

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number
16-257 A-3

SAP Number

San Bernardino County Flood Control District

Department Contract Representative	Melissa Walker
Telephone Number	(909) 387-8040
Contractor	City of Ontario
Contractor Representative	Jamie Richardson
Telephone Number	(909) 395-2615
Contract Term	May 24, 2016 – May 24, 2036
Original Contract Amount	Non-Financial CUA
Amendment Amount	Non-Financial CUA
Total Contract Amount	Non-Financial CUA
Cost Center	1910002518

IT IS HEREBY AGREED AS FOLLOWS:

CITY OF ONTARIO

MULTI-USE TRAIL - COMMON USE AGREEMENT - AMENDMENT NO. 3

WHEREAS, on October 23, 2012, the San Bernardino County Flood Control District (**DISTRICT**) and City of Ontario (**CITY**) executed a Memorandum of Understanding (**MOU**), Contract No. 12-773, under which they agreed to cooperate in the development of a multi-use trail system within portions of **DISTRICT** right-of-way within the **CITY**; and

WHEREAS, the **MOU** provides that "individual portions of the approved conceptual plan for the trail system shall be accomplished under a separate agreement;" and

WHEREAS, on May 24, 2016, **DISTRICT** and **CITY** executed Common Use Agreement 16-257 (**CUA**), for a recreational multi-use community trail along segments of the County Line Channel, from Archibald Avenue easterly to the Southern California Edison Easement Area, and Cucamonga Channel, from Chino Avenue to Riverside Drive; and

WHEREAS, Section 13 of the **CUA** authorizes the **DISTRICT** and **CITY** to amend the **CUA** in a writing signed by both parties; and

WHEREAS, on April 21, 2020, the **DISTRICT** and **CITY** entered into Amendment No. 1 to include a segment of a recreational multi-use community trail system along **DISTRICT's** Cucamonga Channel, from Merrill Avenue, northerly to Eucalyptus Avenue (**Area of Common Use No. 3**); and

WHEREAS, on July 28, 2020, the **DISTRICT** and **CITY** entered into Amendment No. 2 to include a segment of a recreational multi-use community trail system along **DISTRICT's** Cucamonga Channel, from Merrill Avenue to approximately 1,300 feet south of Merrill Avenue (**Area of Common Use No. 4**); and

WHEREAS, **DISTRICT** and **CITY** now desire to amend the **CUA** to include approximately 0.47 miles along the east side of Cucamonga Channel from Ontario Ranch Road to approximately 2,500 feet south of Ontario Ranch Road as a part of the trail and for which **DISTRICT** is currently processing Construction Permit No. FCCON-2020-00115.

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

1. The **CUA** is hereby amended by adding the following as the seventh Recital to the **CUA**:

WHEREAS, **DISTRICT** is currently processing a construction permit, Permit No. FCCON-2020-00115, to the **CITY** to add an additional segment of the multi-use trail along the east side of Cucamonga Creek, from Ontario Ranch Road to approximately 2,500 feet south of Ontario Ranch Road (hereinafter called "**CITY IMPROVEMENTS NO. 5**"), the location of which is shown on attached plans, marked as **AREA OF COMMON USE NO. 5** on the attached map marked as **Exhibit "J"** and;

2. **DISTRICT** and **CITY** agree that all terms and conditions of the existing **CUA** shall also apply to **CITY IMPROVEMENTS NO. 5**, located within **AREA OF COMMON USE NO. 5**.
3. The definitions of **CITY IMPROVEMENTS** and **AREA OF COMMON USE** used in the **CUA** are hereby amended to include **CITY IMPROVEMENTS NO. 5**, and **AREAS OF COMMON USE NO. 5**, defined herein.
4. The Parties agree that this Amendment No. 3 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. 3 is executed in counterparts, no signatory hereto shall be bound until both the parties have fully executed a counterpart of this Amendment No. 3. The Parties shall be entitled to sign and transmit an electronic signature of this Amendment No. 3 (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. 3 upon request.
5. Unless amended as set forth herein, all terms and conditions of the **CUA**, as previously amended, shall remain unchanged and in full force and effect.
6. This Amendment No. 3 shall take effect on the date it is signed by both Parties.

IN WITNESS WHEREOF, this Amendment No. 3 has been fully executed on behalf of DISTRICT and CITY by their duly authorized representatives.

**SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT**

▶ *Curt Hagman*
Curt Hagman, Board Chairman

FEB 09 2021

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 *[Signature]*
Deputy



CITY OF ONTARIO

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

By *[Signature]*
(Authorized signature - sign in blue ink)

Name SCOTT OCHOA
(Print or type name of person signing contract)

Title CITY MANAGER
(Print or Type)

Dated: 11/25/2020

Address 303 East B Street
Ontario, CA 91764

FOR COUNTY USE ONLY

Approved as to Legal Form
▶ *see attached*
Sophie A. Akins, Deputy County Counsel
Date _____

Reviewed for Contract Compliance
▶ *[Signature]*
Andy Silao, P.E., Chief-Contracts
Date 1/14/2021

Reviewed/Approved by District
▶ *[Signature]*
Brendon Biggs, Chief Flood Control Engineer
Date 1-19-21

IN WITNESS WHEREOF, this Amendment No. 3 has been fully executed on behalf of DISTRICT and CITY by their duly authorized representatives.

**SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT**

▶
Curt Hagman, Board Chairman

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

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: 11/25/2020

Address 303 East B Street
Ontario, CA 91764

FOR COUNTY USE ONLY

Approved as to Legal Form
▶ Sophie Akins
Sophie A. Akins, Deputy County Counsel
Date December 14, 2020

Reviewed for Contract Compliance
▶ _____
Andy Silao, P.E.
Date _____

Reviewed/Approved by District
▶ _____
Brendon Biggs, Chief Flood Control Engineer
Date _____

EXHIBIT J

