

**FIRST AMENDMENT
TO
MEMORANDUM OF AGREEMENT
BETWEEN
SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT
AND
THE U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT**

This First Amendment to Memorandum of Agreement (“First Amendment”), is entered into by and between the San Bernardino County Flood Control District (“SBCFCD”), and the United States Army Corps of Engineers, Los Angeles District (“Corps”), collectively referred to as the “Parties.”

RECITALS

WHEREAS, the Parties entered into the Memorandum of Agreement (“2016 MOA”), included as Attachment A, effective March 23, 2016, for expedited permit evaluation-related services by the Corps for SBCFCD-designated priority Section 408 Requests;

WHEREAS, the 2016 MOA is set to expire on December 31, 2020;

WHEREAS, in a letter dated October 7, 2020, SBCFCD requested the Corps to extend the effective duration of the 2016 MOA for an additional 5 years; and

WHEREAS, SBCFCD and the Corps seek to enter into this First Amendment to extend the term of the MOA through December 31, 2025.

NOW, THEREFORE, the Parties hereby agree to amend the Memorandum of Agreement as follows:

1. Article I. – PURPOSE AND AUTHORITIES. Article I is amended to add:

“E. SBCFCD is a non-Federal public entity, a special district agency formed under the Water Code Appendix in the State of California, and may enter into this MOA.”

2. Article III. – INTERAGENCY COMMUNICATIONS. Article III is amended to read:

“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, SBCFCD’s Principal Representative will be Sameh Basta, P.E., Chief of Permits/Operations Support Division, and the Corps’ Principal Representative will be Rafiqul Talukder, P.E., Engineering Division, Los Angeles

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District. The Principal Representative for each party may be changed upon written notification to the other party.”

3. Article IV. – RESPONSIBILITIES OF THE PARTIES. Article IV.A.2. is amended to read:

“In consultation with the Corps, establish the specific order of priority Section 408 Requests listed in **Appendix A** to this MOA. The Section 408 Requests may be changed by SBCFCD’s Principal Representative (changes to evaluation activity budgets in **Appendix A** require concurrence by the Corps) 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 VI and will be effective upon receipt thereof.”

4. Article V. – FUNDING. Article V is amended as follows:

Amended to add after paragraph A:

“A. 1. In consideration of the FIRST AMENDMENT to this MOA, SBCFCD shall submit funding to the Corps in the amount of TWO HUNDRED THIRTY-ONE THOUSAND FIVE HUNDRED DOLLARS (\$231,500) to cover the Corps’ anticipated costs of Section 408 evaluation activities following execution of the FIRST AMENDMENT.”

Amended to read:

“B. Prior to the Corps incurring any expenditure to expedite Section 408 Requests designated as a priority as specified in this MOA, the SBCFCD will transfer to the Corps the amount specified in **Appendix A** of this MOA. Payment by SBCFCD is to be made by check payable to the Finance and Accounting Officer and sent to the following address:

“U.S. Army Corps of Engineers, Los Angeles District
Finance and Accounting Officer
915 Wilshire Blvd.
Los Angeles, CA 90053-2325
Attn: Carlos M. Tabares

“or by electronic funds transfer in accordance with Standard Operating Procedure UFC 08 **Appendix B.**”

“E. Following an initial review of a SBCFCD priority project, the Corps will provide SBCFCD an estimate of costs that will be incurred to complete Section 408

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review. If it is determined that the estimated amount to be incurred exceeds the amount of funding available, SBCFCD will have the option to (i) provide additional funding for this MOA, or (ii) agree to a reduced level of service.

“F. SBCFCD may in its discretion choose to tender additional payments to the Corps, in an amount and schedule mutually agreed upon by the Parties, when additional SBCFCD-designated priority Section 408 Requests are added to **Appendix A.**”

“G. SBCFCD may elect to extend the services of the Corps beyond December 31, 2025, subject to: 1) additional funding being provided by the SBCFCD and 2) written amendment to this MOA.”

5. Article VI. – NOTICES. The addresses and points of contact in Article VI are amended to read:

“If to SBCFCD:

San Bernardino County Flood Control District
825 East Third Street
San Bernardino, CA 92415
Attn: Sameh Basta, P.E.”

“If to the Corps:

U.S. Army Corps of Engineers
Engineering Division
915 Wilshire Blvd. Suite 930
Los Angeles, CA 90017
Attn: Rafiqul Talukder”

6. Article XII. – EFFECTIVE DATE AND DURATION. Article XII is amended to read:

“This MOA and any amendments will be effective on the date of signature by the last Party. Unless amended or modified, this MOA shall remain in force until whichever of these events occurs first: 1) December 31, 2025, or 2) the MOA is terminated pursuant to Article X.B.”

7. Electronic Signatures. The Parties agree that this First Amendment may be executed in counterparts, each of which shall be deemed to be an original, but both of which together shall constitute one and the same instrument, and that a photocopy or facsimile may serve as an original. If this First Amendment is

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executed in counterparts, no signatory hereto shall be bound until both the parties have fully executed a counterpart of this First Amendment. The Parties shall be entitled to sign and transmit an electronic signature of this First Amendment (whether by facsimile, PDF, or other email transmission), which signature shall be binding on the party whose name is contained therein. Each Party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed First Amendment upon request.

8. Integration. Except as expressly amended herein, all terms and conditions of the 2016 MOA remain in full force and effect.

[REMAINDER LEFT INTENTIONALLY BLANK]

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IN WITNESS WHEREOF, this First Amendment is executed by the SBCFCD and by the Corps, each through its authorized officer.

**SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT**

 _____, Board Chair

Dated: _____
 SIGNED AND CERTIFIED THAT A COPY OF
 THIS DOCUMENT HAS BEEN DELIVERED
 TO THE CHAIRMAN OF THE BOARD
 Lynna Monell, Clerk of the Board

By _____
 Deputy

(Print or type name of corporation, company, contractor, etc.)

By _____
(Authorized signature - sign in blue ink)

Name _____
(Print or type name of person signing contract)

Title _____
(Print or Type)

Dated: _____

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by District
_____ Sophie A. Akins, Deputy County Counsel	_____ Andy Silo, Contracts	_____ Brendon Biggs, Chief Flood Control Engineer
Date _____	Date _____	Date _____

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

By: _____ Date: _____

Julie A. Balten
 Colonel, US Army
 Commander and District Engineer