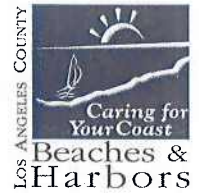




"To enrich lives through effective and caring service"



Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

October 26, 2006

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVE MEMORANDUM OF AGREEMENT TO SHARE COSTS
FOR MARINA DEL REY MAINTENANCE DREDGING
(4th DISTRICT)
(3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the recommended action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Class 4(l) of the County's Environmental Document Reporting Procedures and Guidelines.
2. Approve and authorize the Mayor to sign both a Memorandum of Agreement (MOA) and the Certification Regarding Lobbying (Certification) to allow the County to contribute \$1.6 million toward sharing the costs for Marina del Rey (MDR) maintenance dredging, after receipt of the final executed documents from the United States Army Corps of Engineers (Corps), in substantially the same form as Exhibit 1.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Navigation through the north entrance of the MDR main channel has become severely restricted and hazardous due to the build-up of sand around the north jetty. It is the responsibility of the Corps to periodically dredge this material out of this entrance, as well as the south entrance and main channel, which are areas designated as a federal channel. The whole Marina area was last dredged by the Corps between October 1999 and March 2000.

Due to limitations in Congressional funding, as well as unresolved environmental issues concerning removal of contaminated sediments from the south entrance and main channel, the Corps is concentrating this dredge operation exclusively on removing clean sediment composed mainly of sand (sand) from the north entrance. In addition, a large sand trap just outside the MDR north jetty, excavated by the Corps in the previous dredging will be emptied of sand so it can again function as a "trap" for sand carried into the north entrance by ocean currents.

The Corps requires the County's financial assistance to fully dredge the north entrance, which will cost at least \$2.4 million. The Corps, upon approval of the FY '07 Federal Budget, is expected to receive approximately \$1.4 million for this operation, and the additional \$1.6 million in County funds will cover both the shortfall and any additional costs likely to be incurred. Any unused monies from the County's contribution will be returned by the Corps upon completion of the dredging operation. Your Board approved a similar MOA and Certification with the Corps on September 14, 1999 to share costs for the previous MDR dredging project.

This dredging operation will bring the north entrance to a depth of 20 feet and place the clean sand removed from that entrance just offshore Dockweiler Beach to assist in beach replenishment.

Implementation of Strategic Plan Goals

The services provided through this MOA and Certification will help to promote the Service Excellence Goal of the County's Strategic Plan. It promotes Service Excellence by helping to ensure that mariners can safely use the north entrance by removing the navigational hazards created by shoaling, such as vessel groundings in shallow waters. In addition, this dredging helps to ensure that law-enforcement and emergency vessels based in Marina del Rey (e.g., the U.S Coast Guard Cutter *Halibut*, the Lifeguard Baywatch rescue boats and the Sheriff's patrol/rescue craft) are likewise unimpeded as they enter/exit the MDR north entrance in both their regular and emergency response duties.

FISCAL IMPACT/FINANCING

The Department of Beaches and Harbors has sufficient funding in the Marina Accumulative Capital Outlay (ACO) fund for this MOA. There will be no impact on the County's General Fund. Any portion of the \$1.6 million not used by the Corps for this dredging operation will be returned to the Department upon project completion.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Memorandum of Agreement

The MOA and Certification currently being recommended for your Board's approval are standard documents used by the Corps nationwide and were similarly approved by your Board in 1999. In 1996 and 1998, your Board also entered into MOAs with the Corps to carry out other MDR dredging projects. An MOA enables the Corps to accept funds from local jurisdictions to carry out federal projects that are not sufficiently funded by Congress. Any surplus funds provided to the Corps through an MOA are returned to the local contributor.

The staff of the Los Angeles District of the Corps is currently obtaining final approvals of the attached MOA and expects to shortly have originals prepared for the Mayor's signature. After the Mayor signs the MOA, the \$1.6 million will be transferred to the Corps. This operation will likely begin in December 2006 and finish by March 15, 2007.

Dockweiler Beach Sand Replenishment

The clean sand removed from the MDR north entrance will be placed just offshore Dockweiler Beach, in an area adjacent to its Imperial Blvd. entrance, in water that is approximately 15 to 30 feet deep. The sand placed there will then be progressively moved by ocean currents along the Dockweiler Beach coastline to replenish both that beach and other South Bay beaches.

The attached MOA and Certification have been approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION

The recommended action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Class 4(l) of the County's Environmental Document Reporting Procedures and Guidelines, as it provides funding for maintenance dredging where the sand is deposited in a sand area authorized by all applicable regulatory agencies. As the lead agency for this project, the Corps has obtained all necessary federal and State approvals to remove the clean sand from the north entrance and place it at Dockweiler Beach. The Corps will directly supervise the contractor carrying out this work to ensure it complies with all necessary environmental regulations and permit requirements.

The Honorable Board of Supervisors
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IMPACT ON CURRENT SERVICES (OR PROJECTS)

During the dredging operation, there will be additional buoys placed to help mariners avoid impacted areas. The MDR's north entrance will need to be periodically closed to mariners when the dredge equipment is operating directly in that entrance to avoid accidents that could occur from navigating too close to the equipment. In addition, mariners will be alerted to avoid the sand placement area just offshore Dockweiler Beach.

Dredging the MDR north entrance will improve public safety for mariners navigating that area and help ensure that the approximately 5,000 vessels in the Marina continue to have unrestricted access to the Pacific Ocean through that entrance. In addition, it will provide clean sand to enhance beach renourishment efforts at both Dockweiler Beach and other South Bay beaches.

CONCLUSION

Instruct the Executive Officer, Board of Supervisors, to forward an approved copy of this Board letter to the Department of Beaches and Harbors.

Respectfully submitted,



Stan Wisniewski
Director

SW:wp

Attachments (1)

c: Chief Administrative Officer
County Counsel

EXHIBIT 1

MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND THE
COUNTY OF LOS ANGELES, CALIFORNIA
FOR ACCEPTANCE AND RETURN OF CONTRIBUTED FUNDS
FOR THE
MAINTENANCE DREDGING OF MARINA DEL REY HARBOR, CALIFORNIA

This MEMORANDUM OF AGREEMENT (hereinafter referred to as the "MOA"), entered into this _____ day of _____, _____, by and between the DEPARTMENT OF THE ARMY (hereinafter referred to as the "Government"), represented by the U.S. Army Engineer for the Los Angeles District (hereinafter the "District Engineer"), and the County of Los Angeles (hereinafter the "Contributor"), represented by the Mayor, County of Los Angeles.

WITNESSETH THAT:

WHEREAS, Marina del Rey Harbor (hereinafter referred to as the "Project") was authorized by the 1954 River and Harbor Act (House Document 389, 83rd Congress, 2nd Session); and

WHEREAS, the Water Resources Development Act of 1986 (Public Law 99-662) specifies the cost-sharing requirements applicable to the Project; and

WHEREAS, the Contributor considers it to be in its own interest to expedite the Maintenance Dredging of the Project by voluntarily contributing funds (hereinafter referred to as Contributed funds) to be used by the Government for that purpose; and

WHEREAS, the Government is authorized pursuant to 33 U.S.C. 560, to accept Contributed funds, to be expended in connection with Federally appropriated funds, for any authorized work of public improvement of rivers and harbors whenever such work and expenditure may be considered by the Chief of Engineers to be advantageous to the interests of navigation;

NOW, THEREFORE, the Government and Contributor agree as follows:

1. Subject to any necessary appropriation, the Contributor shall contribute to the Government the following sums, in cash: \$1,600,000.00.

The Contributor shall deliver the required funds no later than November 20, 2006.

2. The contributions specified in paragraph 1 above shall be made as follows: provide the Government with the full amount of the required funds by delivering a check payable to "FAO, USAED, Los Angeles District" to the District Engineer.

3. In the event that the Contributor contributes more or less than the amount listed in paragraph 1 above, or makes its contributions earlier or later than the dates listed in paragraph 1 above, this MOA shall apply to whatever funds are contributed by the Contributor to the Government pursuant to this MOA; however, the Government shall not obligate any Contributed funds before they are received and available.

4. The Government shall use all Contributed funds for Maintenance Dredging of the Project, except with regard to excess Contributed funds, which are addressed in paragraph 8 of this MOA. The Contributor shall bear all additional costs of the work for which funds are accepted including any additional environmental compliance costs.

5. The Government shall provide the Contributor with quarterly accountings of its expenditures of Contributed funds for Maintenance Dredging. The first such accounting shall be provided within 30 days after the final day of the first complete Government fiscal year quarter following receipt of the Contributed funds, and subsequent accountings shall be provided within 30 days after the final day of each succeeding quarter until the Contributed funds are completely expended or the Government concludes Maintenance Dredging on the Project.

6. Unless directed in law, the Government shall not reimburse the Contributor for Contributed funds expended by the Government.

7. The Government shall not credit the Contributor for the Contributed funds so as to reduce the cash contribution that otherwise would be required of the Contributor pursuant to any Project Cooperation Agreement entered into by the Government and Contributor (or a legal entity empowered to act on behalf of the Contributor) governing the construction of all or part of the Project.

8. The Government, subject to the availability of funds and subject to the approval by the Secretary of the Army, shall return to the Contributor Contributed funds not expended by the Government.

9. Nothing herein shall constitute, or be deemed to constitute, an obligation of future appropriations by the United States.

10. Nothing herein shall constitute, or be deemed to constitute, an assurance or promise of the Government to take any action whatsoever with respect to the project, including but not limited to the following actions: entering into a Project Cooperation Agreement with the Contributor; constructing the Project; including the Project in the Government's budget; or completing the Maintenance Dredging of the Project.

11. Before any party to this MOA may bring suit in any court concerning an issue relating to this MOA, such party must first seek in good faith to resolve the issue through negotiation or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.

12. The Contributor shall hold and save the Government free from all damages arising from the design, construction, operation, maintenance, repair, replacement, and rehabilitation of the Project and any Project-related betterments, except for damages due to the fault or negligence of the Government or its contractors.

13. Federal and State Laws. In the exercise of their respective rights and obligations under this MOA, the Contributor and the Government agree to comply with all applicable Federal and State laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulations 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army".

14. Relationship of Parties. In the exercise of their respective rights and obligations under this MOA, the Government and the Contributor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

15. Officials Not to Benefit. No member of or delegate to the Congress, nor any resident commissioner, shall be admitted to any share or part of this MOA, or to any benefit that may arise therefrom.

16. 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 either delivered personally or by telegram or mailed by first-class, registered, or certified mail, as follows:

If to the Contributor: Mr. Stan Wisniewski
LA County Department of Beaches & Harbors
13837 Fiji Way
Marina del Rey, CA 90292

If to the Government: District Commander
U.S. Army Corps of Engineers
PO Box 532711
Los Angeles, CA 90053-2325

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 paragraph.

c. Any notice, request, demand, or other communication made pursuant to this paragraph shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven days after it is mailed.

17. Confidentiality. To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

IN WITNESS WHEREOF, the parties have executed this MOA as of the day, month, and year first above written.

THE DEPARTMENT OF THE ARMY

THE COUNTY OF LOS ANGELES

By: _____
ALEX C. DORNSTAUDER
Colonel, Corps of Engineers
District Engineer

By: _____
MICHAEL D. ANTONOVICH
Mayor, County of Los Angeles

ATTEST:

SACHI A. HAMAI
Executive Officer - Clerk of
the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By: _____
Deputy

CERTIFICATE OF AUTHORITY

I, Raymond G. Fortner, Jr., County Counsel, by Thomas J. Faughnan, Principal Deputy County Counsel, do hereby certify that I am the principal legal officer of the County of Los Angeles, that the County of Los Angeles is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the County of Los Angeles in connection with Marina Del Rey Harbor, and to pay damages in accordance with the terms of this Agreement, if necessary, in the event of the failure to perform, as required by Section 221 of Public Law 91-611 (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Agreement on behalf of the County of Los Angeles have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this

_____ day of _____ 20__.

RAYMOND G. FORTNER, JR.
County Counsel

By: _____
Deputy

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

MICHAEL D. ANTONOVICH
Mayor, County of Los Angeles

DATE: _____

APPROVED AS TO FORM:
RAYMOND G. FORTNER, JR.
County Counsel

ATTEST:
SACHI A. HAMAI
Executive Officer - Clerk of
the Board of Supervisors

By: _____
Deputy

By: _____
Deputy