Los Angeles County
Metropolitan Transportation
Authority
One Gateway Plaza
3rd Floor Board Room
Los Angeles, CA

File #: 2021-0102, **File Type:** Agreement **Agenda Number:** 12.

REVISED
PLANNING AND PROGRAMMING COMMITTEE
APRIL 14, 2021

SUBJECT: U.S. ARMY CORPS OF ENGINEERS MEMORANDUM OF AGREEMENT FOR SECTION 404 PERMITS FOR METRO PROJECTS

ACTION: APPROVE RECOMMENDATION

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to execute the Memorandum of Agreement between Los Angeles County Transportation Authority (LACMTA) and the US Army Corps of Engineering, Los Angeles District, for Section 404 Permitting Process (Attachment C).

ISSUE

Metro planning and construction projects often need to coordinate with the United States Army Corps of Engineers (Corps), Los Angeles District (LAD), to secure permits and approvals. The Los Angeles River Path Project needs to secure a Section 404 (Clean Water Act of 1972) permit and it is anticipated that future additional Section 404 permits will be required for other Metro projects.

In order to streamline the permitting process with LAD, it would be more efficient to enter into a Memorandum of Agreement (MOA) between LACMTA and the LAD to facilitate memorializing roles and responsibilities and to expedite project delivery schedules. This MOA has been prepared in a manner that would accommodate this and any other future Metro project that may require Section 404 services from the LAD.

DISCUSSION

In September 2019 , the Board approved LACMTA to enter into a first MOA with the Corps to facilitate coordination on Section 408 (permission from the Corps to alter the Corps constructed Civil Works) permitting process for a number of projects, including Pillar Projects, Measure M/R and Twenty-Eight by ’28 Projects (Attachment A). Subsequently, LACMTA and the Corps entered into the MOA in December 2019 (Attachment B).

All the projects included within the Section 408 MOA with the Corps will also be required to obtain Section 404 permits due to their interaction with the Waters of United States. Hence, this would be a second executed MOA that would allow both parties to collectively work together to support pre-

application tasks (environmental and design) for the permitting process. The general intent of the MOA would be to cover the current ongoing Projects as well as future Metro projects requiring Section 404 permits for project delivery.

The MOA describes roles, responsibilities and obligations of both parties and specifies the procedures which LACMTA and the LAD will follow for elements associated with the support services and permitting (general coordination, review of environmental/design, pre-application direction and review, streamline process, attendance in meetings, reimbursements, invoices, etc.). LACMTA and the LAD agree to cooperate with each other in all activities covered by the MOA. Work performed by the LAD under this MOA shall be per the agreed upon terms in this MOA.

Equity Platform Consistency

This MOA will facilitate streamlined delivery of Metro projects which in turn will provide benefits of enhanced mobility and regional access to underserved populations within the respective project areas. Project-specific consistency with Metro's Equity Platform will be addressed as projects are brought before the Board for approval.

FINANCIAL IMPACT

This MOA has a not-to-exceed value of $750,000 for seven years (ending December 31, 2027) with reimbursements being issued to the LAD on an annual basis per the specified terms in the MOA. Funding will be on an annual basis through project budget, based on project-specific coordination with the LAD. Reimbursements for LAD's commitments created within the MOA parameters shall only be issued by funded projects and must be within each project's respective Fiscal Year or Life of Project (LOP) budgets. Generally, these projects will largely be Measure R/M projects but can be utilized across all Metro capital projects.

Impact to Budget

Sources of funds for the recommended actions are part of each project's budget. No other funds were considered.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

In general, the initial list of nine projects included in the MOA contribute to the implementation of multiple goals of Metro's Vision 2028 Strategic Plan, particularly:

- Goal 1: Provide high-quality mobility options that enable people to spend less time traveling;
- Goal 3: Transform LA County through regional collaboration and national leadership; and
- Goal 4: Provide responsive, accountable, and trustworthy governance within the Metro organization

ALTERNATIVES CONSIDERED

The Board may choose not to execute this MOA, however this would not solidify each of the parties' roles and responsibilities and would require Metro to follow standard "over the counter" processes for

permitting processing and therefore not benefit from streamlined processes and other administration benefits identified within the MOA, all of which are essential elements for timely project delivery.

NEXT STEPS

Upon Metro Board approval, the MOA will be executed, and staff will develop as-needed project-specific scope of projects that become ready for coordination with LAD.

ATTACHMENTS

Attachment A - Legistar File #: 2019-0556
Attachment B - LACMTA/Corps MOA for Section 408 permits, executed in Dec 2019
Attachment C - LACMTA/LAD MOA for Section 404 permit

Prepared by: Mitali Gupta, Manager, Countywide Planning and Development; 213-922-5283
Dolores Roybal-Saltarelli, Deputy Executive Officer, Countywide Planning and Development; 213-922-3024
David Mieger, Senior Executive Officer, Countywide Planning and Development; 213-922-3040

Reviewed by: James de la Loza, Chief Planning Officer; 213-922-2920

Phillip A. Washington
Chief Executive Officer

Metro

Los Angeles County
Metropolitan Transportation
Authority
One Gateway Plaza
3rd Floor Board Room
Los Angeles, CA

Board Report

File #: 2019-0556, **File Type:** Agreement **Agenda Number:** 31.

CONSTRUCTION COMMITTEE
SEPTEMBER 19, 2019

SUBJECT: US ARMY CORPS OF ENGINEERING MEMORANDUM OF AGREEMENT

ACTION: APPROVE RECOMMENDATION

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to execute the Memorandum of Agreement (MOA) between Metro (Authority) and US Army Corps of Engineering ("Corps").

ISSUE

As the Metro Projects move forward, the team has identified the need to interact with the Corps to accommodate the project alignments in which coordination efforts would include permits and general coordination. This is the Authority's first interaction with Corps. Therefore, in order to move forward with the general scope, an MOA must be set in place between the Authority and Corps in order to memorialize roles and responsibilities. This MOA shall also be prepared in a manner that would accommodate any future Metro Project that may require services from Corps in order to support those future projects.

DISCUSSION

No other MOA has been executed by both parties, this would be the first MOA executed that would allow both parties to collectively work together to support general utility relocation and coordination efforts. The general intent of the MOA would be to cover the current ongoing Projects as well as future Metro Projects for many years to come.

This MOA describes the roles, responsibilities, and obligations of both parties and specifies the procedures which the Authority and Corps will follow for elements associated with the supports services associated with all of Metro's projects. Such elements include general coordination, providing as builts, relocating utilities, review of designs, streamline processes, meeting accommodations, permitting, construction support services, reimbursements, invoicing, and other general tasks in support of Metro's construction of projects. The Authority and Corps agree that each will cooperate with the other in all activities covered by the MOA. Work performed by Corps

powered by Legistar™

under this MOA shall be per the agreed upon terms in this MOA.

FINANCIAL IMPACT

Reimbursements will be issued to Corps on an annual basis per the specified terms in the MOA. Reimbursements for said Authority commitments created within the MOA parameters shall only be issued by funded projects and must be within each of the project's respective Fiscal Year or Life of Project (LOP) budgets. These projects will largely be comprised of the Measure R/M projects but can be utilized across all Metro capital projects.

ALTERNATIVES CONSIDERED

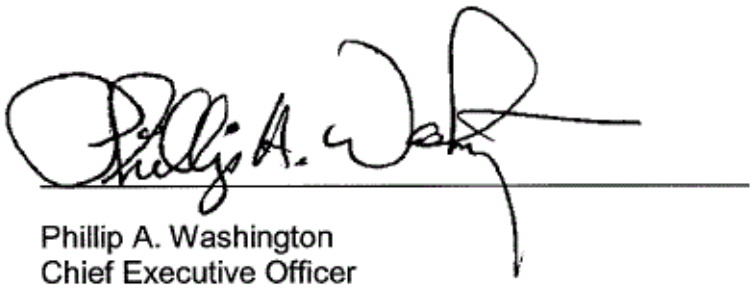
The Board may choose not to execute this MOA, however not executing this MOA would not solidify each of the parties' roles and responsibilities and would require Metro to follow standard over the counter processes and therefore not benefit from streamlined processes, and other administration benefits identified within the MOA. All of which are essential elements from a successful project standpoint.

ATTACHMENTS

Attachment A - MOA; Corps

Prepared by: Eduardo Cervantes, Deputy Executive Officer; 213-922-7255
Androush Danielians, Executive Officer; 213-922-7598

Reviewed by: Richard Clarke, Chief Program Management Officer; 213-922-7557



Phillip A. Washington
Chief Executive Officer

MEMORANDUM OF AGREEMENT
BETWEEN
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
(LACMTA)
AND
U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

SUBJECT: Memorandum of Agreement between the Los Angeles County Metropolitan Transportation Authority (LACMTA) and the U.S. Army Corps of Engineers Los Angeles District

THIS MEMORANDUM OF AGREEMENT ("MOA") is entered into between the Los Angeles County Metropolitan Transportation Authority, LACMTA (hereinafter "LACMTA") and the Los Angeles District of the United States Army Corps of Engineers (hereinafter "Corps"), collectively referred to as the "Parties."

RECITALS

WHEREAS, pursuant to section 14 of the Rivers and Harbors Act of 1899, codified at 33 U.S.C. § 408 ("Section 408"), as amended, the Corps has jurisdiction over requests to alter or modify completed water resources development projects constructed by the Corps ("Section 408 Requests");

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 application of that entity related to a project or activity for a public purpose under the jurisdiction of the Department of the Army;

WHEREAS, the Secretary of the Army has delegated the responsibility of carrying out section 214 of the WRDA 2000, as amended, to the Chief of Engineers and his delegated representatives;

WHEREAS Engineering Circular (EC) 1165-2-220 authorizes District and Division Engineers of the Corps to accept and expend funds contributed by non-Federal public entities subject to certain limitations;

WHEREAS, the Corps has indicated it is not able, without additional resources, to expedite the evaluation of LACMTA-designated priority Section 408 Requests ("LACMTA-designated priority Section 408 Requests") that have a public purpose;

WHEREAS, LACMTA is a non-Federal 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 of LACMTA-designated priority Section 408 Requests, as more fully described in this MOA;

WHEREAS, the Corps' District Engineer has determined that the acceptance and expenditure of funds received from the LACMTA is appropriate, and an informational public notice will be issued regarding the decision;

WHEREAS, it is understood and acknowledged by all Parties that the Corps' review of LACMTA-designated priority Section 408 Requests will be completely impartial and in accordance with all applicable Federal laws and regulations;

WHEREAS, this MOA establishes the responsibilities and operating procedures of the Parties with respect to the Corps' review of LACMTA-designated priority Section 408 Requests requiring Corps' permission pursuant to Section 408;

WHEREAS, this MOA is intended to: (1) enable the Parties to fully consider, address, and protect environmental resources, including but not limited to impacts to existing and completed Corps water resources development projects and any component feature thereof, 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 LACMTA in developing appropriate mitigation measures; (4) maximize the effective use of limited Corps resources by focusing attention on projects that would have the most effect on completed federal flood risk management facilities; (5) provide a mechanism for expediting LACMTA-designated priority Section 408 Request reviews and 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 LACMTA to provide expedited Section 408 Request evaluation-related services for LACMTA-designated priority Section 408 Requests. The LACMTA-designated priority Section 408 Requests are listed in **Appendix A** to this MOA. LACMTA shall have the authority to change priorities, in order to accommodate Project schedule needs. This MOA is not intended as the exclusive means of obtaining permit review of LACMTA Section 408 Requests. This MOA is a vehicle by which LACMTA will obtain expedited review and evaluation of LACMTA-designated priority Section 408 Requests outside of the ordinary Corps review process.

B. The LACMTA enters into this MOA pursuant to its authority under California Public Utilities Code Section 130050.2, et seq.

C. The Corps enters into this MOA pursuant to its authority under 33 U.S.C. § 2352.

D. This MOA is limited to LACMTA-designated priority Section 408 Request reviews only. A separate agreement may be required between LACMTA and the Corps to

expedite environmental technical assistance, coordination services, review, and concurrence of documentation prepared to comply with section 404 of the Clean Water Act of 1972, as amended, and/or section 10 of the Rivers and Harbors Act of 1899, as amended.

Article II. - SCOPE OF WORK

A. LACMTA will provide funds to the Corps to expedite review and evaluation related services for LACMTA-designated priority Section 408 Requests as designated in **Appendix A**. The Corps' operations and maintenance expenses are funded as a congressionally appropriated line item in the annual Federal budget. LACMTA will provide the Corps with funds in accordance with the provisions of 33 U.S.C. § 2352.

B. The Corps will provide staffing resources dedicated to expediting LACMTA-designated priority Section 408 Request reviews, as described in Article II.D., below, and/or other programmatic efforts to support efficient decision-making.

C. The Corps will establish a separate internal financial account to track receipt and expenditure of funds associated with its review of LACMTA permit applications for LACMTA-designated priority Section 408 Requests. Corps' personnel will charge their time and expenses against the account when they perform work to either expedite Section 408 Request evaluation related requests for LACMTA-designated priority Section 408 Requests or undertake other programmatic efforts to support efficient decision-making related to LACMTA's permitting needs.

D. Funds contributed by LACMTA hereunder will be expended by the Corps to defray the costs of its staff (including salary, associated benefits, overhead and travel expenses) and other costs in order to expedite the evaluation of LACMTA-designated priority Section 408 Requests. The Corps may expend LACMTA funds to perform select duties, including but not limited to technical analyses and writing, Agency Technical Review, real estate evaluation, risk analysis, copying or other clerical/support tasks, acquisition of data, site visits, travel, coordination activities, additional personnel (including support/clerical staff), contracting support for technical services (e.g., structural risk evaluation, geotechnical analysis, hydraulic and hydrological engineering review), construction quality assurance and control, environmental documentation preparation and review; consultation with resource agencies; meeting coordination; and any other permit evaluation related responsibilities that may be mutually agreed upon.

E. The Corps will *not* expend funds provided by LACMTA 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 provided by LACMTA pursuant to this MOA may be used.

F. The Corps will *not* expend funds provided by LACMTA to defray the costs of activities related to the Corps' enforcement functions, but may use funds provided by LACMTA to defray costs of activities related to Section 408 permission compliance functions, such as

quality assurance activities or reviews of associated Section 408 permission closeout documentation.

G. If the funds provided by LACMTA are expended and not replenished, any remaining LACMTA-designated priority Section 408 Requests will be handled like those of any Section 408 requester.

H. Expediting of packages shall include review of a submittals within 30 calendar days. Should the package or plans be incomplete in nature, Corps shall reject plans and notify LACMTA within 7 calendar days of receipt of plans.

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, LACMTA's Principal Representative will be Eduardo Cervantes, Deputy Executive Officer, and the Corps' Principal Representative will be Rafi Talukder, P.E., Engineering Division, Los Angeles District. The Principal Representative for each party may be changed upon written notification to the other party.

Article IV. - RESPONSIBILITIES OF THE PARTIES

A. LACMTA will provide adequate resources to fund existing or additional Corps personnel for the purpose of expediting the review of LACMTA-designated priority Section 408 Requests and other identified activities. To facilitate the Corps' reviews and activities, the LACMTA will:

1. Provide adequate information regarding LACMTA-designated priority Section 408 Requests, scheduling requirements, and other specific activities to initiate permit evaluation. Information required for the Corps to deem a Section 408 package submittal complete thereby allowing initiation of the Section 408 request review process can be found in applicable Section 408 guidance, including but not limited to EC 1165-2-220, POLICY AND PROCEDURAL GUIDANCE FOR PROCESSING REQUESTS TO ALTER US ARMY CORPS OF ENGINEERS CIVIL WORKS PROJECTS PURSUANT TO 33 USC 408, dated September 10, 2018, a copy of which has been provided to LACMTA. Upon request, the LACMTA shall provide supplemental information necessary to complete the permit application. Additional information required to complete the Section 408 Request evaluation process may exceed what is needed to initiate the process. On a case-by-case basis, if requested by the Corps, LACMTA shall provide such additional information as may be necessary to ensure the Corps can effectively accomplish the required review.

2. In consultation with the Corps, establish the specific order of priority of the 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 Section 408 Requests may be changed by LACMTA'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 VI and will be effective upon receipt thereof.

3. To the best of its ability, ensure the participation of all essential LACMTA personnel during the Section 408 request evaluation process.

4. Work closely with the Corps to adjust priorities and schedules in order to optimize available Corps staff resources. If overlaps or conflicts occur among LACMTA-designated priority Section 408 requests, then LACMTA will work with the Corps to prioritize such overlaps.

B. The Corps shall assign qualified personnel to evaluate the LACMTA-designated priority Section 408 requests and prioritize associated tasks within projected funding levels provided under this MOA. 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 LACMTA-designated priority Section 408 Requests 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, Section 408 Requests related to non-priority Section 408 requests submitted by LACMTA through the standard Corps review process.

2. Following any pre-application meetings and/or discussions to clarify the scope of anticipated Section 408 review processes, provide LACMTA with an estimated schedule to the best of its ability within fourteen (14) calendar days of receiving LACMTA's scheduling requirements as described in Article IV subparagraph A (1) to complete the Section 408 Request evaluation process for each priority Section 408 Request submitted. LACMTA shall be able to comment on these schedules and adjust the order of LACMTA-designated priority Section 408 Requests included in Appendix A, or provide additional resources per Article V. D, below.

3. Consult on a monthly basis with LACMTA regarding an adjustment of priorities or amendments to Appendix A if the current and/or projected workload of priority Section 408 Requests and activities exceeds the Corps' ability to provide the services specified herein or negotiate additional funding in accordance with Article V.D, below.

4. If a Section 408 permission is issued, provide construction quality assurance and quality control support for permit compliance purposes, which shall consist of reviewing technical submittals and requests for information, field inspections at critical construction milestones, review of proposed change orders that involve the design or design intent of any Section 408 permission, providing technical assistance during construction as requested by the LACMTA on a case by case basis and review of construction and Section 408 closeout documentation as applicable.

5. Provide LACMTA with a brief quarterly summary report of progress made under this MOA within twenty-one (21) calendar days of the end of each quarter (January 21, April 21, July 21, and October 21). Progress will be itemized for each LACMTA-designated priority Section 408 request package during the quarter for each LACMTA-designated priority Section 408 Request 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 LACMTA-designated priority Section 408 Request package reviews, and will summarize expenditures for each Section 408 package 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 of narrative per report.

6. Meet with LACMTA representatives as needed to discuss progress under this MOA.

7. Work closely with the Section 408 Requester to determine the applicable Corps standards to be applied and the specific level of detail necessary to be provided in order for the Corps to make a decision for a particular alteration request. The Corps' determination of the appropriate level of detail will be risk-informed and documented in the Corps' review plan. The Corps acknowledges the Requester is responsible for ensuring a proposed alteration meets current Corps design and construction standards. However, the Requester is not required to bring those portions or features of the existing Corps project that are not impacted by the alteration up to current Corps design standards.

8. Prior to expiration of the MOA, hold a final meeting with LACMTA representatives to review a summary of LACMTA-designated priority Section 408 Request review streamlining and other activities under this MOA, as well as provide recommendations for future coordination between the Parties.

Article V. - FUNDING

A. The total compensation paid to the Corps under this MOA is ONE MILLION FIVE HUNDRED THOUSAND ($1,500,000).

B. Prior to the Corps incurring any expenditure to expedite Section 408 Requests designated as a priority as specified in this MOA, the LACMTA will make a lump sum payment to the Corps of the total amount specified in subparagraph A above. Payment by the LACMTA 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).**

C. The Corps will carry over any unexpended funds from year to year, or will refund such unobligated funds if this MOA is terminated or expires in accordance with Article X.

D. The Corps will provide LACMTA with written notice when 80% of the funding has been expended. If the Corps' actual costs for providing the agreed-upon level of service will exceed the amount of funds available, LACMTA will have the option of (i) increasing the total funding amount through an amendment to this MOA, or (ii) agree to a reduced level of service.

E. The Corps will charge a Program Management Administration fee annually to manage the 214 funding agreement (see attached budget estimate).

Article VI. - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this MOA shall be deemed to have been duly given if in writing and delivered personally or mailed by first-class, registered, or certified mail, as follows:

If to the LACMTA:

Los Angeles County Metropolitan Transportation Authority
1 Gateway Plaza
Los Angeles, California 90012
Attn: Eduardo Cervantes

With a copy in all instances to:

Los Angeles County Counsel
1 Gateway Plaza, 24th Floor
Los Angeles, California 90012
Attn: Ronald Stamm, General Counsel

If to the Corps:

U.S. Army Corps of Engineers
Engineering Division
915 Wilshire Blvd.
Los Angeles, California 90017
ATTN: Rafi Talukder

With a copy in all instances to:

District Counsel
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Blvd., Suite 1535
Los Angeles, California 90017

B. A party may change the address to which such communications are to be directed by giving written notice to the other party 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 (7) calendar days after it is mailed.

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, expediting of LACMTA-designated priority Section 408 Requests 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 LACMTA's programs or projects related to or arising out of LACMTA-designated priority Section 408 Requests which may be pending before other agencies, departments, and offices will not be the responsibility of the Corps. The Corps may provide, upon request from the LACMTA, 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. LACMTA 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, LACMTA will continue to be responsible for all costs incurred by the Corps in performing expedited LACMTA-designated priority Section 408 Requests 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 LACMTA 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, codified at 31 U.S.C. 1341 *et seq.*, shall directly remit to LACMTA the unexpended balance of the advance payment, if any. Funds may be provided to LACMTA 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 the Parties.

B. The Corps' participation in this MOA does not imply endorsement of the LACMTA-designated priority Section 408 Requests, 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 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.

[REMAINDER LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this MOA is executed as of the dates indicated below by LACMTA, acting by and through its governing board, and by the Corps, acting by and through its authorized officer.

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

By: _____ Date: 10/16/19

Phillip A. Washington
Chief Executive Officer

APPROVED AS TO FORM:

_____
General Counsel

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

By: _____ Date: 2 Dec 19

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

Appendix A: LACMTA-Designated Priority Section 408 Requests
(Dated: 24 May 2019)

The list of LACMTA-designated Priority Section 408 Requests under this MOA includes the following Section 408 Requests:

Prioritization	Section 408 Request Description	Estimate
	USACE Program Management Administration ($25,000 annually x 7 yrs)	$175,000
1	I-710 Corridor Project EIR/EIS	$40,000
	I-710 Corridor Project (Preliminary Design Review)	$45,000
	Agency Coordination Meetings	$15,000
2	I-710 Corridor Project - Shoemaker Bridge, Long Beach, CA (EIR/EIS)	$40,000
	I-710 Corridor Project - Shoemaker Bridge, Long Beach, CA (Preliminary Design Review)	$30,000
	Agency Coordination Meetings	$12,500
3	Metro Eastside Transit Corridor Phase 2 Project Supplemental EIR/EIS Review	$60,000
	Metro Eastside Transit Corridor Phase 2 Project (Preliminary Design Review)	$45,000
	Agency Coordination Meetings	$22,500
4	West Santa Ana Branch Transit Corridor Project (EIR/EIS Review)	$50,000
	West Santa Ana Branch Transit Corridor Project (Preliminary 3 bridges Design Review)	$80,000
	Agency Coordination Meetings	$20,000
5	Task 2: LA River Bike Path Gap Closure Project – EIR/EIS Review (8 miles)	$50,000
	Task 2: Coordination of Environmental Analysis (USACE Lead)	$40,000
	Task 3: LA River Bike Path Gap Closure Project (30% Design Review)	$80,000
	Task 4: Review of Permit Application	$80,000
	Task 5: Agency Coordination Meetings	$30,000
6	I-605 Corridor Project 3 Alternative (EIR/EIS)	$50,000
	I-605 Corridor Project (Preliminary Design Review)	$45,000
	Agency Coordination Meetings	$12,500
7	Doran St. Crossing at Verdugo Wash (Full 408 Permission)	$120,000
8	Brighton Double Track over Tujunga Wash and Pacoima Wash	$145,000
9	East San Fernando Valley Project	$120,000

Prioritization	Section 408 Request Description	Estimate
10	Sepulveda Transit Corridor Project (EIS/EIR)	$40,000
	Sepulveda Transit Corridor Project (Preliminary Design Review)	$40,000
	Agency Coordination Meetings	$12,500
	TOTAL	$1,500,000

***Note:** Since scope of work for each project is subject to change, additional funds will be required to provide a full 408 permit. Any unused funding will be used for a full 408 permit*

Appendix "B"

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
FINANCE CENTER
5722 INTEGRITY DRIVE
MILLINGTON TENNESSEE 38054-5005

CEFC-FD
SOP No. UFC-08

1 June 2004
Revised 1 April 2006

STANDING OPERATING PROCEDURES
ELECTRONIC FUNDS TRANSFERS TO THE CORPS

1. **PURPOSE.** To Standing Operating Procedure (SOP) provides procedures for utilizing Electronic Funds Transfer (EFT) and the Automated Clearing House (ACH) networks in lie of mailing a check for payment to the Corps.

2. **APPLICABILITY.** The provisions of this SOP apply to the USACE Finance Center (UFC) and activities supported by the UFC.

3. **REFERENCE.** SOP No. UFC-03, Collection/Deposit Procedures.

4. **PROCEDURES.** When a Corps customers wishes to use EFT or ACH processes to transfer of cash contributions in lieu of mailing a check to the UFC, the enclosed procedures must be followed to ensure accurate and timely credit for the funds transferred.

a. The customer must notify the supported activity F&A Officer or Project Manager in advance of the pending cash transfer. **The customer's notification should include the date of the transfer, amount, type of transfer (CCD+ or CTX format), and any other known data that will be used to identify the transfer.** The customer's financial institution will transfer the funds via the ACH network using the Cash Concentration or Disbursement Plus (CCD+) or Corporate Trade Exchange (CTX) formats of transactions. The required data elements for these types of transactions are provided in the enclosures.

b. Upon notification from the customer or the Project Manager of the pending EFT, the supported activity F&A Officer must enter a Collection Receiving Officer Voucher (ROV) in CEFMS. All EFT collection vouchers must be submitted to the UFC Disbursing Division using Form UFC-DISB-1 (available at: http://fc.ufc.usace.army.mil/forms/a-ufcdisb1.pdf). There should only be one EFT transaction per ROV and no other transactions should be attached to an ROV established for EFT purposes.

c. In addition to the enclosed format instructions, the F&A Officer or the Project manager must also provide the following information to the customer for the EFT transfer:

(1) The District/Division/Laboratory/RBC two-digit EROC
(2) The CEFMS ROV number
(3) The Advance Account or Local Cost Share Number

5. **Ca$hLink II Agency Access System.** Ca$hLink II is an on-line U.S. Treasury system that allows the UFC to access and confirm our deposit information the next working day after the EFT is posted. The UFC monitors the Ca$hLink II system daily. Upon verification of the EFT transfer in Ca$hLink II, the UFC will certify the ROV and confirm the deposit. Funds will be available immediately after the deposit confirmation.

The UFC will not require any additional documentation from the supported activity or the customer provided all required documentation identified above is provided. **If an EFT transaction is received via Ca$hLink II that cannot be identified, it will be rejected back to the sender.** Before rejecting an EFT, the UFC will research and try to determine the proper supported activity and CEFMS account to update. For those EFT transactions rejected by the UFC, the financial institution (bank) that initiated the EFT will notify the customer (sender) of the rejected transaction.

6. **CHANGES.** Refer all discrepancies, comments or questions regarding this SOP to the Chief, Disbursing Division, Directorate of Finance (CEFC-FD) 901-874-8648.

FOR THE DIRECTOR:

Shirley Lee Autry

Encls

SHIRLEY L. AUTRY
Deputy Director, Finance

U.S. ARMY CORPS OF EINGEERS FINANCE CENTER
Electronic Funds Transfer
Customer Implementation Data Sheet

ACH CCD+ Format

DATA Element Name	Contents	Size	Position
*Record Type Code	6	1	01-01
*Transaction Code	22	2	02-03
*Receiving ABA	05103670	8	04-11
*Check Digit	6	1	12-12
*Account Number	220025	17	13-29
Payment Amount	Amount of Payment ($$$$$cc)	10	30-39
Identification Number	Optional	15	40-54
*Receiver Name	USACE Finance Center	22	55-76
**Discretionary Data	EROC Code of Corp Office	2	77-78
Addenda Indicator	1 (addenda present)	1	79-79
Trace Number	Assigned by Remitter's Bank	15	80-94

ADDENDA RECORD FORMAT

DATA Element Name	Contents	Size	Position
*Record type Code	7	1	01-01
*Addenda Type Code	05	2	02-03
***Payment Related Data	ROV #/Account #;EROC	80	04-83
Sequence Number	Addenda number starting at 0001	4	84-87
Addenda Trace Number	Same as the last 7 numbers of the detail trace number	7	88-94

*Data remains same for every transaction
**EROC Code of Corps District
***Data supplied by Corps District to Customer - If data is not present, transaction will be rejected

U.S. ARMY CORPS OF EINGEERS FINANCE CENTER
Electronic Funds Transfer
Customer Implementation Data Sheet

ACH CTX Format

DATA Element Name	Contents	Size	Position
*Record Type Code	6	1	01-01
*Transaction Code	22	2	02-03
*Receiving ABA	05103670	8	04-11
*Check Digit	6	1	12-12
*Account Number	220025	17	13-29
Payment Amount	Amount of Payment ($$$$$cc)	10	30-39
Identification Number	Optional	15	40-54
Number of Addenda	Number of Addenda Records attached	4	55-58
*Receiver Name	USACE Finance Center	22	59-74
Reserved	Blank	2	75-76
**Discretionary Data	EROC Code of Corp Office	2	77-78
Addenda Indicator	1 (addenda present)	1	79-79
Trace Number	Assigned by Remitter's Bank	15	80-94

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*Data remains same for every transaction

**EROC Code of Corps District

***Data supplied by Corps District to Customer - If data is not present, transaction will be rejected

MEMORANDUM OF AGREEMENT
BETWEEN
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
AND
U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

SUBJECT: Memorandum of Agreement between the Los Angeles County Metropolitan Transportation Authority and the U.S. Army Corps of Engineers, Los Angeles District.

THIS MEMORANDUM OF AGREEMENT ("MOA") is entered into between the Los Angeles County Metropolitan Transportation Authority (hereinafter the "LACMTA") and the United States Army Corps of Engineers ("Corps"), Los Angeles District (hereinafter the "LAD"), collectively referred to as the "Parties."

RECITALS

WHEREAS, the Corps has regulatory 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 ("RHA") of 1899, as amended; and

WHEREAS, Section 214 of the Federal Water Resources Development Act ("WRDA") of 2000, as amended, codified at 33 U.S.C. 2352, authorizes the Secretary of the Army, after public notice, to accept and expend funds to expedite the permit application review process for projects or activities that have a public purpose; and

WHEREAS, the Secretary of the Army has delegated the responsibility of carrying out Section 214 of the WRDA 2000, as amended, to the Chief of Engineers and his delegated representatives; 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 a non-Federal public entity subject to certain limitations; and

WHEREAS, the LAD has indicated it is not able, without additional resources, to expedite the evaluation of LACMTA permit applications; and

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

WHEREAS, the LAD issued an initial public notice dated November 2, 2020, regarding its intent to accept and expend funds contributed by the LACMTA; and

WHEREAS, in a memorandum dated XXX, the LAD's District Engineer determined that the acceptance and expenditure of funds received from the LACMTA is appropriate, and an informational public notice dated XXX, regarding the decision has been issued; and

WHEREAS, it is understood and acknowledged by all Parties that the Corps' review of the LACMTA permit applications for LACMTA-designated priority projects will be completely impartial and in accordance with all applicable Federal laws and regulations; 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 LACMTA 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 LACMTA to provide expedited permit application evaluation-related services for LACMTA-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 LACMTA; it is a vehicle by which the LACMTA will obtain expedited permit application evaluation-related services, outside of the ordinary Corps review process for Priority Projects.

B. The LACMTA enters into this MOA pursuant to its authority under California Public Utilities Code sections 30530 and 30531.

C. The LAD enters into this MOA pursuant to its authority under 33 U.S.C. 2352.

Article II. - SCOPE OF WORK

A. The LAD will expedite permit application evaluation-related services for LACMTA-designated Priority Projects under the jurisdiction of the Corps in exchange for funds provided by LACMTA, as set forth below. The Corps' Regulatory Program is funded as a congressionally appropriated line item in the annual Federal budget. Funds received from

LACMTA will be added to the Regulatory Division budget of the LAD, in accordance with 33 U.S.C. 2352.

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

C. The LAD 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 LACMTA for Priority Projects. LAD personnel will charge their time and expenses against the account when they perform work to either expedite permit application evaluation-related requests for LACMTA Priority Projects or undertake other programmatic efforts to support efficient decision-making related to the LACMTA's permitting needs.

D. Funds contributed by the LACMTA hereunder will be expended by LAD 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. 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, regional coordination with Corps personnel and with other agencies, preparing and distributing public notices, preparing and conducting public hearings, preparing correspondence, performing the public interest review, preparing draft permit decision documents, and meetings with the LACMTA and other agencies.

E. LAD may expend funds provided by the LACMTA to have other Corps personnel outside LAD (e.g., Institute for Water Resources and/or Engineer Research and Development Center) or 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 LACMTA-designated Priority Projects. If such expenditures when combined with the costs of the LAD Regulatory Division personnel require funding in excess of the amount available under this MOA, then LAD, as appropriate, shall not utilize said other Corps personnel outside LAD or hire said contractors until and unless additional funds are provided by the LACMTA and the Parties execute a written amendment to this MOA. LACMTA may at any time choose to require the LAD to obtain pre-approval from LACMTA for use of funds provided by LACMTA prior to LAD utilizing said other Corps personnel outside LAD or hiring said contractors in subsequent Federal fiscal quarters by notifying the LAD in writing at least two (2) weeks before the start of the Federal fiscal quarter in which the pre-approval requirement is to become effective.

F. LAD will not expend funds provided by the LACMTA for costs associated with the review of the LAD's work undertaken by supervisors or other persons or elements of the LAD in the decision-making chain of command. However, if a supervisor is performing staff work and not supervisory oversight, funds provided by LACMTA may be used. LAD will not expend funds provided by the LACMTA to defray the costs of activities related to the Corps'

enforcement functions, but may use funds provided by the LACMTA to defray costs of activities related to permit compliance functions for LACMTA permits, such as compliance inspections. Enforcement functions are defined as activities not permitted by the Corps but requiring Corps authorization. Permit compliance functions are defined as Corps oversight of Corps-permitted activities.

G. If the funds provided by the LACMTA are expended and not replenished, any remaining LACMTA-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. The Principal Representatives are identified in Article IV. B. Additional representatives may also be appointed to serve as points of contact on specific actions or issues. Principal Representatives may be changed upon written notification to the other party without requiring an amendment to this MOA.

Article IV. - NOTICES

A. Any notices, request, demand, or other communication required or permitted to be given under this MOA shall be deemed to have been duly given if in writing and delivered personally, or sent by email, or mailed by first-class, registered, or certified mail to the applicable Principal Representative. 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 (7) business days after it is mailed.

B. All inquiries during the term of this MOA will be directed to the Principal Representatives listed below:

If to LACMTA:

LACMTA
Eduardo Cervantes
Third Party Administration
Deputy Executive Officer
One Gateway Plaza
Los Angeles, CA 90012
cervantese@metro.net

If to LAD:

Stephen M. Estes
Chief, Los Angeles and San Bernardino Counties Section (North Coast Branch)
Regulatory Division
U.S. Army Corps of Engineers

Los Angeles District
915 Wilshire Boulevard, Suite 930
Los Angeles, California 90017-3489
Stephen.M.Estes@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 90017-3489

Article V. - RESPONSIBILITIES OF THE PARTIES

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

1. Provide adequate information regarding LACMTA-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 LACMTA 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 application review process. On a case-by-case basis, if requested by LAD, the LACMTA shall provide such additional information so as to ensure the Corps can effectively accomplish the required review.

2. In consultation with LAD, establish the specific order of priority of the LACMTA-designated Priority Projects as listed in Appendix A to this MOA. The LACMTA-designated Priority Projects included in Appendix A and the order of priority of those LACMTA-designated Priority Projects may be changed by the LACMTA Principal Representative without requiring an amendment to this MOA. Such changes shall be submitted to LAD's' 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 LAD to adjust priorities and schedules in order to optimize available LAD Regulatory Division and/or other Corps staff resources. While the LACMTA will make every effort not to overlap project schedules, occasional overlaps may occur and the LACMTA Principal Representative will work with LAD to prioritize such overlaps.

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

B. LAD 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 the LACMTA-designated Priority Projects in accordance with the purpose, terms, and conditions of this MOA or any amendments thereto. LAD shall not redirect resources from, or otherwise postpone, permit applications related to non-Priority Projects submitted by the LACMTA through the standard Corps review process.

2. Following any pre-application meetings and/or discussions to clarify the scope of anticipated permit application review processes, provide the LACMTA with an estimated completion date for the permit evaluation process for each complete application submitted. The LACMTA 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.

3. Consult with the LACMTA regarding an adjustment of priorities or establishment of relative priorities if the current or projected workload of Priority Projects and activities exceeds the LAD's ability to provide the services specified herein.

4. No later than thirty (30) days after the conclusion of each Federal fiscal quarter, unless an extension is granted by the LACMTA Principal Representative, provide the LACMTA 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 LAD has documented in coordinating and improving the efficiency of environmental/permit 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. The report will also include the LAD's current best estimate of the LAD's expected costs and tasks for the ensuing quarter. The report shall not be in excess of five (5) pages.

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

Article VI. - FUNDING

A. Within 30 days of execution of this MOA and prior to the LAD incurring any expenditure to expedite permit evaluation-related activities as specified in this MOA, the LACMTA shall pay only the anticipated costs expected to be incurred through September 30, 2021, at the level specified in the LAD's budget estimate for Federal fiscal year 2021 and agreed by LACMTA , which is included as **Appendix B** to this MOA and incorporated herein by reference. Unless amended per Article VI.E. below, the total maximum amount payable under this MOA will not exceed Seven-Hundred Fifty-Thousand and No/100 Dollars ($750,000.00).

B. No later than July 1 of each year that this MOA remains in effect, LAD will provide the LACMTA with an anticipated cost invoice ("Invoice") that provides an updated budget estimate of costs for the next Federal fiscal year, including any proposed changes in the level of staffing compared to the levels indicated in Appendix B, less any estimated carry-over of unobligated funds from the prior Federal fiscal year. The Invoice shall also contain proposed updates to Appendix B, if any, for future Federal fiscal years. For Federal fiscal year 2028, the Corps shall provide LACMTA with an Invoice that provides an updated budget estimate of anticipated costs through December 31, 2027. LAD will give LACMTA reasonable opportunity to review and to request revisions to the Invoice and any updates to Appendix B proposed by LAD, and the Parties will attempt to reach agreement on any such revisions requested by LACMTA, consistent with Article VIII. Revisions agreed to in writing by the Parties will be incorporated into a revised budget estimate, Invoice, or Appendix B, as applicable. This update to Appendix B will not require an amendment to the MOA. Each Invoice shall be provided on LAD letterhead, and include (1) the LAD's name and address, (2) LAD's remittance address, if different, (3) service dates, and (4) total amount requested. Invoices shall be submitted by LADs to: Eduardo Cervantes at cervantese@metro.net and a hard copy to the address stated in Article IV.B.

C. Each Federal fiscal year after the year in which the MOA is executed, prior to LAD incurring any expenditure to expedite permit evaluation-related activities as specified in this MOA, the LACMTA will make an annual lump sum payment to LAD of the total amount specified in the Corps' Invoice for the relevant year, or, if the Parties have outstanding disagreement(s) on revisions to the Invoice, the total amount specified in the Appendix B budget estimate for the relevant Federal fiscal year, less any carry-over of unobligated funds from the prior Federal fiscal year. Payments by the LACMTA are to be made preferably by electronic funds transfer in accordance with Standard Operating Procedure UFC 08 (**Appendix C**) or by check payable to the "USAED Los Angeles, FAO" and sent to the following address:

U.S. Army Corps of Engineers, Finance Center
ATTN: EROC: L1
5722 Integrity Drive
Millington, TN 38054

D. LAD 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 LAD's 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, LAD will notify the LACMTA at least ninety (90) days prior to fund exhaustion of the incremental amount of funds needed to defray the remaining anticipated costs. The LACMTA will have the option of (i) making a payment to LAD for the incremental amount, provided the total amount of payments to the Corps does not exceed the total funding amount, (ii) increasing the total funding amount through an amendment to this MOA, or (iii) 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 LACMTA programs or projects before other agencies, departments, and offices will not be the responsibility of LAD. LAD may provide, upon request from the LACMTA, any assistance necessary to support justification or explanations of activities conducted under this MOA. In general, LAD is responsible only for public information regarding LAD regulatory activities. The LACMTA will give LAD, 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, except where otherwise noted.

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 LACMTA will continue to be responsible for all costs incurred by LAD 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 LAD under this MOA.

C. Within ninety (90) calendar days of termination of the MOA, or the expiration of the MOA, the LAD shall provide the LACMTA with a final statement of expenditures. Within sixty (60) calendar days after submittal of the LAD's final statement of expenditures, LAD, subject to compliance with the Anti-Deficiency Act (31 U.S.C. 1341 et. seq.), shall directly remit to the LACMTA the unexpended balance of the advance payments, if any. Funds may be provided to the LACMTA by electronic funds transfer.

Article XI. - MISCELLANEOUS

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

B. LAD's participation in this MOA does not imply endorsement of LACMTA 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, constitutes 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) December 31, 2027 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 LACMTA and by LAD, through their authorized officers.

LACMTA

By: _____ Date: _____

Phillip A. Washington
Chief Executive Officer

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

By: _____ Date: _____

Julie A. Balten
Colonel, US Army
Commanding

Appendix A: LACMTA-designated Priority Projects

(Dated: February 21, 2021)

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

1. West Santa Ana Branch Transit Corridor Project
2. Los Angeles River Path Project
3. I-710 Corridor
4. I-710 Corridor – Shoemaker Bridge
5. I-605 Corridor
6. Doran Street Crossing at Verdugo Wash
7. Brighton Double Track over Tujunga Wash and Pacoima Wash
8. East San Fernando Valley Project
9. Eastside Transit Corridor
10. **Sepulveda Transit Corridor**

Other projects if appropriate will be added to the MOA when they are ready for 404 coordination.

Appendix B: Budget Estimate

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Appendix C

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