



County of San Bernardino

F A S

CONTRACT TRANSMITTAL

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code	<b>SC</b>	Dept. 097	<b>A</b>	Contract Number 06-488 A-2	
County Department Public Works, Environmental Mgmt. Div.			Dept. 097	Orgn. 097	Contractor's License No.	
County Department Contract Representative Naresh P. Varma, P.E., Division Chief				Telephone (909) 387-8109	Total Contract Amount \$187,000	
Contract Type <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:						
If not encumbered or revenue contract type, provide reason:						
Commodity Code 96132		Contract Start Date	Contract End Date 04/10/2015	Original Amount 187,000	Amendment Amount \$0	
Fund AAA	Dept. ADV	Organization ADV	Appr. 200	Obj/Rev Source 2445	GRC/PROJ/JOB No.	Amount 187,000
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount \$
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount \$
Project Name Memorandum of Agreement (MOA) with United States Army Corps Of Engineers			Estimated Payment Total by Fiscal Year			
			FY 2007/08	Amount 187,000	I/D	

CONTRACTOR U.S. Army Corps of Engineers (USACE)

Federal ID No. or Social Security No. 62-1642142

Contractor's Representative Colonel Alex C. Dornstaeder, District Engineer, U.S. Army Corps of Engineers

Address 915 Wilshire blvd. , Los Angeles, CA 90017 Phone (213) 452 -3294

Amendment No. 2 to Agreement No. 06-488, which is the First Amendment to the Amended Memorandum of Agreement (MOA), extends the term of this MOA until whichever of these events occurs first: 1) December 31, 2010, unless the sunset clause of section 214 of WRDA 2000 is extended or section 214 is made permanent, in which case the MOA, as amended, will remain in effect for the duration of the statutory extension or until April 30, 2015, whichever date is earlier; or 2) the MOA, as amended, is terminated pursuant to this Article.

Amendment No. 2 also updates Article V of the Amended MOA, entitled "Impartial Decision-Making", which ensures that the funds will not impact the USACE's impartial decision-making process.

(Attach this transmittal to all contracts not prepared on the "Standard Contract" form.)

Approved as to Legal Form (sign in blue ink)  County Counsel	Reviewed as to Contract Compliance  Date <u>4/13/10</u>	Presented to BOS for signature  Department Head Date <u>4/15/10</u>
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Auditor/Controller-Recorder Use Only

<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

**FIRST AMENDMENT TO  
AMENDED MEMORANDUM OF AGREEMENT  
BETWEEN THE  
COUNTY OF SAN BERNARDINO  
AND THE  
UNITED STATES ARMY CORPS OF ENGINEERS,  
LOS ANGELES DISTRICT**

This FIRST AMENDMENT, made the 7<sup>th</sup> day of May, 2010, is entered into by the County of San Bernardino (hereinafter the "County") and the Department of the Army, represented by the United States Army Corps of Engineers, Los Angeles District (hereinafter the "Corps"), collectively referred to as "the Parties."

RECITALS

WHEREAS, the Parties entered into an Amended Memorandum of Agreement ("MOA") for expedited and priority review of County-designated priority projects by the Corps; and

WHEREAS, Public Law 111-120, signed into law on December 22, 2009, extends through December 31, 2010, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits; and

WHEREAS, the MOA is set to expire May 11, 2010; and

WHEREAS, the Parties desire to extend the duration of the MOA.

NOW, THEREFORE, the Parties agree as follows:

FIRST AMENDMENT

1. Article V. – IMPARTIAL DECISION-MAKING. This Article is replaced in its entirety to read:

"It is understood and agreed that in order to ensure that the funds will not impact impartial decision-making with respect to permit evaluation-related services for County-designated priority projects under the jurisdiction of the Corps, the following procedures, mandated from Headquarters, U.S. Army Corps of Engineers, will apply to all cases using additional funds provided by the County as a participating non-Federal public entity:

1. In all cases where funds are used, all final permit decisions must be reviewed and signed by a supervisor at least one level above the decision-maker (person with signature authority), unless the decision maker is the District Commander.

2. All documents involved in the decision making process (e.g., decision document and permit instrument, if applicable) must be reviewed and signed by the one-level-above reviewer as defined above.

3. All jurisdictional determinations made on projects where funds are used must have documentation that a non-funded Regulator reviewed and agreed with the determination (e.g. peer review). This review does not need to be a field review.

4. In all cases where funds are used, final permit decisions will be made available and updated monthly on the Corps' Regulatory web page in an area separate from any other final actions, clearly identifiable as being for projects funded through this program.

5. Any procedures or decisions that would otherwise be required for a specific type of project or permit under consideration cannot be eliminated; however, process improvements that are developed can be shared in order for all members of the regulated public to benefit.

6. The Corps must comply with all applicable laws and regulations.

7. Funds will not be expended for the review of the decision maker's decision. If contractors are used to develop decision documents, such decision documents must be drafts only and shall be reviewed and adopted by the Corps before the permit decision is made.

8. Funds will not be used for enforcement activities. Funding may be used for compliance activities including monitoring of mitigation sites.”

2. Article VI. – FUNDING. Paragraph D is modified in its entirety to read:

“The Corps will neither accept nor expend funds under this MOA, as amended, after December 31, 2010, unless Federal law extends or makes permanent the Corps' authority under section 214 of WRDA 2000 to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits.”

3. Article X. – MISCELLANEOUS. Paragraph B, Survival, is modified in its entirety to read:

“Under the provisions of section 214 of WRDA 2000 as extended, no funds may be expended pursuant to this MOA after December 31, 2010. However, if prior to this date, this statutory authority is extended, then provisions of this MOA shall remain in force until the earlier of the sunseting of section 214 of WRDA 2000, as further extended, or until the expiration date as provided in this MOA, as amended.”

4. Article XI. – AMENDMENT, MODIFICATION AND TERMINATION. Paragraph B is modified in its entirety to read:

“This MOA, as amended, shall remain in force until whichever of these events occurs first: 1) December 31, 2010, unless the sunset clause of section 214 of WRDA 2000 is extended or section 214 is made permanent, in which case the MOA, as amended,

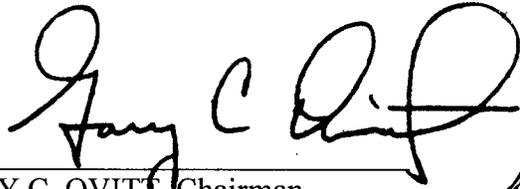
will remain in effect for the duration of the statutory extension or until April 30, 2015, whichever date is earlier; or 2) the MOA, as amended, is terminated pursuant to this Article.”

5. Integration. This First Amendment represents the entire understanding of the County and the Corps regarding the changes to the MOA, and all other terms and conditions of the MOA remain in full force and effect.

IN WITNESS WHEREOF, the First Amendment is executed by the County of San Bernardino, pursuant to Board action authorizing such execution, and by the U.S. Army Corps of Engineers, through its authorized officer, effective after execution by the last Party.

For the County of San Bernardino:

For the U.S. Army Corps of Engineers

  
GARY C. OVITT, Chairman

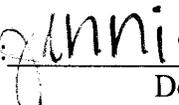
  
THOMAS H. MAGNESS  
Colonel, US Army  
District Commander

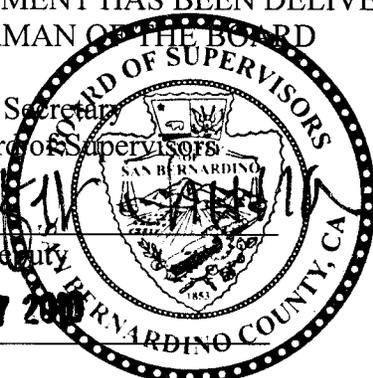
Date: APR 27 2010

Date: 7 May 2010

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

Laura H. Welch, Secretary  
Clerk of the Board of Supervisors

By:   
Janni  
Deputy  
Date: APR 27 2010



Approved as to Legal Form:  
RUTH STRINGER, County Counsel

By:   
Scott Runyan, Deputy County Counsel

Dated: 4-26-10