

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

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

RECITALS

WHEREAS, the Parties entered into the Memorandum of Agreement (hereinafter “2017 MOA”), included as Attachment A, effective April 11, 2017, for expedited permit evaluation-related services by Corps, pursuant to Section 214 of the Federal Water Resources Development Act of 2000, for COUNTY-designated priority Section 408 Requests;

WHEREAS, the 2017 MOA is set to expire on December 31, 2022;

WHEREAS, in a letter dated October 15, 2020, COUNTY requested Corps to: increase the total compensation limit from \$300,000 to \$800,000; revise payment from upfront lump-sum to annual fee; update COUNTY primary contact information; and extend the effective duration of the 2017 MOA for an additional 7 years; and

WHEREAS, **Appendix I** of Engineering Circular 1165-2-220, dated September 10, 2018, authorizes District and Division Engineers of the Corps to accept and expend funds contributed by a non-Federal public entities subject to certain limitations.

NOW, THEREFORE, the Parties hereby agree to amend the 2017 MOA as follows:

1. Article I. – PURPOSE AND AUTHORITIES. Article I is amended to add:  
“E. COUNTY is a non-Federal public entity, 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, COUNTY's Principal Representative will be James Tyler, P.E., QSD, Manager, OC Infrastructure Programs/Flood Programs and Corps' Principal Representative will be Michael Lau, P.E., Engineering Division, Los Angeles 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 is amended to read:

"A. 2. In consultation with Corps, establish the specific order of priority Section 408 Requests listed in **Appendix A** to this MOA. The Section 408 Requests included in **Appendix A** and the order of priority of those requests may be changed by COUNTY's Principal Representative (changes to evaluation activity budgets in **Appendix A** require concurrence by Corps) without requiring an amendment to this MOA. Such changes shall be submitted to 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 read:

"A. The total compensation paid to Corps under this MOA shall not exceed EIGHT HUNDRED THOUSAND DOLLARS (\$800,000).

"B. Prior to Corps incurring any expenditure to expedite Section 408 Requests designated as a priority as specified in this MOA, COUNTY will transfer to Corps the amount specified in **Appendix A** of this MOA. Payment by COUNTY is to be made by electronic funds transfer, in accordance with Standard Operating Procedure UFC 08 **Appendix B**, or 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"

Amended to add:

"E. Following an initial review of a COUNTY priority project, Corps will provide COUNTY an estimate of costs that will be incurred to complete Section 408 review. If it is determined that the estimated amount to be incurred exceeds

the amount of funding available, COUNTY will have the option to (i) provide additional funding for this MOA, or (ii) agree to a reduced level of service.”

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

“G. The Parties may elect to extend the services of Corps beyond December 31, 2029, subject to: 1) additional funding being provided by COUNTY 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 COUNTY:

Orange County Public Works  
c/o Flood Programs  
601 N. Ross St.  
Santa Ana, CA 92701  
Attn: James Tyler”

“If to Corps:

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

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, 2029, or 2) the MOA is terminated pursuant to Article X.B.”

7. Integration. Except as expressly amended herein, all terms and conditions of the 2017 MOA remain in full force and effect.

[REMAINDER LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the FIRST AMENDMENT is executed by COUNTY, acting by and through its General Manager/Chief Engineer, and by Corps, through its authorized officer.

ORANGE COUNTY FLOOD CONTROL DISTRICT,  
A body corporate and politic

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Chair of the Board of Supervisors


COUNTY OF ORANGE,  
A political subdivision of the State of California

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Chair of the Board of Supervisors

Signed and certified that a copy of this document has been delivered to the Chair of the Board per Government Code Section 25103, Resolution 79-1535

Attest: \_\_\_\_\_ Date: \_\_\_\_\_  
Clerk of the Board of Supervisors

APPROVED AS TO FORM:  
Office of the County Counsel

By:  \_\_\_\_\_ Date: 10-20-21  
Deputy County Counsel

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

By: \_\_\_\_\_ Date: \_\_\_\_\_

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

**APPENDIX A of  
Memorandum of Agreement (MOA)-080-17011374 (Originally Executed 11 April 2017)  
between Orange County Public Works and U.S. Army Corps of Engineers**

**Appendix A: Orange County - Designated Priority Section 408 Requests  
(Revision Date: DEC 23, 2019)**

The list of Orange County Public Works designated **Priority** Section 408 Permit Request's under this MOA includes the following Section 408 Requests:

<b>Priority</b>	<b>Date of Funds Transfer</b>	<b>USACE Permit #</b>	<b>Section 408 Request Project Name/Description</b>	<b>Budget Amount</b>
	5/05/2017	N/A	Program Management (covering FY 2017 through the life of the MOA, until MOA expiration or cancellation).	\$40,000.00
1	5/05/2017	SPL-408-2018-006	Santa Ana River Retrofit of Various Bridges. Completed.	\$20,000.00
2	5/05/2017	(No permit numbers as of the date of this document).	Santa Ana River Parkway Hiking & Riding Trail. Reach 9, 5B ( Gypsum to Still pond Road) & Reach 9, phase 3 & 2b connection. No bridges review.	\$50,000.00
3	5/05/2017	(No permit numbers as of the date of this document).	Santa Ana River Channel After the Fact.	\$150,000.00
4	5/05/2017	408-SPL-2019-0025	Carbon Canyon Channel (Segment D) 850 L.F. Bikeway. South of Golden Ave Bridge, Placentia	\$40,000.00
<b>TOTAL</b>	<b>(\$300,000.00 received on 5/05/2017)</b>			<b>\$300,000.00</b>

Note: This Version of Appendix A supersedes all previously submitted Appendix A under this MOA.

US Army Corp of Engineers  
Section 408 Program Coordinator

  
Orange County Public Works