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 (5001595)
BETWEEN
SAN DIEGO ASSOCIATION OF GOVERNMENTS
AND
THE UNITED STATES ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

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

This Third Amendment to Memorandum of Agreement ("THIRD AMENDMENT"), made the 27 day of SEPTEMBER, 2016, is entered into by the San Diego Association of Governments (hereinafter "SANDAG") 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 December 23, 2010, for expedited and priority review of SANDAG-designated priority projects by the Corps; and

WHEREAS, the Parties entered into a First Amendment to the MOA, effective December 18, 2012, extending the duration of the MOA until December 23, 2014; and

WHEREAS, the Parties entered into a Second Amendment to the MOA, effective March 6, 2014, extending the duration of the MOA until 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, $709,286.98 has been expended under the current terms of the MOA through September 1, 2016, leaving a balance of approximately $90,713.02 in available funds; and

WHEREAS, the Parties desire to enter into a Third Amendment to the MOA to further extend the duration of the MOA and provide additional funding.

NOW, THEREFORE, the Parties agree as follows:

THIRD AMENDMENT

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

"A. SANDAG will provide adequate resources to fund additional Corps Regulatory personnel for the purpose of timely review of designated priority projects and other identified activities. To facilitate the Corps' reviews and activities, SANDAG will:

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, SANDAG 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, SANDAG shall provide such additional information so as to ensure the Corps can effectively accomplish the required review."

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

"Article V. – FUNDING

A. It is anticipated that previous funds provided by SANDAG are sufficient to fund all work anticipated under this MOA through December 31, 2016.

B. The total compensation paid to the Corps under this Third Amendment shall not exceed four hundred Thousand Dollars ($400,000).

C. No later than September 1 of each year, beginning on September 1, 2016, that this MOA remains in effect, the Corps will provide SANDAG with an anticipated cost invoice ("Invoice") that provides a 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. Each Invoice shall be provided on Corps letterhead, have a unique number, and include (1) The Corps' name and address, (2) Corps' remittance address, if different, (3) service dates, (4) description of services, and (5) total amount. Invoices shall be submitted by the Corps to:

Gary L. Gallegos, Executive Director
San Diego Association of Governments

401 B Street, Suite 800
San Diego, California 92101-4231

D. Prior to the Corps incurring any expenditure to expedite permit evaluation-related activities as specified in this MOA, SANDAG will make an annual lump sum payment to the Corps in the total amount specified in the revised budget estimate. Payments by SANDAG shall be made 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

E. 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 pursuant to Article VIII.B.

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

G. Expediting of permit actions by the Corps will be provided under this MOA only after funds have been received by the Corps."

3. MISCELLANEOUS. Paragraph B is deleted in its entirety.

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

"ARTICLE IX - 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 VIII.A., this MOA shall remain in force until whichever of these events occurs first: 1) December 31, 2020, the MOA is terminated pursuant to Article VIII.B."

3. Article X.- INTEGRATION. This Article is modified in its entirety to read:

"ARTICLE X.- INTEGRATION

This THIRD AMENDMENT represents the entire understanding of SANDAG and the Corps regarding the MOA and changes to the MOA, First Amendment, and Second Amendment. All

other terms and conditions of the MOA, First Amendment, and Second Amendment remain in full force and effect."

IN WITNESS WHEREOF, this THIRD AMENDMENT is executed by SANDAG, 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 Association of Governments

By: _____
Gary L. Gallegos
Executive Director

Date: 9-7-2016

APPROVED AS TO FORM:

By: _____
Shelby Tucker
Office of General Counsel

Date: 9/6/16

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

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

Date: 9/27/2016

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

REPLY TO
ATTENTION OF

SECOND AMENDMENT
TO
MEMORANDUM OF AGREEMENT (5001595)
BETWEEN
SAN DIEGO ASSOCIATION OF GOVERNMENTS
AND
THE UNITED STATES ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

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

This Second Amendment to Memorandum of Agreement ("SECOND AMENDMENT"), made the 6th day of March, 2014, is entered into by the San Diego Association of Governments (hereinafter "SANDAG") 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 December 23, 2010, for expedited and priority review of SANDAG-designated priority projects by the Corps; and

WHEREAS, the Parties entered into a First Amendment to the MOA, effective December 18, 2012, extending the duration of the MOA until December 23, 2014; and

WHEREAS, after the time the First Amendment was executed approximately $381,715 had been expended under the MOA from December 18, 2012 to January 11, 2014, leaving a balance of approximately $18,285 in available funds; and

WHEREAS, SANDAG and the Corps desire to enter into a Second Amendment to the MOA and increase the not to exceed total compensation paid to the Corps by an additional $400,000 and to further extend the duration of the MOA.

NOW, THEREFORE, the Parties agree as follows:

SECOND AMENDMENT

1. Article V. – FUNDING. This entire Article is modified in its entirety to read:

"A. The total compensation paid to the Corps under this SECOND AMENDMENT shall not exceed Four Hundred Thousand Dollars ($400,000) paid as follows:

1. $200,000 upon execution of the SECOND AMENDMENT.
2. $200,000 twelve months from the effective date of the SECOND AMENDMENT.

This payment schedule can be changed by mutual agreement of the Parties but may not exceed the total compensation unless approved through an amendment.

B. 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 pursuant to Article VIII.B.

C. Expediting of permit actions by the Corps will be provided under this MOA only after funds have been received by the Corps.

D. Prior to the Corps incurring any expenditure to expedite permit evaluation-related activities as specified in this MOA, SANDAG will make an annual lump sum payment to the Corps in the total amount specified in Article V.A. Payments by SANDAG 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
P.O. Box 532711
Los Angeles, CA 90053-2325
Attn: Carlos M. Tabares

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

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

"ARTICLE IX - 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 VIII. A., this MOA shall remain in force until whichever of these events occurs first: 1) when all available funds under Article V have been expended, 2) December 31, 2016, or 3) the MOA is terminated pursuant to Article VIII.B."

3. Article X.- INTEGRATION. This Article is modified in its entirety to read:

"ARTICLE X.- INTEGRATION

This SECOND AMENDMENT represents the entire understanding of SANDAG and the Corps 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.

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

IN WITNESS WHEREOF, this SECOND AMENDMENT is executed by SANDAG, 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 Association of Governments

By: _____
for Gary L. Gallegos,
Executive Director

Date: 3-3-2014

ATTEST:

By: _____

APPROVED AS TO FORM:

By: _____
Counsel

Date: March 3, 2014

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

By: _____
David J. Castanon
Chief, Regulatory Division

Date: 3-6-14

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

REPLY TO
ATTENTION OF

FIRST AMENDMENT
TO
MEMORANDUM OF AGREEMENT (5001595)
BETWEEN
SAN DIEGO ASSOCIATION OF GOVERNMENTS
AND
THE UNITED STATES ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

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

This First Amendment to Memorandum of Agreement ("FIRST AMENDMENT"), made the 3rd day of December, 2012, is entered into by the San Diego Association of Governments (hereinafter "SANDAG") 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 December 23, 2010, for expedited and priority review of SANDAG-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 MOA is set to expire December 23, 2012; and

WHEREAS, approximately $157,000 has been expended under the MOA through October 31, 2012, leaving a balance of approximately $243,000 in available funds; and

WHEREAS, SANDAG and the Corps desire to extend the duration of the MOA until the remaining funds are expended;

NOW, THEREFORE, the Parties agree as follows:

FIRST AMENDMENT

SUBJECT: First Amendment to Memorandum of Agreement between the San Diego Association of Governments, CA and the U.S. Army Corps of Engineers, Los Angeles District

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

"A. SANDAG will provide adequate resources under the terms of the MOA and this amendment to fund additional Corps Regulatory personnel for the purpose of timely review of designated priority projects and other identified activities. To facilitate the Corps' reviews and activities, SANDAG will:

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 (77 Fed. Reg. 10184, dated February 21, 2012). Upon request, SANDAG 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, SANDAG shall provide such additional information so as to ensure the Corps can effectively accomplish the required review."

2. Article IX. – MISCELLANEOUS. Paragraph B is modified in its entirety to read:

"Under the provisions of section 214 of WRDA 2000 as extended, no funds may be expended pursuant to this MOA after December 31, 2016. However, if prior to this date, this statutory authority is extended or made permanent, then provisions of this MOA shall remain in force until the earlier of the sunsetting of section 214 of WRDA 2000, as further extended or made permanent, or until the expiration date as provided in this MOA."

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

"ARTICLE XI - 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 X.A., this MOA shall remain in force until whichever of these events occurs first: 1) when all available funds under Article V have been expended, 2) December 23, 2014, or 3) the MOA is terminated pursuant to Article IX.B."

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

[REMAINDER LEFT INTENTIONALLY BLANK]

SUBJECT: First Amendment to Memorandum of Agreement between the San Diego Association of Governments, CA and the U.S. Army Corps of Engineers, Los Angeles District

IN WITNESS WHEREOF, this FIRST AMENDMENT is executed by SANDAG, 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 Association of Governments

By: Renée Wasmund
for Gary L. Gallegos,
Executive Director

Date: 12/3/12

ATTEST:

By: Amanda C. Hoben 12/3/12

APPROVED AS TO FORM:

By: Shelby Tucker
Counsel

Date: 11/30/12

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

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

Date: 18 DEC 2012

MEMORANDUM OF AGREEMENT #5001595
BETWEEN THE SAN DIEGO ASSOCIATION OF GOVERNMENTS AND THE U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

This Memorandum of Agreement (MOA) is entered into as of this 23 day of DECEMBER, 2010 between the San Diego Association of Governments (hereinafter "SANDAG") 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; and

WHEREAS, section 214 of the Federal Water Resources Development Act of 2000, Public Law 106-541 ("WRDA 2000") as amended by Public Law 111-120, provides as follows:

> (a) IN GENERAL. - The Secretary [of the Army], after public notice, may accept and expend funds contributed by non-Federal public entities to expedite the evaluation of permits under the jurisdiction of the Department of the Army.
>
> (b) EFFECT ON PERMITTING. - In carrying out this section, the Secretary shall ensure that the use of funds accepted under subsection (a) will not impact impartial decision-making with respect to permits, either substantively or procedurally.

WHEREAS, the authority provided under section 214 of the WRDA 2000 is presently in effect until December 31, 2010; 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 SANDAG projects; and

WHEREAS, SANDAG believes it is in the best interests of the taxpayers of San Diego County to provide funds to the Corps pursuant to this MOA to streamline and expedite Corps environmental review under section 404 of the Clean Water Act of 1972, as amended ("CWA") and/or section 10 of the Rivers and Harbors Act of 1899 ("RHA") for SANDAG-designated priority projects; 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 SANDAG in developing appropriate mitigation measures; (4) maximize the effective use of limited Corps Regulatory Division personnel 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 acceptance and expenditure of funds contributed by SANDAG to provide expedited permit evaluation-related services for SANDAG-designated priority projects under the jurisdiction of the Corps. This MOA is not intended as the exclusive means of obtaining review of projects proposed by SANDAG. This MOA is a vehicle by which SANDAG will obtain expedited permit evaluation-related services, outside of the ordinary Corps review process.

B. SANDAG enters into this MOA pursuant to SANDAG Transportation Committee's (TC) authorization as outlined in the TC's October 1, 2010, Agenda Item 4. The Corps enters into this MOA pursuant to its authority under section 214 of the WRDA 2000, as amended.

Article II. - SCOPE

A. SANDAG will provide funds to the Corps to expedite permit evaluation related services for SANDAG 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. Funds received from SANDAG will be added to the Corps' Regulatory Program budget in accordance with the provisions of section 214 of WRDA 2000.

B. The Corps will provide staffing resources exclusively dedicated to expediting permit evaluation related services, as described in Article II.D., below, for SANDAG designated priority projects and/or other programmatic efforts to support efficient decision making related to the SANDAG'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 SANDAG. Corps Regulatory personnel will charge their time and expenses against the account when they perform work to either expedite resolution of permit requests designated by SANDAG as a priority or undertake other programmatic efforts to support efficient decision making related to SANDAG's permitting needs. Corps Regulatory personnel will focus on the work as prioritized by SANDAG, and if no or few projects are designated by SANDAG as a priority, Corps personnel will then work on other programmatic efforts. The project(s) designated as a priority by SANDAG are listed in Appendix A to this MOA. The list may be changed by SANDAG's Principal

Representative without requiring an amendment to this MOA. Such changes shall be submitted to the Corps in writing and will be effective upon receipt thereof.

D. Funds contributed by SANDAG hereunder will be expended by the Corps to defray the costs of Regulatory personnel (including salary, associated benefits, overhead and travel expenses) and other costs in order to expedite the evaluation of priority permit applications designated by SANDAG. Such activities will include, but not be limited to, the following: jurisdictional determinations; site visits; travel; federal register and public notice preparation; preparation of correspondence; public interest review; preparation and review of NEPA documentation; meetings with SANDAG and resource agencies; and any other permit evaluation related responsibilities that may be mutually agreed upon.

E. Funds contributed by SANDAG may also be expended by the Corps 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 priority projects and activities designated by SANDAG. If such expenditures, when combined with the costs of the Regulatory personnel specified in Article II.D, require funding in excess of the amount available under this MOA, then said contractors shall not be hired by the Corps until and unless additional funds are provided by SANDAG and a written amendment to this MOA is executed.

F. The Corps will *not* expend SANDAG funds for costs associated with the review of Regulatory Project Managers' work 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. The Corps will *not* expend funds contributed by SANDAG to defray the costs of activities related to the Corps' enforcement functions, but may use SANDAG funds to defray costs of activities related to compliance functions.

G. If the funds provided by SANDAG are expended and not replenished, any remaining priority permit applications will be handled like those of any other non-participant, in a manner decided by the assigned Regulatory Project Manager and his or her supervisor.

Article III. - INTERAGENCY COMMUNICATIONS

To provide for consistent and effective communication between the Corps and the SANDAG, 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. Each party will issue a letter to the other designating the Principal Representative for each party within fifteen (15) days of this MOA's execution. The Principal Representative for each party may be changed upon written notification to the other party.

Article IV. - RESPONSIBILITIES OF THE PARTIES

A. SANDAG will provide adequate resources to fund additional Corps Regulatory personnel for the purpose of timely review of designated priority projects and other identified activities. To facilitate the Corps' review and activities, SANDAG will:

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 27 of the Nationwide Permit Program as published in the Federal Register (72, Fed. Reg. 11194, dated March 12, 2007). Upon request, SANDAG 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, SANDAG shall provide such additional information so as to ensure the Corps can effectively accomplish the required review.

2. Make a reasonable effort to provide the Corps with information on other related projects to enable the Corps to most efficiently apply available staff resources and plan for workload cycles.

3. In consultation with the Corps, schedule Corps involvement in the priority projects identified by SANDAG. The list of initial priority project is shown on Appendix A; SANDAG will periodically identify additional priority projects in writing as necessary.

4. To the best of its ability, ensure the participation of all essential personnel, customers, and decision makers during the permit evaluation process.

5. Work closely with the Corps to adjust SANDAG priorities and schedules in order to make optimal use of available staff resources. While SANDAG will make every effort to not overlap project schedules, when occasional overlaps occur,,SANDAG will work with the Corps to prioritize such overlaps.

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

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

1. Expedite review of SANDAG's priority projects 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, other projects submitted by SANDAG through the standard Corps review process.

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 SANDAG with an estimated schedule to complete the permit evaluation process for each application submitted. SANDAG shall be able to comment on these schedules and adjust priorities if workloads allow for such changes.

3. Consult with SANDAG regarding an adjustment of priorities or establishment of relative priorities if the current and/or projected workload of priority projects and activities exceeds Corps' ability to provide the services specified in this MOA.

4. Provide SANDAG a brief quarterly summary report of progress made under this MOA. Progress will be itemized for each permit application review completed during the quarter and for each permit application pending at the end of the quarter. This report will describe achievements, including any improvements the Corps has documented in coordinating and improving the efficiency of environmental reviews, and will summarize expenditures to date. 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.

5. Designate a Regulatory Project Manager who will attend periodic meetings with SANDAG.

Article V. - FUNDING

A. SANDAG will pay the Corps an initial amount not to exceed $200,000 and an additional $200,000 twelve (12) months from the effective date of this MOA (subject to potential increase as provided below), for purposes of funding one additional Regulatory Project Manager, including overhead, and associated support personnel and any additional services that may be required pursuant to Article II.E. for the term of this MOA ("Funding"). Additional payments by SANDAG to the Corps, in an amount and schedule mutually agreed to by the Parties, may be made when priority projects are added to Appendix A. Funding required under this MOA may be increased by the Corps annually to account for the Federal Government's General Schedule increases and locality adjustments. 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.

B. Expediting of permit actions by the Corps will be provided under this MOA only after funds have been transferred to the Corps. Initial and additional funds will be payable in annual lump sums thirty (30) days in advance of the Corps incurring any financial obligations under this MOA. Payment(s) will be made 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. Tebares

C. If the Corps' actual costs for providing the agreed upon level of service will exceed the amount of funds available as a result of the Federal Government's General Schedule increases and locality adjustments provided for in paragraph A of this Article then the Corps will promptly notify SANDAG of the incremental amount of funds needed to defray the costs. SANDAG will either initiate an amendment to this MOA to increase the funding amount, or agree to a reduced level of service.

D. The SANDAG may elect to extend the services of the Corps beyond two years from the effective date of this MOA subject to 1) paragraph E of this Article, 2) additional funding is provided by SANDAG, and 3) written amendment to this MOA.

E. The Corps will neither accept nor expend funds under this MOA after December 31, 2010, unless Federal law extends or makes permanent the Corps' authority under Section 214 of the WRDA 2000 to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits.

Article VI. - 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 VII. - DISPUTE RESOLUTION

The Parties agree that, in the event of a dispute, SANDAG and the Corps shall 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.

PUBLIC INFORMATION

The Corps may provide, upon request from SANDAG, any assistance necessary to support justification or explanations of activities conducted under this MOA. Each Party is responsible only for its agency's public information regarding regulatory activities.

MISCELLANEOUS

A. This MOA will not affect any pre-existing or independent relationships or obligations between the SANDAG and the Corps.

B. Under the provisions of section 214 of the WRDA 2000 as extended, no funds may be accepted or expended by the Corps pursuant to this MOA after December 31, 2010. However, if prior to this date, this statutory authority is extended, then provisions of this MOA shall remain in force until the earlier of the sunsetting of section 214 of WRDA 2000, as further extended, or until the expiration date as provided in this MOA.

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

Article VIII. - AMENDMENT, MODIFICATION AND TERMINATION

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, or sooner by mutual written agreement, or immediately in the event of a material breach. In the event of termination, SANDAG 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 or transferring 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 SANDAG with a final statement of expenditures. Within sixty (60) calendar days after submittal of the Corps' final statement of expenditures, the Corps shall directly remit to SANDAG the unexpended balance of the advance payment, if any. Funds may be provided to SANDAG either by check or electronic funds transfer.

Article IX. - EFFECTIVE DATE AND DURATION

This MOA will become effective on the date of signature by the last Party. This MOA shall remain in force until whichever of these events occurs first: 1) December 31, 2010, unless the sunset clause of section 214 of WRDA 2000 is extended or made permanent, in which case the MOA will remain in effect for the duration of the statutory extension but not to exceed an amount of time equal to two (2) years from the effective date of this MOA, or 2) the MOA is terminated pursuant to this Article.

Article X. - INTEGRATION

This MOA, including any documents incorporated by reference or attachments thereto, 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.

IN WITNESS WHEREOF, this MOA is executed as of the date stated in the introductory clause by the SANDAG, 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 ASSOCIATION OF GOVERNMENTS

By: Gary L. Gallegos
GARY L. GALLEGOS
Executive Director

Date: 12-20-10

APPROVED AS TO FORM:

By: Julia Coleman
OFFICE OF THE GENERAL COUNSEL

Date: 12.16.10

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

By: R. Mark Toy
R. MARK TOY
Colonel, US Army
District Commander

Date: 23 DECEMBER 2010

Appendix A: SANDAG Priority Projects

(Dated: November 15, 2010)

The list of Priority Projects under this MOA includes the following:

1. Mitigation Bank development including development of an Umbrella Bank agreement, facilitation of Interagency Review Teams, and development of specific banks throughout the County. Such as:

    - San Pasqual River Valley
    - Fenton Ranch
    - Otay Lakes
    - Tijuana River Valley
    - Others as deemed appropriate

2. Rail Project

    - LOSSAN project pre-application and associated technical assistance
    - Mid-Coast Rail line

3. Restoration Planning

    - San Diegito Restoration
    - San Elijo Lagoon Restoration

4. Attend and participate in SANDAG Environmental Mitigation Program working group meetings and associated assignments. Attend and participate in SANDAG Regional Planning Committee. Attend other meetings as requested by SANDAG.

5. Other requests or time as requested by e-mail or letter.