



Contract Number

16-47 A-1

SAP Number

San Bernardino County Flood Control District

Department Contract Representative
Telephone Number

Melissa Walker P.E.
(909) 387-7995

Contractor
Contractor Representative
Telephone Number
Contract Term

U.S. Army Corp of Engineers
Michael Lau
(213) 452-3595
March 23, 2016 – December 31,
2025

Original Contract Amount
Amendment Amount
Total Contract Amount
Cost Center

Non-Financial Amendment
Non-Financial Amendment
Non-Financial Amendment
Non-Financial Amendment

Briefly describe the general nature of the contract: This MOA Amendment No. 1 is to extend the term for the original MOA. The MOA was originally entered into to address the Lytle Creek improvement project request, however, the MOA also allowed for additional improvement projects to be added to the list of San Bernardino County Flood Control District (District)-designated priority Section 408 Permit requests, with a deposit of additional funds to United States Army Corps of Engineers (USACE), at the discretion of the District Chief Flood Control Engineer. The MOA is currently set to expire on December 31, 2020; the proposed Amendment No. 1 will extend the MOA term by five years through December 31, 2025, allowing the USACE to continue to commit staff to work in an expeditious manner on those additional, future Section 408 Permit requests on a priority basis as determined by the District Chief Flood Control Engineer.

FOR COUNTY USE ONLY

Approved as to Legal Form

► see attached
Sophie Akin, Deputy County Counsel

Date _____

Reviewed for Contract Compliance

► Andy Silao
Andy Silao, P.E., Chief Contracts
12-18-2020

Date _____

Reviewed/Approved by District

► Brendon Biggs
Brendon Biggs, Chief Flood Control Engineer

Date 12/18/2020



Contract Number

SAP Number

San Bernardino County Flood Control District

Department Contract Representative	<u>Melissa Walker P.E.</u>
Telephone Number	<u>(909) 387-7995</u>
Contractor	<u>U.S. Army Corp of Engineers</u>
Contractor Representative	<u>Michael Lau</u>
Telephone Number	<u>(213) 452-3595</u>
Contract Term	<u>March 23, 2016 – December 31, 2025</u>
Original Contract Amount	<u>Non-Financial Amendment</u>
Amendment Amount	<u>Non-Financial Amendment</u>
Total Contract Amount	<u>Non-Financial Amendment</u>
Cost Center	<u>Non-Financial Amendment</u>

Briefly describe the general nature of the contract: This Amendment No. 1 will extend the term for the original Memorandum of Agreement (MOA) by five years, with a new expiration date of December 31, 2025. Amendment No. 1 will allow additional improvement projects to be added to the list of San Bernardino County Flood Control District (District)-designated priority Section 408 Permit requests, with a deposit of additional funds to United States Army Corps of Engineers (USACE), at the discretion of the District Chief Flood Control Engineer. Amendment No. 1 will allow the USACE to continue to commit staff to work in an expeditious manner on those additional, future Section 408 Permit requests on a priority basis as determined by the District Chief Flood Control Engineer.

FOR COUNTY USE ONLY

Approved as to Legal Form

► *Sophie Akins*
Sophie A. Akins, Deputy County Counsel

Date December 18, 2020

Reviewed for Contract Compliance

► _____
Andy Silao, P.E., Chief Contracts

Date _____

Reviewed/Approved by District

► _____
Brendon Biggs, Chief Flood Control Engineer

Date _____

**FIRST AMENDMENT
TO
MEMORANDUM OF AGREEMENT
BETWEEN
SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT
AND
THE U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT**

This First Amendment to Memorandum of Agreement ("First Amendment"), is entered into by and between the San Bernardino County Flood Control District ("SBCFCD"), and the United States Army Corps of Engineers, Los Angeles District ("Corps"), collectively referred to as the "Parties."

RECITALS

WHEREAS, the Parties entered into the Memorandum of Agreement ("2016 MOA"), included as Attachment A, effective March 23, 2016, for expedited permit evaluation-related services by the Corps for SBCFCD-designated priority Section 408 Requests;

WHEREAS, the 2016 MOA is set to expire on December 31, 2020;

WHEREAS, in a letter dated October 7, 2020, SBCFCD requested the Corps to extend the effective duration of the 2016 MOA for an additional 5 years; and

WHEREAS, SBCFCD and the Corps seek to enter into this First Amendment to extend the term of the MOA through December 31, 2025.

NOW, THEREFORE, the Parties hereby agree to amend the Memorandum of Agreement as follows:

1. Article I. – PURPOSE AND AUTHORITIES. Article I is amended to add:

"E. SBCFCD is a non-Federal public entity, a special district agency formed under the Water Code Appendix in the State of California, and may enter into this MOA."

2. Article III. – INTERAGENCY COMMUNICATIONS. Article III is amended to read:

"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, SBCFCD's Principal Representative will be Sameh Basta, P.E., Chief of Permits/Operations Support Division, and the Corps' Principal Representative will be Rafiqul Talukder, P.E., Engineering Division, Los Angeles

SUBJECT: First Amendment to Memorandum of Agreement between San Bernardino County Flood Control District and the U.S. Army Corps of Engineers' Los Angeles District – Expedited Permit Evaluation-Related Services for Projects Requiring Corps' Approval pursuant to Section 14 of the Rivers and Harbors Act of 1899

District. The Principal Representative for each party may be changed upon written notification to the other party.”

3. Article IV. – RESPONSIBILITIES OF THE PARTIES. Article IV.A.2. is amended to read:

“In consultation with the Corps, establish the specific order of priority Section 408 Requests listed in **Appendix A** to this MOA. The Section 408 Requests may be changed by SBCFCD’s Principal Representative (changes to evaluation activity budgets in **Appendix A** require concurrence by the Corps) 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.”

4. Article V. – FUNDING. Article V is amended as follows:

Amended to add after paragraph A:

“A. 1. In consideration of the FIRST AMENDMENT to this MOA, SBCFCD shall submit funding to the Corps in the amount of TWO HUNDRED THIRTY-ONE THOUSAND FIVE HUNDRED DOLLARS (\$231,500) to cover the Corps’ anticipated costs of Section 408 evaluation activities following execution of the FIRST AMENDMENT.”

Amended to read:

“B. Prior to the Corps incurring any expenditure to expedite Section 408 Requests designated as a priority as specified in this MOA, the SBCFCD will transfer to the Corps the amount specified in **Appendix A** of this MOA. Payment by SBCFCD 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.**”

“E. Following an initial review of a SBCFCD priority project, the Corps will provide SBCFCD an estimate of costs that will be incurred to complete Section 408

SUBJECT: First Amendment to Memorandum of Agreement between San Bernardino County Flood Control District and the U.S. Army Corps of Engineers' Los Angeles District – Expedited Permit Evaluation-Related Services for Projects Requiring Corps' Approval pursuant to Section 14 of the Rivers and Harbors Act of 1899

review. If it is determined that the estimated amount to be incurred exceeds the amount of funding available, SBCFCD will have the option to (i) provide additional funding for this MOA, or (ii) agree to a reduced level of service.

“F. SBCFCD may in its discretion choose to tender additional payments to the Corps, in an amount and schedule mutually agreed upon by the Parties, when additional SBCFCD-designated priority Section 408 Requests are added to **Appendix A.**”

“G. SBCFCD may elect to extend the services of the Corps beyond December 31, 2025, subject to: 1) additional funding being provided by the SBCFCD and 2) written amendment to this MOA.”

5. Article VI. – NOTICES. The addresses and points of contact in Article VI are amended to read:

“If to SBCFCD:

San Bernardino County Flood Control District
825 East Third Street
San Bernardino, CA 92415
Attn: Sameh Basta, P.E.”

“If to the Corps:

U.S. Army Corps of Engineers
Engineering Division
915 Wilshire Blvd. Suite 930
Los Angeles, CA 90017
Attn: Rafiqul Talukder”

6. Article XII. – EFFECTIVE DATE AND DURATION. Article XII is amended to read:

“This MOA and any amendments 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.”

7. Electronic Signatures. The Parties agree that this First Amendment 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 First Amendment is

SUBJECT: First Amendment to Memorandum of Agreement between San Bernardino County Flood Control District and the U.S. Army Corps of Engineers' Los Angeles District – Expedited Permit Evaluation-Related Services for Projects Requiring Corps' Approval pursuant to Section 14 of the Rivers and Harbors Act of 1899

executed in counterparts, no signatory hereto shall be bound until both the parties have fully executed a counterpart of this First Amendment. The Parties shall be entitled to sign and transmit an electronic signature of this First Amendment (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 First Amendment upon request.

8. Integration. Except as expressly amended herein, all terms and conditions of the 2016 MOA remain in full force and effect.

[REMAINDER LEFT INTENTIONALLY BLANK]

SUBJECT: First Amendment to Memorandum of Agreement between San Bernardino County Flood Control District and the U.S. Army Corps of Engineers' Los Angeles District – Expedited Permit Evaluation-Related Services for Projects Requiring Corps' Approval pursuant to Section 14 of the Rivers and Harbors Act of 1899

IN WITNESS WHEREOF, this First Amendment is executed by the SBCFCD and by the Corps, each through its authorized officer.

**SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT**



Curt Hagman, Board Chair

Dated: JAN 05 2021

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

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

By _____
(Authorized signature - sign in blue ink)

Name _____
(Print or type name of person signing contract)

Title _____
(Print or Type)

Dated: _____

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form

see attached
Sophie A. Akins, Deputy County Counsel

Date _____

Reviewed for Contract Compliance

Andy Silao
Andy Silao, P.E., Chief - Contracts

Date 12/18/2020

Reviewed/Approved by District

Brendon Biggs
Brendon Biggs, Chief Flood Control Engineer

Date 12/18/2020

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

By: _____ Date: _____

Julie A. Balten
Colonel, US Army
Commander and District Engineer

SUBJECT: First Amendment to Memorandum of Agreement between San Bernardino County Flood Control District and the U.S. Army Corps of Engineers' Los Angeles District – Expedited Permit Evaluation-Related Services for Projects Requiring Corps' Approval pursuant to Section 14 of the Rivers and Harbors Act of 1899

IN WITNESS WHEREOF, this First Amendment is executed by the SBCFCD and by the Corps, each through its authorized officer.

**SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT**

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

By _____

(Authorized signature - sign in blue ink)

Name _____

(Print or type name of person signing contract)

Title _____

(Print or Type)

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

Dated: _____

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form

► *Sophie Akins*

Sophie A. Akins, Deputy County Counsel

Date December 18, 2020

Reviewed for Contract Compliance

► _____
Andy Silo, Contracts

Date _____

Reviewed/Approved by District

► _____
Brendon Biggs, Chief Flood Control Engineer

Date _____

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

By: _____

Date: _____

Julie A. Balten
Colonel, US Army
Commander and District Engineer

Agreement 16-47 (Originally Executed March 23, 2016)
SBC Flood Control District and U.S. Army Corps of Engineers
Appendix A: SBCFCD-Designated Priority Section 408 Requests

(Revised Dated: OCT 08, 2020)

The list of SBCFCD-designated Priority Section 408 Permit Request's under this MOA includes the following Section 408 Requests:

Priority	Date of Agreement	ACOE#	SBCFCD #	Section 408 Request Description	Original Budget Amount
1	3/23/2016	SPL408-2014-007	P- 22013053	Lytle Creek Section 408 Request to construct levee improvements consisting of either soil cement or grouted riprap revetment tying into the existing Lytle Creek Levee and Removal of existing groins.	\$255,000 (funded 5/23/2016)
2	9/21/2017	SPL408-2017-006	P-22016066	Santa Ana River Section 408 Request to perform geo-technical Testing.	\$10,000
3	5/14/2018	SPL408-2017-046	P-22017018	Twin Creeks Section 408 Request for Redlands Passenger Rail Project	\$35,000
4	9/21/2017	SPL408-2016-008	Levee safety (F02613)	Santa Ana River Section 408 Request to replace portions of retaining walls	\$27,500
5	11/01/2017	submitted 11/1/17	P-22017060	Santa Ana River – Addition of trail to levees	\$20,000
6	9/21/2017	EE 2013-13	P-22012075 (H14646)	Upper Devore Levee 408 Request 60-inch RCP rock slope protection and splash pad	\$20,000
7	5/ 14/ 2018	SPL408-2018-030	P-32017069	Mill Creek Levee Section 408 Request to redesign/ reconstruct the existing diversion channel and structures	\$75,000
8	7/22/2019	SPL408-2019-024	P-32017063	Brineline Pipe Crossing under San Timoteo Creek by jack and bore method	\$11,500
9	7/22/2019	SPL408-2019-011	P-22018078	Brineline Pipe Crossing over Santa Ana River at E Street Bridge	\$9,000
10	7/22/2019	SPL408-2019-011	P-22018078	Brineline Pipe Crossing under San Timoteo Creek by horizontal directional drilling method	\$9,000
11	10/06/2020	SPL408-2020-019	P-12020018	Cucamonga Creek – 10x12 RCB at Merrill Avenue	\$120,000
12	10/06/2020	SPL408-2020-035	P-12019122	Cucamonga Creek – 72in RCB north of 8 th ST	\$60,000
13	10/06/2020	SPL408-2020-011	P-12017055	Ontario Ranch Road Bridge	\$35,000
14	10/06/2020	SPL408-2020-025	P-12017059	San Antonio Channel – 24in RCP (Covenant Transport)	\$16,500

15					
16					
17					
TOTAL					\$703,500

San Bernardino Co. Flood Control

US Army Corp of Engineers