

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



Contract Number

17-103 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

City of Fontana  
Jeffery Kim  
(909) 350-7632  
February 14, 2017 – February 14,  
2037

Original Contract Amount  
Amendment Amount  
Total Contract Amount  
Cost Center

Non-Financial CUA  
Non-Financial CUA  
Non-Financial CUA  
1910002518

IT IS HEREBY AGREED AS FOLLOWS:

### CITY OF FONTANA

#### MULTI-USE TRAIL - COMMON USE AGREEMENT – AMENDMENT NO. 1

**WHEREAS**, on April 1, 2003, the San Bernardino County Flood Control District (**DISTRICT**) and City of Fontana (**CITY**) executed a Common Use Agreement, Contract No. 03-299, for the construction of a multipurpose recreational trail along the **DISTRICT'S** San Sevaine Channel from Foothill Boulevard northeasterly to the Southern Pacific Electric Railroad corridor's southernly fencing limit; and

**WHEREAS**, on February 14, 2017, **DISTRICT** and **CITY** executed a second Common Use Agreement (**CUA**), Contract No. 17-103, to extend the existing multipurpose recreational trail along the San Sevaine Channel, from the Southern Pacific Electric Railroad (**SPRR**) fencing, northerly to Banyan Street (**TRAIL**); and

**WHEREAS**, Section 12 of the **CUA** authorizes the parties to amend the **CUA** in a writing signed by both parties; and

**WHEREAS**, **CITY** has been designated the lead agency, in coordination and cooperation with the City of Rancho Cucamonga, for construction of the **TRAIL**; and

**WHEREAS, DISTRICT and CITY** now desire to amend the **CUA** to add to the **TRAIL** a section that runs approximately 0.35 miles along the west side of East Etiwanda Creek Channel, from the **SPRR** fencing to the **CITY's** limits underneath the I-15 freeway, then northerly to Banyan Street for an approximate distance of .89 miles, thereby extending beyond the **CITY's** limits and into the City of Rancho Cucamonga; and

**WHEREAS, DISTRICT** is currently processing a construction permit, Permit No. P-12019078, to the **CITY** to construct the new segment of the **TRAIL**, the location of which is shown on attached plans, marked as **AREA OF COMMON USE NO. 2** on the attached map marked as **Exhibit "A-1"**; and

**WHEREAS, DISTRICT and CITY** desire to amend the existing **CUA** to add the additional segment of multi-use trail, and

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

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

**WHEREAS, DISTRICT** is currently processing a construction permit, Permit No. P-12019078, to the **CITY** to add an additional segment of the multi-use trail along the west side of East Etiwanda Creek Channel, from the Southern Pacific Electric Rail Road fencing to the City limits underneath the I-15 freeway (hereinafter called "**CITY IMPROVEMENTS NO. 2**"), the location of which is shown on attached plans, marked as **AREA OF COMMON USE NO. 2** on the attached map marked as **Exhibit "A-1"**; and

2. **DISTRICT and CITY** agree that all terms and conditions of the **CUA** shall also apply to **CITY IMPROVEMENTS NO. 2** located in **AREA OF COMMON USE NO. 2**.
3. The definitions of **CITY IMPROVEMENTS** and **AREA OF COMMON USE** set forth in the **CUA** are hereby amended to include **CITY IMPROVEMENTS NO. 2** and **AREA OF COMMON USE NO. 2**, defined herein.
4. 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 both the 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.
5. Unless amended as set forth herein, all terms and conditions of the **CUA** shall remain unchanged and in full force and effect.
6. This Amendment No. 1 shall take effect on the date it is signed by both Parties.

**[SIGNATURES ON NEXT PAGE]**

IN WITNESS WHEREOF, this Amendment No. 1 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: APR 06 2021  
SIGNED AND CERTIFIED THAT A COPY OF THIS  
DOCUMENT HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD

 Clerk of the Board

By  Deputy  


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

JK  
By   
(Authorized signature - sign in blue ink)

Name Mark Denny  
(Print or type name of person signing contract)

Title City Manager  
(Print or Type)

Dated: 2.10.21

Address 8353 Sierta Ave  
Fontana, CA 92335

FOR COUNTY USE ONLY

Approved as to Legal Form

► See Next Page  
Sophie A. Akins, Deputy County Counsel

Date \_\_\_\_\_

Reviewed for Contract Compliance

►   
Andy Silao, P.E.

Date 3-30-21

Reviewed/Approved by District

►   
Brendon Biggs, Chief Flood Control Engineer

Date 3-30-21

IN WITNESS WHEREOF, this Amendment No. 1 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 Fontana  
(Print or type name of corporation, company, contractor, etc.)

JK

By ►

VS.

(Authorized signature - sign in blue ink)

Name

Mark Denny  
(Print or type name of person signing contract)

Title

City Manager  
(Print or Type)

Dated: \_\_\_\_\_

2.10.21

Address

8353 Sierra Ave  
Fontana, CA 92335

**FOR COUNTY USE ONLY**

Approved as to Legal Form

►

Sophie Akins

Sophie A. Akins, Deputy County Counsel

Date March 29, 2021

Reviewed for Contract Compliance

►

Andy Silao, P.E.

Date \_\_\_\_\_

Reviewed/Approved by District

►

Brendon Biggs, Chief Flood Control Engineer

Date \_\_\_\_\_



# EXHIBIT A-1

