

STANDARD AGREEMENT AMENDMENT

STD. 213 A (Rev 6/03)

CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED 2 Pages

AGREEMENT NUMBER 4600009722	AMENDMENT NUMBER 1
REGISTRATION NUMBER	

1. This Agreement is entered into between the State Agency and Contractor named below:
 STATE AGENCY'S NAME
Department of Water Resources
 CONTRACTOR'S NAME
United States Army Corps of Engineers
2. The term of this Agreement is June 1, 2012 through December 31, 2016
 This agreement shall not become effective until approved by the Department of the Army Corps of Engineers.
3. The maximum amount of this Agreement after this amendment is: \$ 300,755.00
 Three hundred thousand seven hundred fifty five dollars and no cents.

- A. Std. 213, Original Agreement, Paragraph 2, is hereby amended to read: Extend the termination date by two years and seven months, from May 31, 2013 to December 31, 2016. The term of this agreement begins on June 1, 2012 and terminates on December 31, 2016. This time extension will allow the contractor to complete the work needed to support Bay Delta Conservation Plan.
- B. Std. 213, Original Agreement, Paragraph 3, is hereby amended to read: Increase the maximum amount payable by \$200,755.00 from contract amount of \$100,000.00 to \$300,755.00. The maximum amount payable under this Agreement shall not exceed \$300,755.00. This increase is crucial to the Department and will allow the United States Army Corps of Engineers to continue funding the evaluation of Bay Delta Conservation Plan projects under the jurisdiction of the District.
- C. All other terms and conditions of Agreement 4600009722 shall remain the same.

See attached page 2 of 2 for signatures.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR	CALIFORNIA Department of General Services Use Only
CONTRACTOR'S NAME (If other than an Individual, state whether a corporation, partnership, etc.)	
BY (Authorized Signature) <i>[Signature]</i>	DATE SIGNED (Do not type)
PRINTED NAME AND TITLE OF PERSON SIGNING	
ADDRESS	
STATE OF CALIFORNIA	
AGENCY NAME	
BY (Authorized Signature) <i>[Signature]</i>	DATE SIGNED (Do not type)
PRINTED NAME AND TITLE OF PERSON SIGNING	
ADDRESS	

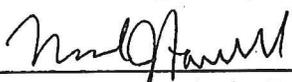
Approved as to legal form and sufficiency:
[Signature]
 General Counsel, DWR

IN WITNESS WHEREOF, the parties have executed this agreement that shall become effective upon the date it is signed by United States Army Corps of Engineers and the Department of Water Resources.

Contractor:

United States Army Corps of Engineers
U.S. Army Sacramento District of Engineers

By (Authorized Signature)



Colonel, US Army, District Engineer

Date Signed

16 Sep 13

State of California:

Department of Water Resources
Division of Environmental Services

By (Authorized Signature)



Dean Messer, Chief, Division of Environmental Services

Date Signed

9/27/13

AGREEMENT SUMMARY
STD 215 (Rev 1/2013)

AGREEMENT NUMBER	AMENDMENT NUMBER
4600009722	1

CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED

1. CONTRACTOR'S NAME United States Army Corps of Engineers	2. FEDERAL I.D. NUMBER 94-6027112
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3. AGENCY TRANSMITTING AGREEMENT Department of Water Resources	4. DIVISION, BUREAU, OR OTHER UNIT Division of Environmental Services	5. AGENCY BILLING CODE 81000
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6. NAME AND TELEPHONE NUMBER OF CONTRACT ANALYST FOR QUESTIONS REGARDING THIS AGREEMENT
Jacqueline Nelson (916) 653-6097 or jacqueline.nelson@water.ca.gov

7. HAS YOUR AGENCY CONTRACTED FOR THESE SERVICES BEFORE?
 NO YES (If YES, enter prior contractor name and Agreement Number)

8. BRIEF DESCRIPTION OF SERVICES - LIMIT 72 CHARACTERS INCLUDING PUNCTUATION AND SPACES
Continue funding for the evaluation of Bay Delta Conservation Plan projects under the jurisdiction of the District.

9. AGREEMENT OUTLINE (Include reason for Agreement: Identify specific problem, administrative requirement, program need or other circumstances making the Agreement necessary; include special or unusual terms and conditions.)

This contract amendment is to extend the termination date of the contract by three (3) years and seven (7) months: May 31, 2013 to December 31, 2016. In addition to increasing the time, this amendment is to increase the contract amount payable from \$100,000.00 to \$300,755.00. The amendment is needed to allow the contractor to complete the work needed to support Bay Delta Conservation Plan and to continue funding the evaluation of Bay Delta Conservation Plan projects under the jurisdiction of the District.

10. PAYMENT TERMS (More than one may apply.)
 MONTHLY FLAT RATE QUARTERLY ONE-TIME PAYMENT PROGRESS PAYMENT
 ITEMIZED INVOICE WITHHOLD _____ % ADVANCED PAYMENT NOT TO EXCEED
 REIMBURSEMENT/REVENUE \$ _____ or _____ %
 OTHER (Explain) Two advanced payments, July – December 2013 \$70,761 and January – June 2014 \$129,994

11. PROJECTED EXPENDITURES FUND TITLE	ITEM	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
WRRF	3860-902-0691	13/14	186/86	Sec 135 WC	\$ 200,755.00

OBJECT CODE WBS: E.4421.2100.231 GL: 9032641801	AGREEMENT TOTAL	\$ 200,755.00
OPTIONAL USE Program Manager: Cassandra Enos (916) 651-2987	AMOUNT ENCUMBERED BY THIS DOCUMENT	\$ 200,755.00
<i>I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.</i>	PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT	\$ 100,000.00
ACCOUNTING OFFICER'S SIGNATURE See attached funding strip	DATE SIGNED	TOTAL AMOUNT ENCUMBERED TO DATE \$ 300,755.00

12. AGREEMENT	TERM		TOTAL COST OF THIS TRANSACTION	BID, SOLE SOURCE, EXEMPT
	From	Through		
Original	06/01/12	05/31/13	\$ 100,000.00	Exempt - Federal
Amendment No. 1	06/01/12	12/31/16	\$ 200,755.00	Money & time extension
Amendment No. 2			\$	
Amendment No. 3			\$	
TOTAL			\$ 300,755.00	

(Continue)

AGREEMENT SUMMARY

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13. BIDDING METHOD USED:

- REQUEST FOR PROPOSAL (RFP) INVITATION FOR BID (IFB) USE OF MASTER SERVICE AGREEMENT
(Attach justification if secondary method is used)
- SOLE SOURCE CONTRACT EXEMPT FROM BIDDING OTHER *(Explain)*
(Attach STD. 821) *(Give authority for exempt status)* SCM 5.80.A.5

NOTE: *Proof of advertisement in the State Contracts Register or an approved form STD. 821, Contract Advertising Exemption Request, must be attached*

14. SUMMARY OF BIDS *(List of bidders, bid amount and small business status) (If an amendment, sole source, or exempt, leave blank)*
N/A – Amendment15. IF AWARD OF AGREEMENT IS TO OTHER THAN THE LOWER BIDDER, PLEASE EXPLAIN REASON(S) *(If an amendment, sole source, or exempt, leave blank)*
N/A – Amendment

16. WHAT IS THE BASIS FOR DETERMINING THAT THE PRICE OR RATE IS REASONABLE?

The price is reasonable based on comparable work performed for DWR by other entities, similar work performed by the US for other agencies, and budget developed between DWR and USACE for this contract.

17. JUSTIFICATION FOR CONTRACTING OUT *(Check one)*

- Contracting out is based on cost savings per Government Code 19130(a). The State Personnel Board has been so notified. Contracting out is justified based on Government Code 19130(b).3
 Justification for the Agreement is described below.

Justification:

There is no change to the scope of work. The study will be prepared by the USACE certified engineers to the standard set forth by Section 404 of the Clean Water Act (CWA) and Sections 10 and 14 of the Rivers and Harbors Act of 1899 (RHA). The goals and purposes of this agreement cannot be accomplished through the utilization of persons selected pursuant to the regular civil service system.

18. FOR AGREEMENTS IN EXCESS OF \$5,000, HAS THE LETTING OF THE AGREEMENT BEEN REPORTED TO THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING?

- NO YES N/A

19. HAVE CONFLICT OF INTEREST ISSUES BEEN IDENTIFIED AND RESOLVED AS REQUIRED BY THE STATE CONTRACT MANUAL SECTION 7.10?

- NO YES N/A

20. FOR CONSULTING AGREEMENTS, DID YOU REVIEW ANY CONTRACTOR EVALUATIONS ON FILE WITH THE DGS LEGAL OFFICE?

- NO YES NONE ON FILE N/A

21. IS A SIGNED COPY OF THE FOLLOWING ON FILE AT YOUR AGENCY FOR THIS CONTRACTOR?

- A. CONTRACTOR CERTIFICATION CLAUSES NO YES N/A
 B. STD. 204, VENDOR DATA RECORD NO YES N/A

22. REQUIRED RESOLUTIONS ARE ATTACHED

- NO YES N/A

23. ARE DISABLED VETERANS BUSINESS ENTERPRISE GOALS REQUIRED? *(If an amendment, explain changes, if any)*

- NO *(Explain below)* YES *(If YES complete the following)*

DISABLED VETERAN BUSINESS ENTERPRISES: _____ % OF AGREEMENT

Explain:

DVBE participation is not applicable to Federal entities.

24. IS THIS A SMALL BUSINESS CERTIFIED BY OSBCR?

- NO YES *(Indicate Industry Group)*

SMALL BUSINESS REFERENCE NUMBER

25. IS THIS AGREEMENT (WITH AMENDMENTS) FOR A PERIOD OF TIME LONGER THAN TWO YEARS? *(If YES, provide justification)*

- NO YES

It is in the best interest of the Department to enter into a multi-year contract to maintain funding and consistency of evaluations to the Bay Delta Conservation Plan projects under the jurisdiction of the District.

I certify that all copies of the referenced Agreement will conform to the original Agreement sent to the Department of General Services.

SIGNATURE/TITLE

DATE SIGNED

Dean F. Messer

9/27/13

Dean F. Messer, Chief, Division of Environmental Services

**MEMORANDUM OF AGREEMENT
BETWEEN THE CALIFORNIA DEPARTMENT OF WATER
RESOURCES
AND THE U.S. ARMY CORPS OF ENGINEERS,
SACRAMENTO DISTRICT**

THIS AGREEMENT is entered into as of this 6th day of July 2012, between the California Department of Water Resources, (hereinafter the "Department") and the Department of the Army, represented by the United States Army Corps of Engineers, Sacramento District (hereinafter the "District"), collectively referred to as "the Parties."

WITNESSETH THAT:

WHEREAS, the United States Army Corps of Engineers ("Corps"), has jurisdiction over certain activities occurring in United States, including wetlands, and

WHEREAS, Section 214 of the federal Water Resources Development Act of 2000, Public Law 106-541 ("WRDA 2000"), as amended by Public Law 111-315, authorizes the Secretary of the Army, after public notice, to accept and expend funds contributed by a non-Federal public entity to expedite the evaluation of a permit of that entity related to a project or activity for a public purpose under the jurisdiction of the Department of the Army; and

WHEREAS, the Secretary of the Army has delegated the responsibility of carrying out Section 214 of the WRDA 2000, as amended by Public Law 111-315, to the Chief of Engineers and his delegated representatives; and

WHEREAS, the Chief of Engineers, by memorandum dated March 29, 2004, as modified October 1, 2008, has authorized the District and Division Engineers of the Corps to accept and expend funds contributed by non-federal entities subject to certain limitations; and

WHEREAS, the Corps has indicated it is not able, without additional resources, to expedite the evaluation of permits of the non-Federal entity related to projects for a public purpose; and

WHEREAS, the Department requires expedited and priority review by the District of certain Bay Delta Conservation Plan (BDCP) initial projects in the Sacramento-San Joaquin Delta and surrounding areas, including the Yolo Bypass; and

WHEREAS, the District issued an initial Public Notice dated March 27, 2012, regarding its intent to accept and expend funds contributed by non-Federal public entities for such purposes; and

WHEREAS, the District has determined that expenditure of funds received from the Department will be in compliance with Section 214 of WRDA 2000, as amended by Public Law 111-315; and

WHEREAS, it is understood and acknowledged by all Parties that District' review of Department projects will be completely impartial and in accordance with all applicable Federal laws and regulations; and

WHEREAS, the Department is a non-Federal public entity.

NOW, THEREFORE, the Department and the District agree as follows:

AGREEMENT

Article I. - PURPOSE AND AUTHORITIES

Pursuant to Section 214 of WRDA 2000, as amended by Public Law 111-315, this MOA is entered into by the Parties for the purpose of establishing a mutual framework governing the respective responsibilities of the Parties for the acceptance and expenditure of funds contributed by the Department to expedite the evaluation of permits under the jurisdiction of the Army under Section 404 of the Clean Water Act (CWA) and Sections 10 and 14 of the Rivers and Harbors Act of 1899 (RHA). This MOA is not intended as the exclusive means of obtaining District review of Department projects. This MOA is a vehicle by which the Department may obtain expedited review of Department projects designated as a priority, outside of the ordinary District review process.

Article II. - SCOPE

- A. The Department will provide funds to the District for federal fiscal year (FY) 12 to expedite the evaluation of Department projects under the jurisdiction of the District. The Department may elect to extend the funding beyond FY 12, subject to the terms of this MOA. The phrase "federal fiscal year" in this MOA refers to the period beginning October 1 of each year and ending on September 30 of the following year. The District's regulatory program is funded as a congressionally appropriated line item in the annual Federal budget. Funds received from the Department will be used to augment the District regulatory budget in accordance with the provisions of WRDA 2000, as amended.
- B. The District's Regulatory Division evaluates permits under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. The District's Construction-Operations Division evaluates permits under Section 14 of the Rivers and Harbors Act of 1899. Regulatory Division staff will serve as the District's point of contact for this MOA.
- C. The District will establish a separate account to track receipt and expenditure of the funds associated with its review of Department priority projects. District employees will charge their time against the account when they do work to expedite resolution of Department permit requests.
- D. Funds contributed by the Department hereunder will mainly be expended to defray the costs of salary, associated benefits, overhead, and travel expenses for existing or additional

personnel (including regulatory staff, support/clerical staff, and staff of other functional areas of the District) and other costs in order to expedite the evaluation of permit requests submitted by the Department for the BDCP projects. Such activities will include, but not be limited to, the following: application review, permit database entry, drawing correction, jurisdictional determinations, site visits, public notice preparation, preparation of correspondence, conduct of the public interest review, preparation of draft permit decision documents, meetings with the Department, agencies and applicants, permit compliance, mitigation monitoring, preparation of reports/audits of funds expended to the Department, technical writing, training, travel, field office set up costs, copying, coordination activities, technical contracting, programmatic tool development and/or improvement, acquisition of GIS data, and any other permit evaluation-related responsibilities that may be mutually agreed upon. Funds will *not* be expended for review by supervisors or other persons or elements of the District in the decision-making chain of command. Enforcement activities will not be paid for from the funds contributed by the Department, nor will such funds be used to pay for the costs of public hearings and distribution of public notices.

E. Funds may also be expended to hire contract staff for the purpose of augmenting the resources available to the District regulatory staff for expediting priority permit applications submitted by the Department for the BDCP projects. If such expenditures, when combined with the costs of the regulatory staff, require funding in excess of the amount specified in this, then said contractors shall not be hired until and unless additional funds are approved by the Department and memorialized by written amendment to this MOA..

F. If the Department's funds are expended and are not renewed, the Parties will terminate this MOA in accordance with Article X.A and any remaining Department priority permit applications or requests for permission under Section 14 of the RHA will be processed pursuant to the standard review procedures under the CWA and/or RHA, in a manner decided by the assigned Regulatory or Construction-Operations Project Manager and his or her supervisor.

Article III. - INTERAGENCY COMMUNICATIONS

To provide for consistent and effective communication between the District and the Department, each party will appoint a Principal Representative to serve as its central point of contact on matters relating to this MOA. Additional representatives may also be appointed to serve as points of contact on specific actions. Each party will issue a delegation letter to the other designating the Principal Representative for each agency.

Article IV. - RESPONSIBILITIES OF THE PARTIES

A. The Department shall:

1. Provide adequate information regarding priority projects and other specific activities to initiate evaluation of the project. Upon request, the Department shall provide supplemental information necessary to assure the District can effectively accomplish the required review.
2. Make a reasonable effort to provide the District with information on other projects with Department involvement that may affect the District's workload and staff availability (e.g.,

schedules for projects with individual permits or requests to modify federal projects under RHA section 14, other than minor, low impact modifications).

3. In consultation with the District, schedule District involvement in the priority projects identified by the Department.

4. To the best of its ability, ensure the participation of all essential personnel, water contractors, and decision makers during the District's evaluation process.

5. Work closely with the District to resolve workload conflicts and adjust priorities and schedules in order to make optimal use of available staff resources.

6. Develop in cooperation with the District, a schedule for the evaluation of permits under the jurisdiction of the Army required for the BDCP.

7. Provide office space and support for one person from the District to be co-located with key Department staff. The purpose of this embedment staff is to facilitate review and processing of pertinent Department of Army permits necessary for the implementation of BDCP.

B. The District shall:

1. Expedite its review process in accordance with the purpose, terms, and conditions of this MOA. The District shall not redirect resources from, or otherwise postpone, other Department projects submitted through the standard District review process.

2. Develop in collaboration with the Department a schedule for the evaluation of permits under the jurisdiction of the Army required for the BDCP.

3. Consult with the Department regarding an adjustment of priorities or establishment of relative priorities if the current and/or projected workload of priority projects and activities exceeds District's ability to provide the services specified in this MOA.

4. Provide the Department a quarterly summary report of progress made under this MOA. This report will describe achievements, including any improvements the District has documented in coordinating and improving the efficiency of environmental reviews, and will summarize expenditures to date. The report also will identify any recommendations for improving consultation and coordination among the Parties to this MOA.

5. Designate Regulatory and Construction-Operations Project Managers who will make his or her best efforts to attend periodic meetings with the Department.

6. Co-locate with Department staff one District staff to work with the Department to facilitate review and processing of pertinent Department of Army permits necessary for the implementation of BDCP. District staff will co-locate on a part-time basis dependent on support needs.

Article V. FUNDING

A. The Department will pay the District an amount not to exceed \$100,000 for purposes of funding project managers, including overhead and associated support personnel for the term of this MOA.

B. The Department may elect to extend the services under this MOA and fund the costs of the project managers during federal fiscal years subsequent to FY 12 for as long as this MOA remains in effect. In the event the Department elects to continue services under this MOA beyond FY 12, no later than June 30, 2012 and annually thereafter, the Department shall provide written notice of this decision to the District's Principle Representative. The Department and the District will agree on the amount of funding required for succeeding federal fiscal years, including any proposed changes in the level of staffing, at least thirty (30) days prior to the end of each federal fiscal year. Upon agreement on the amount of funding, and in advance of the District incurring any costs for the next federal fiscal year, the Department will make a lump sum payment to the District totaling one-half of the agreed upon funding amount. A second lump sum payment will be made six (6) months from the date of agreement.

C. Costs incurred by the District under this MOA may increase due to the Federal Government's General Schedule increases and locality pay adjustments. In the event of such increases, the District will promptly notify the Department of the additional amount necessary to continue services under this MOA. Upon receipt of such notice, the Department shall either make a lump sum payment for the additional amount or agree to a reduced level of service.

D. Funds will be payable in two lump sum payments, the first payment of which will be made in advance of the District incurring any financial obligations under this MOA and no later than ninety (90) days after the effective date of this MOA as defined in Article XI. The second lump-sum payment will be made no later than six (6) months after the effective date of this MOA. Payment will be made by check or electronic funds transfer to the Finance and Accounting Officer, U.S. Army Corps of Engineers, Sacramento District.

E. As required by OMB Circular A-97, DWR certifies that the services being requested pursuant to this agreement cannot be procured reasonably and expeditiously through ordinary business channels.

F. Any carry-over funds from year to year would be credited to the following fiscal year's payment, or refunded if this MOA is terminated or expires.

G. The Department will provide office space and necessary office support for one District personnel per the terms of Article IV.

Article VI. - APPLICABLE LAWS

All applicable statutes, regulations, policies, directives, and procedures of the United States will govern this MOA and all documents and actions pursuant to it. Unless otherwise required by

law, all expedited actions undertaken by District will be governed by District regulations, policies and procedures.

Article VII. - DISPUTE RESOLUTION

The Parties agree that, in the event of a dispute between the Parties, the Department and the District shall use their best efforts to resolve the dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the Parties. The Parties agree that, in the event such measures fail to resolve the dispute, they shall refer the dispute for resolution to an appropriate forum in accordance with Federal law.

Article VIII. - PUBLIC INFORMATION

The District will not be responsible for justifying or explaining Department programs or projects before other agencies, departments and offices. The District may provide, upon request from the Department, any assistance necessary to support justification or explanations of activities conducted under this MOA. In general, the District is responsible only for public information regarding District regulatory activities or activities under RHA Section 14. The Department will give the District advance notice before making formal, official statements regarding District activities funded under this MOA.

Article IX. - MISCELLANEOUS

A. Other Relationships or Obligations

This MOA will not affect any pre-existing or independent relationships or obligations between the Department and the District.

B. Severability

If any provision of this MOA is determined to be invalid or unenforceable, the remaining provisions will remain in force and unaffected to the fullest extent permitted by law and regulation.

Article X. - AMENDMENT, MODIFICATION AND TERMINATION

A. This Agreement may be modified or amended only by written, mutual agreement of the Parties. Either party may terminate this MOA prior to its expiration date by providing written notice to the other party. Such termination shall be effective upon the sixtieth (60th) calendar day following notice, unless a later date is set forth. In the event of termination, the Department shall continue to be responsible for all costs incurred by the District under this MOA prior to the effective date of such termination and for the costs of closing out or transferring any on-going Department priority projects.

B. Within ninety days (90) days of termination, or expiration of the MOA, the District shall conduct an accounting to determine the actual costs of the work. Within thirty (30) days of

completion of this accounting, the District shall return to the Department any funds advanced in excess of the actual costs. Funds may be provided to the Department either by check or by electronic funds transfer.

Article XI. - EFFECTIVE DATE AND DURATION

This MOA will become effective when signed by both the Department and the District. This MOA shall remain in force until the earlier of the following events: (1) December 31, 2016, unless the sunset clause in Section 214 of WRDA 2000, as amended by Public Law 111-315, is extended prior to that date, in which case the MOA will remain in effect for the duration of the statutory extension; or (2) the MOA is terminated pursuant to Article X.

Article XII. - INTEGRATION

This MOA, including any documents incorporated by reference or attachments thereto, constitute the entire agreement between the Parties. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein and shall be of no further force or effect.

IN WITNESS WHEREOF, the Agreement is executed by the California Department of Water Resources acting by and through its Director, or his designee, and by the U.S. Army Corps of Engineers, through its authorized officer.

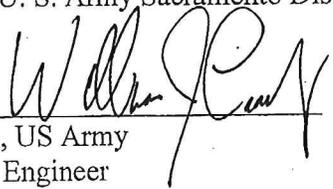
For the California Department of Water Resources:



Dean Messer, Chief, Division of Environmental Services

Date: 5/17/12

For the U. S. Army Sacramento District of Engineers:



Colonel, US Army
District Engineer

Date: 6 JULY 2012