



Contract Number 21-89 A1

SAP Number _____

San Bernardino County Flood Control District

Department Contract Representative Michael B. Fam
Telephone Number 909-387-8120

Contractor City of Ontario
Contractor Representative Tricia Maruki
Telephone Number 909-395-2188
Contract Term Not Applicable
Original Contract Amount \$21,900,000
Amendment Amount \$4,162,500
Total Contract Amount \$26,062,500
Cost Center 1910002518 F02699

Contractor City of Chino
Contractor Representative Hye Jin Lee
Telephone Number 909-334-3310
Contract Term Not Applicable
Original Contract Amount _____
Amendment Amount _____
Total Contract Amount _____
Cost Center _____

IT IS HEREBY AGREED AS FOLLOWS:

AGREEMENT 21-89 – AMENDMENT NO. 1

WHEREAS, on January 26, 2021, the San Bernardino County Flood Control District (**DISTRICT**), the City of Chino (**CHINO**) and the City of Ontario (**ONTARIO**), and may hereinafter be individually referred to as a "**PARTY**" and, collectively referred to as the "**PARTIES**" entered into Contract No. 21-89 (**AGREEMENT**) under which the **PARTIES** agreed to cooperate and jointly participate in the development, funding, and construction of a drainage facility, generally referred to as the San Antonio Avenue Storm Drain, located on San Antonio Avenue, running northerly from the Sultana-Cypress Storm Drain in the City of Chino to Phillips

Street and easterly on Phillips Street to Oakland Avenue in the City of Ontario (hereinafter referred to as the "PROJECT"); and

WHEREAS, Sections 4.10 and 4.14 of the **AGREEMENT** authorize the **PARTIES** to amend the **AGREEMENT** to modify the **PROJECT** cost so long as such written amendment is approved by the **PARTIES**; and

WHEREAS, **ONTARIO** and **CHINO** now desire to amend the **PROJECT** cost including contingency cost due to increased material and construction costs; and

WHEREAS, the new estimated **PROJECT** cost is Thirty-Four Million Seven Hundred and Fifty Thousand Dollars (\$34,750,000); and

WHEREAS, the **PARTIES** agree that the **DISTRICT** will contribute to the total **PROJECT** costs by reimbursing **ONTARIO** 75% of the estimated **PROJECT** cost, in an amount not to exceed Twenty-Six Million and Sixty-Two Thousand and Five Hundred Dollars (\$26,062,500), as illustrated in Exhibits A and B to the **AGREEMENT**; and

WHEREAS, the **PARTIES** agree that **CHINO** and **ONTARIO** will share in the total **PROJECT** costs by contributing 25% of the estimated **PROJECT** cost, in the amount of Eight Million Six Hundred and Eighty-Seven Thousand and Five Hundred Dollars (\$8,687,500), at the cost sharing ratio of 10% (**CHINO**) to 90% (**ONTARIO**), as illustrated in Exhibit A to the **AGREEMENT**; and

WHEREAS, the **PARTIES** understand that the **DISTRICT** does not currently have the full funding available for its share of the cost to fund the **PROJECT** within its Flood Control Zone 1 construction budget and, therefore, will reimburse **ONTARIO** per the reimbursement schedule, as stipulated under Section 2.1 of the **AGREEMENT** and outlined in Exhibit B to this Amendment No. 1; the **DISTRICT** reserves the right to amend the reimbursement schedule should an event occur that requires the **DISTRICT** to re-allocate funding from improvement projects, such as this **PROJECT**, to maintain and repair its facilities; and

WHEREAS, the **DISTRICT** is currently reviewing Flood Control Permit FCCON-2023-00121 for the **PROJECT**; and

WHEREAS, the increased **PROJECT** cost will not have any negative impact to the **PROJECT** schedule; and

WHEREAS, the **PARTIES** agree that increasing the **PROJECT** cost including contingency cost will have mutual benefit to all **PARTIES**; and

NOW, THEREFORE, IT IS UNDERSTOOD AND MUTUALLY AGREED AS FOLLOWS:

1. The Fifth Recital of the **AGREEMENT** is hereby deleted and replaced with the following:

WHEREAS, the estimated **PROJECT** cost is Thirty-Four Million Seven Hundred and Fifty Thousand Dollars (\$34,750,000) as shown on Exhibit A; and

2. The Seventh Recital of the **AGREEMENT** is hereby deleted and replaced with the following:

WHEREAS, the **PARTIES** agree that the **DISTRICT** will contribute to the total **PROJECT** costs by reimbursing **ONTARIO** 75% of the estimated **PROJECT** cost, in an amount not to exceed Twenty-Six Million and Sixty-Two Thousand and Five Hundred Dollars (\$26,062,500), which includes contingency costs, as illustrated in Exhibits A and B; and

3. The Eighth Recital of the **AGREEMENT** is hereby deleted and replaced with the following:

WHEREAS, the **PARTIES** agree that **CHINO** and **ONTARIO** will share in the total **PROJECT** costs by contributing 25% of the estimated **PROJECT** cost, in the amount of Eight Million Six Hundred and Eighty-Seven Thousand and Five Hundred Dollars (\$8,687,500), at the cost sharing ratio of 10% (**CHINO**) to 90% (**ONTARIO**), as illustrated in in Exhibit A; and

4. Section 2.1 of the **AGREEMENT** is hereby deleted and replaced with the following:

2.1 Pay to **ONTARIO** the amounts within the given Fiscal Year upon availability of funds as outlined in Exhibits A and B starting in Fiscal Year 2023/2024 for **DISTRICT's** share of the cost of the **PROJECT**. **DISTRICT's** total funding participation under this **AGREEMENT** shall not exceed Twenty-Six Million and Sixty-Two Thousand and Five Hundred Dollars (\$26,062,500), which includes contingency costs, as illustrated in Exhibits A and B., **ONTARIO** shall submit details of potential contingencies in writing and receive written approval from the **DISTRICT** prior to incurring any such costs. **DISTRICT's** reimbursement payments, up to the maximum per fiscal year, will be made no more frequently than quarterly, pursuant to Section 1.16. **ONTARIO** and **CHINO** shall be responsible for and pay the total cost for the **PROJECT** and pre-approved contingencies in excess of **DISTRICT's** share per the **RATIO** and as stipulated in this paragraph. **DISTRICT's** financial obligations for payments for Fiscal Year 2024/2025 and thereafter are subject to and limited by the **DISTRICT's** Board of Supervisors budgetary and appropriation process.

5. Section 2.3 of the **AGREEMENT** is hereby deleted and replaced with the following:

2.3 Pay its share of **PROJECT** costs based on the **RATIO** as shown in Exhibit A; the **DISTRICT's** share of funding for the **PROJECT** shall not exceed Twenty-Six Million and Sixty-Two Thousand and Five Hundred Dollars (\$26,062,500), which includes contingency costs, as illustrated in Exhibits A and B.

6. Section 3.1 of the **AGREEMENT** is hereby deleted and replaced with the following:

3.1 Pay the amounts within the given Fiscal Year upon availability of funds as outlined in Exhibit B starting in Fiscal Year 2023/2024 to **ONTARIO** for its share of the cost of the **PROJECT**. **CHINO's** funding participation shall be a minimum of 2.5 percent (2.5%) towards the estimated **PROJECT** cost or \$868,750, plus an additional amount of pre-approved project contingencies per the **RATIO**. **ONTARIO** shall submit details of potential contingencies in writing and receive written approval from the **DISTRICT** and **CHINO** prior to incurring any such costs. **CHINO's** reimbursement payments, up to the maximum per fiscal year, will be made no more frequently than quarterly, pursuant to Section 1.16. **ONTARIO** and **CHINO** shall be responsible for and pay the total cost for the **PROJECT** and pre-approved contingencies in excess of **DISTRICT's** share per the **RATIO** and as stipulated in this Section 3.1. **CHINO's** financial obligations for payments are subject to and limited by **CHINO's** City Council's budgetary and appropriation process.

7. Section 4.2 of the **AGREEMENT** is hereby deleted and replaced with the word, "**Reserved.**"

8. Section 4.10 of the **AGREEMENT** is hereby deleted and replaced with the following:

The **PARTIES** acknowledge that final **PROJECT** costs may ultimately exceed current estimates of **PROJECT** costs. Any additional **PROJECT** costs resulting from increase bid prices or change orders (but not unforeseen conditions or requested additional work by a **PARTY** which are addressed in Section 4.11 below) over the estimated total **PROJECT** cost shall be borne by each **PARTY** as provided in Exhibits A and B. Notwithstanding the foregoing, the **DISTRICT's** share of the **PROJECT** shall not exceed Twenty-Six Million and Sixty-Two Thousand and Five Hundred Dollars (\$26,062,500), which includes contingency costs, as illustrated in Exhibits A and B.

9. Exhibits A and B of the **AGREEMENT** are deleted and replaced with the attached Exhibits A and B.

10. Unless amended as set forth herein, all terms and conditions of the **AGREEMENT** shall remain unchanged and in full force and effect.

11. The **PARTIES** agree that this Amendment No. 1 may be executed in counterparts, each of which shall be deemed to be an original, but both of which together shall constitute one and the same instrument,

and that a photocopy or facsimile may serve as an original. If this Amendment No. 1 is executed in counterparts, no signatory hereto shall be bound until all **PARTIES** have fully executed a counterpart of this Amendment No. 1. The Parties shall be entitled to sign and transmit an electronic signature of this Amendment No. 1 (whether by facsimile, PDF, or other email transmission), which signature shall be binding on the party whose name is contained therein. Each Party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Amendment No. 1 upon request.

12. This Amendment No. 1 shall take effect on the date it is signed by the **PARTIES**.

[Signatures continued on next page]

IN WITNESS WHEREOF, this Amendment No. 1 has been fully executed on behalf of the DISTRICT, CHINO, and ONTARIO by their duly authorized officers, effective as of the last date hereunder written.

CITY OF ONTARIO

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

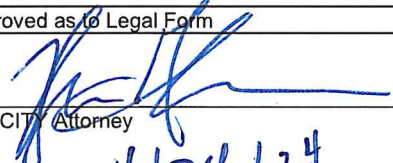
By  (Authorized signature - sign in blue ink)

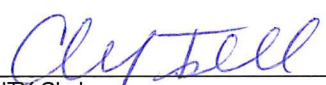
Name Scott Ochoa
(Print or type name of person signing contract)

Title City Manager
(Print or Type)

Dated: 5/1/2024


Address 303 East B Street
Ontario, CA 91764

Approved as to Legal Form

The CITY Attorney
Date 4/24/24

Attested by the CITY Clerk

The CITY Clerk
Date 5/1/2024

CITY OF CHINO

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

By 
(Authorized signature - sign in blue ink)

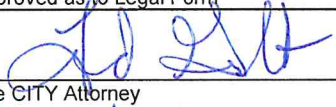
Name Linda Reich
(Print or type name of person signing contract)

Title City Manager
(Print or Type)

Dated: 5/9/2024

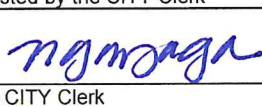
Address 13220 Central Avenue
Chino, CA 91710

Approved as to Legal Form


The CITY Attorney

Date 5/21/24

Attested by the CITY Clerk


The CITY Clerk

Date 5/9/2024

SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT

► *Dawn Rowe*

Dawn Rowe, Chair, Board of Supervisors

Dated: JUL 23 2024

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

By *John Monell* Member of the Board



FOR COUNTY USE ONLY

Approved as to Legal Form
► **SEE ATTACHED**
Sophie A. Curtis, Deputy County Counsel

Date _____

Reviewed for Contract Compliance
► *Andy Silao*
Andy Silao, P.E.

Date 7/15/2024

Reviewed/Approved by District
for *David R. Doubledt*
Noel Castillo, Chief Flood Control Engineer

Date 7/15/2024

**SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT**



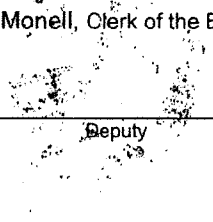
Dawn Rowe, Chair, Board of Supervisors

Dated: _____

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Lynna Monell, Clerk of the Board

By _____



Deputy

FOR COUNTY USE ONLY

Approved as to Legal Form

▶ *Sophie Curtis*

Sophie A. Curtis, Deputy County Counsel

Date July 10, 2024

Reviewed for Contract Compliance

▶ _____
Andy Silao, P.E.

Date _____

Reviewed/Approved by District

▶ _____
Noel Castillo, Chief Flood Control Engineer

Date _____

AGREEMENT 21-89 – AMENDMENT NO. 1

EXHIBIT "A"

CITY OF ONTARIO & CITY OF CHINO DRAINAGE IMPROVEMENTS

SAN ANTONIO AVENUE STORM DRAIN - SAN ANTONIO AVENUE, RUNNING NORTHERLY FROM THE SULTANA-CYPRESS STORM DRAIN IN CHINO TO PHILLIPS STREET AND EASTERLY ON PHILLIPS STREET TO OAKLAND AVENUE IN ONTARIO

DESCRIPTION	TOTAL COST OF PROJECT	DISTRICT SHARE*	CITY OF ONTARIO SHARE	CITY OF CHINO SHARE
SAN ANTONIO AVENUE STORM DRAIN	\$34,750,000	\$26,062,500	\$7,818,750	\$868,750
		75%	25%	
			90% OF 25%	10% OF 25%

***IN THE EVENT THE TOTAL ACTUAL COST OF THE PROJECT IS LESS THAN \$34,750,000, THE DISTRICT AND CITIES SHARE WILL BE 75% AND 25%, RESPECTIVELY.**

***IN THE EVENT THE TOTAL ACTUAL COST OF THE PROJECT IS MORE THAN \$34,750,000, THE CITY OF ONTARIO AND CITY OF CHINO SHARE IN EXCESS COSTS WILL BE 90% AND 10%, RESPECTIVELY, UNLESS A WRITTEN AMENDMENT TO AGREEMENT 21-89 IS APPROVED BY THE PARTIES.**

AGREEMENT 21-89 – AMENDMENT NO. 1

EXHIBIT "B"

CITY OF ONTARIO & CITY OF CHINO DRAINAGE IMPROVEMENTS

SAN ANTONIO AVENUE STORM DRAIN - SAN ANTONIO AVENUE, RUNNING NORTHERLY FROM THE SULTANA-CYPRESS STORM DRAIN IN CHINO TO PHILLIPS STREET AND EASTERLY ON PHILLIPS STREET TO OAKLAND AVENUE IN ONTARIO

DISTRICT* PAYMENT SCHEDULE

Fiscal Year	Maximum Payment Amount (Includes contingency)
FY 23-24	\$12,234,680
FY 24-25	\$13,827,820
TOTAL	\$26,062,500

***FY23/24 - FIRST REIMBURSEMENT PAYMENT TO BE MADE UPON FIRST QUARTERLY INVOICE RECEIVED PURSUANT TO SECTION 2.1.**

***FY24/25 - LAST REIMBURSEMENT PAYMENT MADE PURSUANT TO SECTION 2.1.**

***THE DISTRICT RESERVES THE RIGHT TO UNILATERALLY AMEND THE REIMBURSEMENT SCHEDULE SHOULD ITS EXPECTED FUNDING NOT BE AVAILABLE.**