

**MEMORANDUM OF UNDERSTANDING REGARDING WORK TO BE DONE AS
COOPERATING TECHNICAL PARTNERS UNDER THE FEDERAL EMERGENCY
MANAGEMENT AGENCY CTP AGREEMENT**

This Memorandum of Understanding ("MOU") is made this 21st day of September, 2010, and entered into by and between the County of Ventura Public Works Agency (hereinafter referred to as "the VCPWA") and the Jurisdictions of the City of Moorpark, the City of Ojai, the City of San Buenaventura, the City of Santa Paula, and the Ventura County Watershed Protection District (hereinafter referred to as "the Jurisdictions").

RECITALS

WHEREAS, the VCPWA has entered into a Cooperating Technical Partners (CTP) Partnership Agreement with the Federal Emergency Management Agency (FEMA); and

WHEREAS, FEMA has requested that the VCPWA submit a CTP Mapping Activity Statement (MAS) to provide hydrological, hydraulic, LiDAR, and limited public outreach services in the creation of new/updated detailed flood insurance studies for specified reaches within the Jurisdictions; and

WHEREAS, the Jurisdictions and the VCPWA have met and agreed to work as a project team to carry out all tasks required in the CTP MAS #1;

NOW, THEREFORE, the Jurisdictions and the VCPWA desire to enter into this MOU that the hydrological, hydraulic and LiDAR tasks to be completed will be individually undertaken by the Jurisdictions and reimbursed as available through the CTP funding.

**ARTICLE 1
DEFINITIONS**

- 1.1 AUTHORIZED AUTHORITY shall mean the individual authorized by each Jurisdiction to sign this MOU.
- 1.2 CITIES shall mean the Cities of Moorpark, Ojai, San Buenaventura, and Santa Paula.
- 1.3 DIRECTOR shall mean the Director of the VCPWA.
- 1.4 DISTRICT shall mean the Ventura County Watershed Protection District.

- 1.5 JURISDICTIONS shall mean the Cities of Moorpark, Ojai, San Buenaventura, and Santa Paula, and the Ventura County Watershed Protection District.
- 1.6 PARTY or PARTIES shall mean the Jurisdictions and the VCPWA
- 1.7 PROJECT shall mean the objective of this CTP MAS to develop Letters of Map Revision for Flood Insurance Studies for the Study Areas.
- 1.8 STUDY AREAS shall mean the East Ojai Alluvial Fan floodplain (unincorporated Ventura County); a portion of the lower reaches of the Ventura River (City of San Buenaventura); Walnut Creek (City of Moorpark); and Happy Valley Drain/ Happy Valley Drain South (City of Ojai); and portions of Orcutt Canyon and its east and west branches (City of Santa Paula).
- 1.9 VCPWA shall mean the County of Ventura Public Works Agency.

ARTICLE 2 PURPOSE, TERM, TERMINATION AND AMENDMENTS

The purpose of the MOU is to establish a working agreement between the PARTIES with regard to completing tasks in the CTP MAS. The objective of this CTP MAS is to develop Letters of Map Revision for Flood Insurance Studies for the Study Areas.

The term of this MOU shall commence on the day and date written above and shall be effective for two years following this commencement date. The MOU shall not be renewed unless any PARTY provides written notice of the need to renew no later than thirty (30) days prior to the termination date.

Any substantive amendment, modification, extension, or variation of terms of the MOU shall be in writing and shall be effective only upon written approval by the authorized authority of the PARTIES.

ARTICLE 3 RESPONSIBILITIES OF THE PARTIES

As approved by FEMA, the VCPWA shall act as CTP and shall, as an accepted partner, enter into the CTP MAS agreement with FEMA to implement the approved MAS, and to administer CTP requirements.

In accordance with the agreement among the PARTIES during the preparation of the MAS and the negotiations with FEMA to fund the Agreement, tasks listed in the agreement, which is appended as part of this MOU, shall be allocated as follows:

The VCPWA shall appoint a local representative to the Project Management Team as described on Page 4 of the MAS.

The DISTRICT shall conduct the duties of Project Management as defined on Page 5 of the MAS; shall arrange for the Field Survey of each Study Area as described on Pages 10 of the MAS; shall supply FEMA and their Contractor with LiDAR data for the Study Areas to be used to prepare the topographic studies described on Pages 11 through 14 of the MAS; shall develop the hydrologic data as described on Pages 16 through 18 of the MAS; and shall develop the hydraulic data as described on Pages 19 through 22 of the MAS.

The JURISDICTIONS shall perform the duties of Project Scoping as described on Pages 8-9 of the MAS; shall perform the public outreach as described on Page 9 through 10 of the MAS, including each City and the District shall be responsible solely for responding to any citizen or City Council inquiry regarding work to be done/done within their own Jurisdiction; shall appoint a representative to attend regular project meetings, the schedule of which is to be agreed to by the JURISDICTIONS; and shall perform all required tasks for the distribution of both the preliminary and revised map products as required.

All other tasks referred to specifically in the MAS shall be performed by FEMA and their other Mapping Partners.

ARTICLE 4 ADMINISTRATION AND FUNDING

4.1 This MOU shall be jointly administered by the PARTIES, and each JURISDICTION's administrative activities hereunder shall be regarded as in-kind services independently funded by and performed at the discretion of the PARTIES.

4.2 The VCPWA shall timely submit to FEMA invoices, reports, and assurances received from the PARTIES prepared to meet the accounting, reporting and other requirements in the MAS agreement.

4.3 JURISDICTIONS shall immediately provide notice to VCPWA's representative in the event a JURISDICTION wishes to alter the schedule, materials, methods, or deliverables related to the MAS as set forth in the agreement. VCPWA shall timely forward a PARTY'S request for alteration to FEMA for its consideration.

4.4 As the VCPWA is acting as approved partner under the CTP agreement, JURISDICTION's questions and other communications related to the MAS agreement or performance of work under the agreement shall be directed to the VCPWA's representative for resolution with FEMA.

4.5 JURISDICTIONS shall pay or cause to be paid and provide all required matching funds or in-kind matching services for the PROJECT.

4.6 In accordance with the Terms And Conditions contained in the agreement between the VCPWA and FEMA, the PARTIES agree that they shall comply with all applicable laws, policies and regulations in carrying out this PROJECT.

4.7 VCPWA shall reimburse grant funds to JURISDICTIONS for activities completed in accordance with the terms of the MAS agreement, but only upon receipt of funds for that work from FEMA. The VCPWA shall not be responsible for any money paid out as a result of fraud, forgery or misrepresentation.

4.8 VCPWA shall timely submit to FEMA invoices, reports and assurances prepared to meet the accounting, reporting, and other requirements in the MAS agreement. JURISDICTIONS shall fulfill all assurance, declarations, representations and commitments made by the JURISDICTION. JURISDICTIONS shall meet all requirements and limitations of the MAS agreement and shall comply with all applicable laws, policies and regulations in carrying out this PROJECT.

4.9 VCPWA is not acting as a surety. The MOU is not a performance, payment, completion, or labor and materials bond. VCPWA does not guarantee or warrant that tasks required for the PROJECT will proceed, be completed, or that the funds for the PROJECT will be sufficient to meet incurred expenses. VCPWA does not guarantee or warrant the products produced for the PROJECT. VCPWA does not guarantee or warrant any estimated construction costs or budgets set forth in the MAS agreement.

4.10 VCPWA does not guarantee or warrant that it will pay any invoice submitted by JURISDICTIONS until monies for approved invoices have actually been transmitted by FEMA to the VCPWA. VCPWA assumes no liability to any entity, including but not limited to, JURISDICTIONS, and any contractors and subcontractors of any JURISDICTION on the PROJECT for any delays by FEMA in approval or transmittal of monies to VCPWA.

4.11 JURISDICTIONS agree that they shall return any audit disallowance related to their expenditures on the PROJECT for transmission to FEMA.

4.12 It is agreed by the PARTIES that if any applicable federal or state budget act of the current year and/or any subsequent years does not appropriate sufficient funds for the agreement, then this MOU shall be of no force and effect and shall terminate if the agreement is cancelled by FEMA. In this event, except for those monies already received from FEMA and approved for payment for work on the PROJECT, VCPWA shall have no liability to transmit any monies for work on the PROJECT to other PARTIES. JURISDICTIONS agree to indemnify and defend and hold VCPWA harmless from any

claims asserted against VCPWA by any entity in the event that the applicable federal or state budget act does not appropriate sufficient funds for the PROJECT.

4.13 JURISDICTIONS shall proceed with all reasonable diligence in: (i) the commencement and completion of the PROJECT; (ii) submission of written reports, financial information required by the agreement for the PROJECT; and (iii) submittal of requests for payment fully compliant with the agreement, and accompanied by written verification under penalty of perjury that the request for payment is truthful and accurate and the described costs have been incurred solely for the PROJECT.

ARTICLE 5 MISCELLANEOUS PROVISIONS

5.1 APPROVAL BY PARTIES: This MOU and any amendments thereto shall not be binding on the JURISDICTIONS unless approved by their AUTHORIZED AUTHORITY and on the VCPWA unless approved by the DIRECTOR.

5.2 COMPLETE AGREEMENT: This MOU constitutes the entire agreement between the JURISDICTIONS and the VCPWA with respect to the subject matter of this MOU. No prior oral or written understandings or agreements between the PARTIES with respect to the subject matter of this MOU are incorporated herein and any such understandings or agreements are entirely superseded by this MOU.

5.3 AMENDMENTS: This MOU may not be amended without a written amendment approved by the JURISDICTIONS, as evidenced by the signature of their AUTHORIZED AUTHORITY, and by the VCPWA as evidenced by the signature of the DIRECTOR.

5.4 INTERPRETATION: This MOU shall be interpreted and construed reasonably and neither for nor against any of the PARTIES, regardless of the degree to which any of the PARTIES participated in its drafting.

5.5 SEVERABILITY: If any term, provision, covenant, or condition of this MOU is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the rest of the MOU shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

5.6 INDEPENDENT CONTRACTORS: The PARTIES agree that they are, and at all times shall be, independent contractors of, and not the agent of the other.

5.7 GOVERNING LAW: This MOU shall be governed by and construed in accordance with the laws of the State of California.

5.8 NONDISCRIMINATION: In the performance of this MOU, the PARTIES shall abide by all applicable federal, state and local laws, regulations, or ordinances pertaining to discrimination and shall not discriminate against any person, customer, servant or employee on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation, medical condition, marital status, sex, age, or sexual orientation.

5.9 INTELLECTUAL PROPERTY: By entering into this MOU no PARTY is deemed to be transferring any intellectual property rights, including but not limited to proprietary information, patents and trademarks. Each PARTY shall respect the intellectual property rights of the others, and shall not disclose any confidential information without prior written consent of the PARTY that has developed the confidential information.

5.10 NOTICES: All notices or correspondence under this MOU shall be given to the following addresses and shall be deemed delivered on the date of actual delivery or on the third business day after the date of mailing.

JURISDICTIONS:

City of Moorpark

City of Ojai

City of San Buenaventura

City of Santa Paula

District:

Director, Ventura County Watershed Protection District
800 South Victoria Avenue
Ventura, CA 93009-1600

VCPWA:


Director, County of Ventura Public Works Agency
800 South Victoria Avenue
Ventura, CA 93009-1600

IN WITNESS WHEREOF, the PARTIES have executed this MOU on the dates indicated below.

City of Moorpark

_____ Date _____
By: Signatory

City of Ojai

 _____ Date 9/13/10
By: Signatory

City of San Buenaventura

_____ Date _____
By: Signatory

City of Santa Paula

_____ Date _____
By: Signatory

Ventura County Watershed Protection District

 _____ Date _____
By: Norma J. Camacho, Director

County of Ventura Public Works Agency

City of Moorpark

By: Steven Kueny Date 9/10/2010

City of Ojai

By: Signatory Date _____

City of San Buenaventura

By: Signatory Date _____

City of Santa Paula

By: Signatory Date _____

Ventura County Watershed Protection District

By: Norma J. Camacho, Director Date _____

County of Ventura Public Works Agency


City of Monrovia

By: _____ Date: _____
By: 'Signatory'

City of Ojai

By: _____ Date: _____
By: 'Signatory'

City of San Buenaventura

 _____ Date: 7-7-10
By: 'Signatory'

City of Santa Paula

By: _____ Date: _____
By: 'Signatory'

Wentura County Watershed Protection District

By: Norma D. Camacho, Director _____ Date: _____

County of Ventura Public Works Agency

City of Moorpark

_____ Date _____
By: Signatory

City of Ojai

_____ Date _____
By: Signatory

City of San Buenaventura

_____ Date _____
By: Signatory

City of Santa Paula

Approved as to form:


Karl Berger, City Attorney

 _____ Date _____
By: Signatory

Ventura County Watershed Protection District

_____ Date _____
By: Norma J. Camacho, Director

County of Ventura Public Works Agency

 _____ Date 9/21/10

By: Jeff Pratt, P.E., Director