thirty (30) days' written notice to the other party. In the event of termination, the

District 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 the District with a final statement of expenditures. Within sixty (60) calendar days after submittal of the Corps' final statement of expenditures, the Corps, subject to compliance with the Anti-Deficiency Act (31 U.S.C. 1341 et. seq.), shall directly remit to the District the unexpended balance of the advance payments, if any. Funds may be provided to the District either by check or electronic funds transfer.

Article XI. - MISCELLANEOUS

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

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

C. 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.

D. This MOA, including any documents incorporated by reference or attachments thereto, but excluding the pre-existing relationships or obligations between the Parties referenced in subparagraph A above, 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.

Article XII. - EFFECTIVE DATE AND DURATION

This MOA and any amendments will be effective on the date of execution by the last party. Unless amended or modified, this MOA shall remain in force until whichever of these events occurs first: 1) September 30, 2016 or 2) the MOA is terminated pursuant to Article X.B.

[REMAINDER LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this MOA is executed as of the dates indicated below by the District, acting by and through its Manager of the Engineering Services Group and by the Corps, through its authorized officer.

FOR THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

By: _____ Date: 5/1/14

Gordon Johnson
Manager
Engineering Services Group

APPROVED AS TO FORM:
Joseph Vanderhorst
Deputy General Counsel

_____
Deputy

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

By: _____ Date: 6/1/14

Kimberly M. Colloton, PMP
Colonel, US Army
Commander and District Engineer

## Appendix A: District-designated Priority Projects

(Dated: May 1, 2014)

The list of District-designated Priority Projects under this MOA includes the following proposed projects:

1. Santa Ana River Bridge Seismic Retrofit and Routine Maintenance Project
2. Whitewater River/Colorado River Aqueduct Siphon Scour Protection
3. Distribution System Infrastructure Protection Program
4. Orange County Feeder Blow-off Structure Rehabilitation Project
5. Routine Operations and Maintenance Activities such as, but not limited to:
    a. Rainbow Creek Arizona Crossings Repairs
    b. Lake Skinner Spillway Vegetation Removal
    c. Upper Feeder Blow-offs, Stations 42+06 and 75+38
    d. Lower Feeder Station 592+00 (WR-33)
    e. Holland Road ditch maintenance
6. Lake Mathews Outlet Facility
7. Skinner ORP
8. Pre-stressed Concrete Cylinder Pipe Rehabilitation Program

**Memorandum of Agreement (No. 142627)**
**Metropolitan Water District of Southern California**
**(Appendix B)**

Quarterly Itemization of Expenditures will be documented in a spreadsheet that contains the following:

1) An individual row for each date during the quarter that WRDA funds were expended; if one project manager (PM) expended funds for multiple projects on a given date than the charges for each project will be documented in an individual row; if more than one PM expended WRDA funds on a given date than the charges by each PM will be documented in an individual row;

2) The date the pay period ended (PPE) will be documented in the spreadsheet;

3) The date of any expended funds will be documented in the spreadsheet;

4) The initials of the PM that expended funds will be documented in the spreadsheet;

5) The fully-burdened rate for each PM that expended funds during the quarter will be documented in the spreadsheet;

6) The project name from Appendix A will be documented in the spreadsheet;

7) The activity that the PM worked on or completed for the given project will be documented in the spreadsheet (some examples of activities include but are not limited to the following: application review, additional information request, JD site visit, public notice documents, section 7 consultation, and permit issuance);

8) The hours worked, with the smallest increment being a quarter of an hour, will be documented in the spreadsheet;

9) By multiplying the fully-burdened rate and the hours worked, the funds expended will be documented in the spreadsheet;

10) The labor charge code (LCC) used by the PM will be documented in the spreadsheet;

11) The total funds expended under this MOA for each pay period will be documented in the spreadsheet;

12) The total hours worked under this MOA for each pay period will be documented in the spreadsheet.

**MEMORANDUM OF AGREEMENT**
**METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**
**Agreement No. 142627**

**MOA:** U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

Date:

**ADDRESS:** 915 Wilshire Boulevard, Suite 930
Los Angeles, California 90017

Carryover: _____

Funding Period: _____

Current Amount: _____