



SPECIAL PUBLIC NOTICE

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

BUILDING STRONG®

DECISION TO ACCEPT FUNDS FROM City of San Diego

Public Notice No.: SPL-2013-00253-MBS

Date: January 7, 2014

Corps Contact: Therese O. Bradford; Tel. 760-602-4850; Email: Therese.O.Bradford@usace.army.mil

The purpose of this Special Public Notice is to announce that the Los Angeles District, U.S. Army Corps of Engineers (Corps) has decided to accept and expend funds contributed by the City of San Diego (City) under a Memorandum of Agreement (MOA) between the Corps and the City. This new MOA between the Corps and the City addresses the acceptance and expenditure of funds pursuant to Water Resources Development Act section 214. These funds would be used to increase Corps resources available to evaluate and process the City's Department of the Army (DA) permit applications. Though the City would continue to receive more expeditious reviews of their permit applications, the Corps would ensure that regulatory permit decision-making remains impartial and that all applicable procedural and substantive requirements of the DA permit application review process remain unchanged. The decision to accept funds is in response to the success of a similar MOA with the other local public agencies, the large number of DA permit applications that continue to be submitted by the City, and the ongoing need to devote significant staff time to these applications to ensure the City and the public are best served throughout the permit evaluation process. The decision to enter into an agreement to accept funds does not constitute any endorsement or implied consent to City permit applications; rather, it enables Corps staff to devote the attention required to these applications, in a more timely and more thorough manner than they may otherwise be able to, benefiting the City and the public.

Colonel Kimberly M. Colloton, Commander of the Corps Los Angeles District determined that acceptance and expenditure of additional funds would be in accordance with section 214 of the Water Resources Development Act of 2000 (WRDA 2000, Public Law 106-541), as amended. The Memorandum documenting her decision is attached. On April 30, 2013, the Corps circulated the initial Special Public Notice announcing our preliminary intent to accept and expend such funds, and stated that we had initiated funding discussions with the City. That Special Public Notice also discussed the types of activities for which funds would be expended, as well as the safeguarding procedures that would be used to ensure that the funds would not affect impartial decision-making processes. These procedures are listed here:

- All final permit decisions for cases where these funds are used must be reviewed at least one level above the normal decision-maker, unless the decision-maker is the Corps Commander and District Engineer. For example, if the decision-maker were the Regulatory Division Chief, then the decision-maker for that permit action would be raised to the Corps District Engineer.
- All final permit decisions for cases where these funds are used will be made available on the Corps Regulatory Division web page.

- The Corps will not eliminate any procedures or evaluations that would otherwise be required for that type of project and permit application under consideration.
- The Corps must comply with all applicable laws and regulations.
- Contributed City funds will not be expended for supervisory or management review of staff-generated permit decision recommendations. Also, funds would not be used for processing administrative appeals of any decisions on City permit applications. If City funds are used to hire contractors in support of the Corps permit evaluation process, such contractor products will be drafts only and be reviewed by Corps Regulatory program employees, before they are utilized in support of any Corps permit decision.

Under the agreement, we will submit quarterly reports to the City itemizing the funds expended and ongoing and completed activities by project, anticipated activities by project and estimated expenditures in the next quarter, and opportunities for improved efficiency and coordination. Implementation of the funding program will better serve the public interest through more cost-effective processing of permit applications, enhanced evaluation capability, and a streamlined permit processing system. Our capacity to evaluate permit applications from applicants not party to this funding agreement will not be adversely affected.

Copies of the relevant documents related to this decision to accept and expend City funds under this new MOA, as well as any future permit decisions evaluated by Corps staff utilizing these section 214 funds, can be viewed at the Corps Regulatory Division web page at <http://www.spl.usace.army.mil/Missions/Regulatory.aspx>.

For additional information, please call Therese O. Bradford of my staff at 760-602-4850 or via e-mail at Therese.O.Bradford@usace.army.mil . This public notice is issued by the Chief, Regulatory Division.



Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

U.S. ARMY CORPS OF ENGINEERS – LOS ANGELES DISTRICT
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325
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REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

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

CESPL-RG

30 December 2013

MEMORANDUM FOR THE RECORD

SUBJECT: Acceptance of Funds Contributed by the City of San Diego, Non-Federal Public Entity

1. References:

a. Section 214 of the Water Resources Development Act (WRDA) of 2000 (Public Law 106-541), as amended.

b. Memorandum, CECW, 29 March 2004, subject: Regulatory Program Funds Contributed by Non-Federal Entities.

c. Memorandum, CECW, 1 October 2008, subject: Implementation Guidance for Section 2002 of the Water Resources Act of 2007 (Regulatory Program Funds Contributed by Non-Federal Entities)

2. The sunset clause for Section 214 of WRDA 2000, as amended, is 31 December 2016. This authority may be extended or made permanent.

3. The purpose of this memorandum is to document my decision to enter into an agreement to accept and expend funds contributed by the City of San Diego (City), non-Federal public entity, to expedite evaluation of permit applications under consideration of our Regulatory Division in accordance with ref. 1a.

4. An initial public notice was circulated on 30 April 2013. Once comment was received from FEMA Region IX, Floodplain Management and Insurance Branch indicating that the City of San Diego, San Diego County is a participant in the National Flood Insurance Program (NFIP). FEMA recommended that the current effective countywide Flood Insurance Rate Maps (FIRMs) for San Diego County and City of San Diego be reviewed. This is a funding agreement and is not project specific; comment noted.

5. I have carefully considered the City's request and the recommendation of the Regulatory Division. I have determined that acceptance and expenditure of funds from the City will not adversely impact impartial decision-making with respect to regulatory permit applications, either substantively or procedurally. The funding program will better serve the public interest through more cost-effective processing of permit applications, enhanced evaluation capability, and a stream-lined permit processing system. Our capacity to evaluate permit applications from applicants not party to this funding

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SUBJECT: Acceptance of Funds Contributed by the City of San Diego, Non-Federal Public Entity

agreement will not be adversely affected. Accordingly, I find that acceptance and expenditure of funds from the City is appropriate with the provisions of Section 214 of WRDA 2000, as amended.

6. The point of contact is Therese O. Bradford, Chief, South Coast Branch of my Regulatory Division, at 760-602-4850.



KIMBERLY M. COLTON, PMP
COL, EN
Commanding