

FIRST AMENDMENT
To
CITY OF SAN DIEGO
USE AND OCCUPANCY PERMIT – FIVE
(Mission Valley Preserve Main Track Two)

THIS FIRST AMENDMENT TO CITY OF SAN DIEGO USE AND OCCUPANCY PERMIT - FIVE ("Amendment") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), and the San Diego Association of Governments ("SANDAG"), a California public agency ("PERMITTEE"), (collectively, "Parties"), to be effective as of Sept 2, 2016 (the "Effective Date"), and when signed by the parties and approved by the San Diego City Attorney.

WHEREAS, the Parties entered into the City of San Diego Use and Occupancy Permit – Five on January 29, 2016 (the "Permit"); and

WHEREAS, the temporary relocation of a SDGE transmission line and two associated poles within the Permit Area is an authorized use pursuant to the Permit; and

WHEREAS, the Parties agree that the CITY's right to terminate this license for convenience upon 30 days' notice, as outlined under Paragraph 6, Revocable License of the Permit, shall not apply to these temporary utility facilities; and

WHEREAS, all capitalized terms not otherwise defined in this Amendment shall have the same meaning as in the Permit.

NOW THEREFORE, the Parties agree to amend the Permit as follows:

1. Paragraph 6 of the Permit is deleted in its entirety and replaced as follows:

"6. Revocable License. This Permit is not a lease. It is a license to use CITY property, and may be revoked at will by CITY, in its sole discretion: (a) if for PERMITTEE's breach or default of any of PERMITTEE's obligations under this Permit or in case of an emergency, immediately upon written notice delivered to PERMITTEE; and (b) if for CITY's convenience, upon thirty (30) days prior written notice delivered to PERMITTEE. Notwithstanding anything to the contrary in this Permit, subsection (b) of this Paragraph 6 shall not apply to the temporary relocation of SDGE transmission line and two associated poles on the Permit Area pursuant to this Permit. CITY shall not be obligated for any burden or loss, financial or otherwise, which may be incurred by PERMITTEE as a result of such revocation or the termination of this Permit.

- a. PERMITTEE's Waiver. PERMITTEE expressly waives any claim against CITY and its elected officials, officers, employees, representatives and agents for any burden, expense or loss which PERMITTEE incurs as a result of CITY's revocation or termination of this Permit."

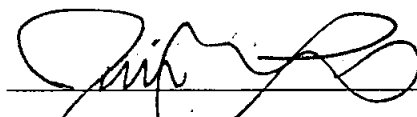
2. All other terms and conditions of the Permit remain unchanged and shall remain in full force and effect.

IN WITNESS WHEREOF, this FIRST AMENDMENT TO USE AND OCCUPANCY PERMIT - FIVE is executed to be effective as of the Effective Date.

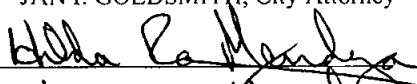
The San Diego Association of Governments ("SANDAG")
a California public agency.

Approved as to form:

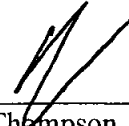
By: 
RYAN P. KOHUT,
SANDAG Senior Legal Counsel

BY: 
Name: JIM LINDHOLM
Title: DIRECTOR MNP

Approved as to form:

JAN I. GOLDSMITH, City Attorney
By: 
Name: HILDA R. MENDOZA
Deputy City Attorney

THE CITY OF SAN DIEGO, a California municipal
corporation

BY: 
Cybele Thompson
Director, Real Estate Assets

Date: September 2, 2016

Environmental Analysis Section Environmental Clearance:

This Use & Occupancy Permit with SANDAG to allow access to City-owned property for the sole exclusive use of the Permit Area for construction and staging areas and other improvements associated with the Project is covered by the following certified environmental documents:

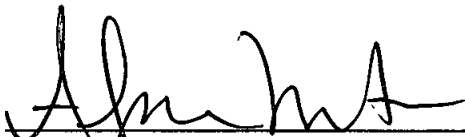
LOSSAN Final PEIR/EIS. Federal Railroad Administration (FRA) and State of California, Department of Transportation. SCH# 2002031067. FR# 02-6644 Vol.67 #54. September 2007; EIR/EIS FRA Record of Decision, March 2009;

LOSSAN Elvira to Morena Double Track Project Environmental Document, FRA NEPA CE 03/06/15 approved by the SANDAG Board on 06/26/15;

LOSSAN San Diego River Bridge Double Track Project included in the LOSSAN PEIR/EIS; and

Mid-Coast Corridor Transit Project Final Supplemental Environmental Impact Statement and Subsequent Environmental Impact Report Volume 1. U.S. Department of Transportation Federal Transit Administration and San Diego Association of Governments (SANDAG), SCH# 2010051001, September 2014; certified by SANDAG Board Resolution No. RTC-2015-03, 11/21/14;

Date: 8/31/16

BY: 

Name: Alyssa Muto

Title: Deputy Director, Environment & Policy
Planning Department Analysis