

**SECOND MODIFICATION TO THE LOCAL COOPERATION AGREEMENT  
AMONG THE DEPARTMENT OF THE ARMY,  
ORANGE COUNTY FLOOD CONTROL DISTRICT,  
SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT AND  
RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT  
FOR CONSTRUCTION OF THE  
SANTA ANA RIVER MAINSTEM, INCLUDING SANTIAGO CREEK,  
CALIFORNIA FLOOD CONTROL PROJECT**

This MODIFICATION is entered into this 24<sup>th</sup> day of February, 2003, by and between the Department of the Army (hereinafter "the Government") represented by the District Engineer, Los Angeles District, U.S. Army Corps of Engineers executing this Agreement, and the Santa Ana River Mainstem Sponsors, comprised of the Orange County Flood Control District represented by the Chair of the Board of Supervisors, the Riverside County Flood Control and Water Conservation District represented by the Chairman of the Board of Supervisors, and the San Bernardino County Flood Control District represented by the Chairman of the Board of Supervisors, in California (hereinafter referred to as "Orange," "Riverside," "San Bernardino" or as "the Sponsors" when considered collectively),

WITNESSETH, THAT:

WHEREAS, construction of the Santa Ana River Mainstem, including Santiago Creek, California project, was authorized by Section 401(a) of the Water Resources Development Act of 1986, P.L. 99-662, (hereinafter referred to as "WRDA 86") as modified by Section 309 of the Water Resources Development Act of 1996, P.L. 104-303 (hereinafter referred to as "WRDA 96");

WHEREAS, the Local Cooperation Agreement (hereinafter referred to as "LCA") for the Santa Ana River Mainstem project was entered into on the 14th day of December 1989, and modified on the 4th day of January 1994;

WHEREAS, the parties also entered into Supplement No. 1 to the LCA on June 21, 1994, resulting in an amended LCA (hereinafter referred to as the "amended LCA 1");

WHEREAS, the parties also entered into Supplement No. 2 on April 12, 2001, resulting in an amended LCA (hereinafter referred to as the "amended LCA 2");

WHEREAS, that pursuant to Section 309 of WRDA 96 Prado Dam has been approved as a Separable Element of the Santa Ana River Mainstem project, therefore requiring that the Government reduce the non-Federal cost sharing requirement for Prado Dam in accordance with section 103(a)(3) of such WRDA 86;

WHEREAS, the Government and the Sponsors intend to delete the Prado Dam feature from the LCA, as modified and supplemented, and the Government intends to enter into a

separate Project Cooperation Agreement with Orange for the construction of the Prado Dam Separable Element of the Santa Ana River Mainstem project; and

WHEREAS, ARTICLE XXII of the LCA provides that the LCA may be changed or modified only upon the written consent of the parties thereto;

NOW THEREFORE, The Government and the Sponsors agree to modify the LCA, and to modify amended LCA 2, as follows:

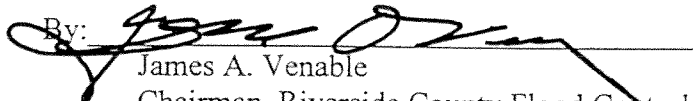
- a. ARTICLE I - DEFINITIONS, paragraph A, lines 8 and 9, delete "modifications to Prado Dam and acquisition of additional reservoir lands;"
- b. ARTICLE I - DEFINITIONS, paragraph J, line 4, delete "Prado Dam and Basin;"
- c. ARTICLE II - OBLIGATION OF THE PARTIES, paragraph B.1., delete lines 5 through 10, "Orange shall be responsible on an annual basis (Government Fiscal Year) for 20.3 percent of the costs for operation, maintenance, replacement, and rehabilitation of Prado Dam and Basin. The Government shall be responsible on an annual basis for 79.7 percent of the costs for operation, maintenance replacement, and rehabilitation of Prado Dam and Basin."
- d. ARTICLE II - OBLIGATION OF THE PARTIES, paragraph C.1., lines 3 and 4, replace "the Prado Features, and mitigation lands located in Orange County and at Prado Basin;" with "mitigation lands located in Orange County;"
- e. ARTICLE II - OBLIGATION OF THE PARTIES, paragraph D.1., delete ", and Prado Dam and Basin" in line 3.
- f. ARTICLE II - OBLIGATION OF THE PARTIES, paragraph E, replace "\$408,800,000" with "\$218,000,000 excluding Prado Dam" in line 8; replace "\$57,800,000" with "\$49,000,000 excluding Prado Dam" in line 9; replace "\$351,000,000" with "\$169,000,000 excluding Prado Dam" in line 11.
- g. ARTICLE II - OBLIGATION OF THE PARTIES, paragraph L, line 8, delete "the construction at Prado Dam and Basin, and".
- h. ARTICLE III - LANDS, FACILITIES, AND PUBLIC LAW 91-646 RELOCATION ASSISTANCE, paragraph D, lines 5 and 6, delete "and Prado Dam and Basin".
- i. ARTICLE VI - METHOD OF PAYMENT, paragraph A, line 4 of the LCA and line 4 of amended LCA 2, replace "\$1,293,000,000" and "\$1,364,000,000," respectively with "\$1,016,000,000"; and paragraph A, line 5 of the LCA and line 5 of amended LCA 2, replace "\$63,700,000" and "\$74,939,000," respectively with "\$59,306,000".

- j. ARTICLE VIII - OPERATION, MAINTENANCE, REPLACEMENT, AND REHABILITATION, paragraph A, lines 5 through 7, delete “, except that Orange shall also be responsible for the operation, maintenance, replacement, and rehabilitation of Prado Dam and Basin”
- k. ARTICLE XVIII – MAXIMUM PROJECT COST, paragraph A. of the LCA, Second sentence, line 4, replace “\$1,536,000,000” with “\$1,579,000,000 including the Prado Dam Separable Element.” Third sentence, line 4, replace “1989” with “2001”.
- l. ARTICLE XX – NOTICES, Change address of Los Angeles District to:  
U.S. Army Corps of Engineers  
Los Angeles District  
P.O. Box 532711  
Los Angeles, CA 90053-2325
- m. All other provisions of the LCA, as modified and supplemented, remain unchanged.

IN WITNESS THEREOF, the parties hereto have executed this Modification, which shall become effective the date it is signed by the District Engineer, Los Angeles District, U.S. Corps of Engineers.

RIVERSIDE COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT

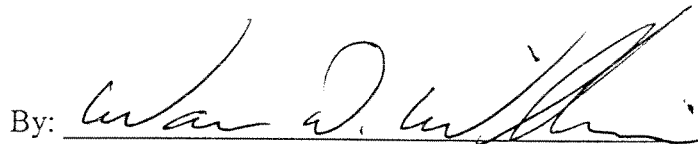
Date:

By:   
James A. Venable  
Chairman, Riverside County Flood Control  
and Water Conservation District

Attest:   
Nancy Romeo  
Clerk to the Board


Recommended for Approval:

Date:

By:   
Warren D. Williams  
General Manager-Chief Engineer

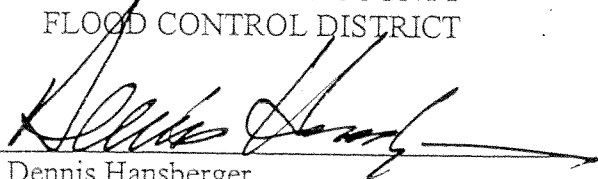
Date:

APPROVED AS TO LEGAL FORM

By:   
Joe S. Rank  
Assistant County Counsel

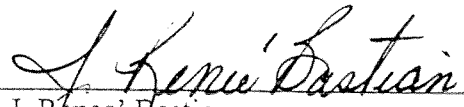
SAN BERNARDINO COUNTY  
FLOOD CONTROL DISTRICT

Date: FEB 04 2003 By:

  
Dennis Hansberger  
Chairman of the Board of Supervisors

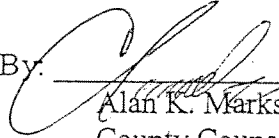
ATTEST:

Date: FEB 04 2003 By:

  
J. Renee Bastian  
Clerk of the Board of Supervisors  
of San Bernardino County

APPROVED AS TO LEGAL FORM

Date: 1-27-03 By:

  
Alan K. Marks  
County Counsel, San Bernardino County

ATTEST:

J. RENEE BASTIAN  
Clerk of the Board of Supervisors  
of the County of San Bernardino

By:

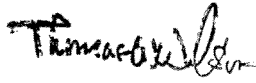
  
Deputy

ORANGE COUNTY FLOOD CONTROL DISTRICT

Date:

1-31-03

By:



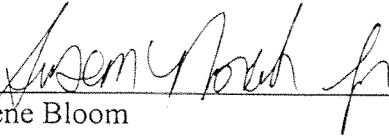
Thomas W. Wilson  
Chairman, Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY OF  
THIS AGREEMENT HAS BEEN DELIVERED  
TO THE CHAIR OF THE BOARD

Date:

1-31-03

By:



Darlene Bloom  
Clerk of the Board of Supervisors  
of Orange County

APPROVED AS TO LEGAL FORM

Date: 1-10-03

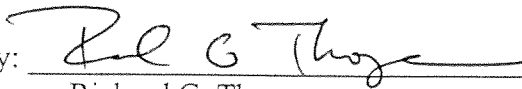
By:



Benjamin P. de Mayo  
County Counsel, Orange County

DEPARTMENT OF THE ARMY

Date: 2-24-03

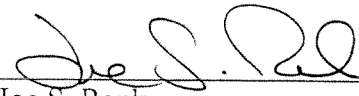
By: 

Richard G. Thompson  
Colonel, US Army  
District Engineer  
Los Angeles District  
US Army Corps of Engineers

CERTIFICATE OF AUTHORITY

I, Joe S. Rank, do hereby certify that I am the Assistant County Counsel for the Riverside County Flood Control and Water Conservation District, California, that said Riverside County Flood Control and Water Conservation District is a legally constituted public body with full authority and capability to perform the amendments of this Local Cooperation Agreement between the Department of the Army and the Riverside County Flood Control and Water Conservation District, California, in connection with the Santa Ana River Mainstem, including Santiago Creek, California Flood Control Project, and to pay damages, if necessary, in the event of the failure to perform, in accordance with Section 221 of Public Law 91-611, and that the persons who have executed the Agreement on behalf of the Riverside County Flood Control and Water Conservation District have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this Certificate this 28<sup>TH</sup> day of January, 2003

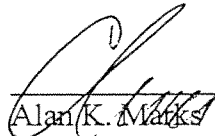
  
\_\_\_\_\_  
Joe S. Rank  
Assistant County Counsel



CERTIFICATE OF AUTHORITY

I, \_\_\_\_\_, do hereby certify that I am the County Counsel for the San Bernardino County Flood Control District, California, that said San Bernardino County Flood Control District is a legally constituted public body with full authority and capability to perform the amendments of this Local Cooperation Agreement between the Department of the Army and the San Bernardino County Flood Control District, California, in connection with the Santa Ana River Mainstem, including Santiago Creek, California Flood Control Project, and to pay damages, if necessary, in the event of the failure to perform, in accordance with Section 221 of Public Law 91-611, and that the persons who have executed the Agreement on behalf of the San Bernardino County Flood Control District have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this Certificate this 22 day of January, 2003

  
\_\_\_\_\_  
Alan K. Marks  
County Counsel

CERTIFICATE OF AUTHORITY

I, \_\_\_\_\_, do hereby certify that I am the County Counsel for the Orange County Flood Control District, California, that said Orange County Flood Control District is a legally constituted public body with full authority and capability to perform the amendments of this Local Cooperation Agreement between the Department of the Army and the Orange County Flood Control District, California, in connection with the Santa Ana River Mainstem, including Santiago Creek, California Flood Control Project, and to pay damages, if necessary, in the event of the failure to perform, in accordance with Section 221 of Public Law 91-611, and that the persons who have executed the Agreement on behalf of the Orange County Flood Control District have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this Certificate this 31<sup>st</sup> day of January, 2003

*Donald Rubin* DEPUTY  
for Benjamin P. de Mayo  
County Counsel

CERTIFICATION REGARDING LOBBYING

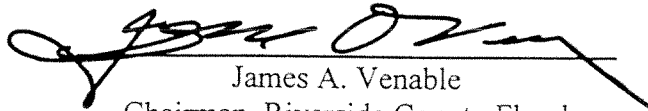
The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



James A. Venable  
Chairman, Riverside County Flood  
Control and Water Conservation District

DATE: FEB 11 2003

ATTEST:  
NANCY ROMERO, Clerk



By \_\_\_\_\_  
DEPUTY

CERTIFICATION REGARDING LOBBYING

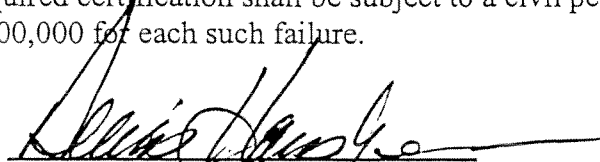
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Dennis Hansberger  
Chairman of the Board of Supervisors  
San Bernardino County

DATE:           FEB 0 4 2003

CERTIFICATION REGARDING LOBBYING

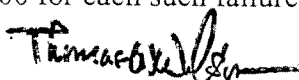
The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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Thomas W. Wilson  
Chairman, Board of Supervisors  
Orange County

DATE: 1-31-03