



# San Bernardino County

## Legislation Text

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**File #: 783, Agenda Item #: 31**

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### **REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**August 6, 2019**

#### **FROM**

**KEVIN BLAKESLEE, Director, Department of Public Works - Transportation**

#### **SUBJECT**

Amendment to Agreement with the U.S. Army Corps of Engineers for the Third Amendment to Amended Memorandum of Agreement

#### **RECOMMENDATION(S)**

Approve Amendment No. 4 to Agreement No. 06-488, which will constitute the Third Amendment to the Amended Memorandum of Agreement, with the United States Army Corps of Engineers, Los Angeles District, to continue the expedited processing and approval of environmental permit applications necessary to construct Capital Improvement Projects and maintain existing facilities, extend the term from September 30, 2020 to September 30, 2025, and to increase the total agreement amount by \$635,000, from \$812,000 to \$1,447,000.

(Presenter: Kevin Blakeslee, Director, 387-7906)

#### **COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Operate in a Fiscally-Responsible and Business-Like Manner.**

**Pursue County Goals and Objectives by Working with Other Agencies.**

#### **FINANCIAL IMPACT**

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The Department of Public Works (County) is funded by Gas Tax revenues, fees, and other state and local funding. Sufficient appropriation and revenue have been included in the 2019-20 Road Operations budget (6650002000 - 01H14202) and will be included in future recommended budgets.

#### **BACKGROUND INFORMATION**

The Water Resources Development Act of 2000 (WRDA - Public Law 106-541) allows the United States Army Corps of Engineers (USACE) to accept and expend funds contributed by non-federal public agencies to expedite the evaluation of permit applications for projects under the jurisdiction of the USACE. Environmental permit processing through the USACE can take eight months to one year, even on simple projects, due to the complexity of its regulations.

This amendment extends the term of the existing Memorandum of Agreement (MOA) with the USACE from September 30, 2020 to September 30, 2025 and authorizes deposits of up to \$635,000 in additional funds, such that the total amount payable to the USACE under the MOA shall not exceed \$1,447,000.

This item will allow the County to meet its goals and objectives by working cooperatively and in a fiscally-responsible manner with the USACE to expedite the processing and approval of environmental permit applications, which are necessary to construct Capital Improvement Projects and maintain existing facilities.

On June 13, 2006 (Item No. 17), the Board of Supervisors (Board) approved the initial MOA under WRDA between the County and the USACE for the sole purpose of funding the expedited processing of the proposed Northern Santa Fe Railway Company's (BNSF) third track in Cajon Pass.

On April 10, 2007 (Item No. 10), the Board approved Amendment No. 1 to the MOA that replaced the original MOA in its entirety, with language that was general in nature, outlining the mechanism by which the County can provide funds to the USACE, and commitment that the USACE would provide expedited permit processing services. The Amended MOA states that, in order to utilize the services under the MOA, the County must provide funding and a list of projects that it considers a priority. Essentially, the Amended MOA makes it possible for any County department in need of expedited environmental permitting processing through the USACE, to provide funds and a project list to the USACE.

On April 27, 2010 (Item No. 56), the Board approved Amendment No. 2 to the MOA to extend the term of the agreement to December 31, 2010, or, if there was a statutory extension that continued to authorize the WRDA until the expiration of the statutory extension or April 30, 2015, whichever occurred first.

On April 7, 2015 (Item No. 38), the Board approved Amendment No. 3 to the MOA to extend the term of the agreement to September 30, 2020 and to increase the total agreement amount by \$250,000, from \$562,000 to \$812,000. The County made the last deposit of \$100,000 on September 13, 2018, for a total of \$812,000. The USACE has spent approximately \$757,000 as of April 2019, according to the financial reporting records provided by the USACE and in accordance with the terms and conditions of the Amended MOA.

The County desires to extend the term of the MOA through September 30, 2025 and to increase the total agreement amount by \$635,000, from \$812,000 to \$1,447,000 for the continued expedited permit processing effort on Capital Improvement Projects and maintenance of existing facilities. During the latter half of the current MOA term, the County experienced an increase in project volume and complexity, which in turn, required more than expected funds to be utilized. The increased project volume is expected to remain for the duration of the proposed MOA. Since 2006, the County has collaboratively worked with USACE to permit multiple complex projects and feel this MOA facilitates these efforts.

If approved, the Amended MOA can be utilized by any County department that has a project requiring environmental permitting and processing through the USACE, provided that the individual County department provides its own funding and project priority list to the USACE.

#### **PROCUREMENT**

Not applicable.

#### **REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Suzanne Bryant, Deputy County Counsel and Sophie A. Akins, Deputy County Counsel, 387-5455) on June 26, 2019; Finance (Wen Mai, Administrative Analyst, 387-4020) on July 9, 2019; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on July 18, 2019.