

**SUBMITTAL TO THE FLOOD CONTROL AND
WATER CONSERVATION DISTRICT BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

414B



158376

FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
Date: February 25, 2014

SUBJECT: Memorandum of Understanding for Aerial Photograph Collection Imaging
All Districts, [4 years], [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Memorandum of Understanding between the District and California State University San Bernardino; and
2. Authorize the Chairman to execute the Agreement on behalf of the District.

BACKGROUND:

Summary

The Memorandum of Understanding (MOU) sets forth the terms and conditions by which California State University San Bernardino (CSUSB) will digitally copy the District's historic aerial photo collection to meet the District's and CSUSB's goals.

Steve Thomas
FOR WARREN D. WILLIAMS
General Manager-Chief Engineer

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET DISTRICT COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: N/A

Budget Adjustment: No
For Fiscal Year: 13/14 to 17/18

C.E.O. RECOMMENDATION:

APPROVE

BY: *Steven C. Horn*
Steven C. Horn, MPA

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

Prev. Agn. Ref.: | District: All | Agenda Number:

11-2

FORM APPROVED COUNTY COUNSEL
BY: *NEAL R. KIPNIS*
DATE: 2/25/14

Departmental Concurrence

- A-30
- Positions Added
- 4/5 Vote
- Change Order

2014 FEB 13 11:08

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT
BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Memorandum of Understanding for Aerial Photograph Collection Imaging
All Districts, [4 years], [\$0]**

158376

DATE: February 25, 2014

PAGE: Page 2 of 2

BACKGROUND:

Summary (continued)

The District retains an archive of historic aerial photographs and desires to digitize its extensive aerial photo collection to allow the collection to provide more convenient public access, to reduce the wear and tear on the photos themselves, and to preserve the collection. CSUSB wishes to supplement its own historic aerial photograph collection with the District's historic aerial photo collection and to make electronic copies for ease of public access and educational purposes.

County Counsel has approved the MOU as to legal form and CSUSB has executed the MOU.

Impact on Citizens and Businesses

This project entails no new fees, taxes or bonded indebtedness to citizens and businesses. Once digitized, the digital copy of the District's and CSUSB's historic aerial photograph collection will benefit citizens and businesses by providing more convenient public access to the historic collection.

GM:bjj

1 MEMORANDUM OF UNDERSTANDING

2 by and between

3 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

4 and

5 CALIFORNIA STATE UNIVERSITY SAN BERNARDINO

6 for

7 AERIAL PHOTOGRAPH COLLECTION IMAGING

8
9
10 WHEREAS, the Riverside County Flood Control and Water Conservation
11 District (hereinafter referred to as "District") retains an archive of historic aerial photographs;
12 and

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14 WHEREAS, DISTRICT desires to digitize its extensive aerial photo collection to
15 allow the collection to provide more convenient public access, to reduce the wear and tear on
16 the photos themselves, and to preserve the collection; and

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18 WHEREAS, the California State University San Bernardino (hereinafter referred
19 to as "CSUSB") wishes to supplement its own historic aerial photograph collection with the
20 DISTRICT'S historic aerial photo collection and to make electronic copies for ease of public
21 access and educational purposes; and

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23 WHEREAS, CSUSB proposes to digitally copy DISTRICT'S aerial photo
collection to meet DISTRICT'S and CSUSB'S goals; and

24
25 WHEREAS, the output of the digitization process will be high-quality, high-
26 resolution electronic image files that will also include pertinent meta-data (e.g., photo date,
27 location, source) that will be imbedded in each file; and

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1 WHEREAS, certain data about the photos will be provided by DISTRICT and
2 additional data may be added by CSUSB.

3 NOW THEREFORE, the DISTRICT and CSUSB mutually agree to the
4 following terms and conditions:

5 I. CSUSB ROLE AND RESPONSIBILITIES

6 A. CSUSB Archivist shall arrange a mutually acceptable time to pick up
7 the DISTRICT'S original photographic prints (i.e., "aerial photos" or "aerial photo collection")
8 from DISTRICT'S office. Prior to DISTRICT'S release of any photographs to the Archivist, the
9 Archivist shall sign DISTRICT'S release form identifying the particular aerial photos that are
10 being taken and the projected return date. Each set of aerial photos shall be returned to
11 DISTRICT within ten (10) working days from the date of checkout.

12 B. CSUSB Archivist shall assume sole responsibility for the aerial
13 photos until they are returned to DISTRICT'S office.

14 C. The aerial photos, while at CSUSB, will be stored in archival boxes
15 and securely housed at CSUSB except when actively being digitized.

16 D. In the event of any unanticipated delay, CSUSB Archivist shall
17 immediately notify DISTRICT regarding the status of the digitizing process and give an
18 estimated time for the return of the aerial photos to DISTRICT office. It will be in DISTRICT'S
19 sole discretion to approve the delay, but the approval will not be unreasonably withheld.

20 E. CSUSB Archivist shall be responsible for properly training students
21 and others who may handle the aerial photos while they are at CSUSB. Students and/or other
22 persons working with/for CSUSB are not employees of DISTRICT, and CSUSB shall be solely
23 responsible for provision of any worker's compensation benefits or other liabilities that may
24 arise from the provision of services by students and others working on behalf of CSUSB.
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1 F. CSUSB Archivist shall return the aerial photos to DISTRICT offices
2 in the same condition in which they were removed, each time checking the photos back into
3 DISTRICT with its designated staff.

4 G. CSUSB Archivist shall make electronic digital images of
5 DISTRICT'S aerial photograph collection that is provided to CSUSB pursuant to this MOU.

6 H. The work shall be accomplished by CSUSB students with supervision
7 by CSUSB Archives Manager and University Photographer at CSUSB's own expense.

8 I. CSUSB agrees to retain its completed collection of electronic images
9 indefinitely, to exercise reasonable care to preserve and protect it from the elements, to
10 publicize its existence in appropriate campus publications, newsletters, or flyers, and to organize
11 it for use for access to CSUSB and to the public.

12 J. CSUSB may use these images to make copies both printed and
13 electronic that can be used to inform students, faculty, researchers and the public and/or display
14 these images in appropriate ways.

15 K. Should CSUSB cease to use this collection for educational purposes,
16 the Pfau Library of CSUSB shall serve as the repository of this collection.

17 L. CSUSB shall include the following disclaimer with said historical
18 aerial photographs:

19 "The aerial photographs available by and through the Riverside
20 County Flood Control and Water Conservation District ("District") are
21 presented as a public resource of general information. They are not
22 certified records of the District. While the District strives to maintain the
23 accuracy of the content of its data files, it makes no claims, promises, or
24 guarantees about the accuracy, completeness, or adequacy of the contents
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1 of the files. The District assumes no liability whatsoever to CSUSB or any
2 third party arising from use of the information provided and the information
3 is provided "as is". No warranty of any kind, expressed or implied,
4 including but not limited to, the implied warranties of merchantability and
5 fitness for particular purposes is made. It is the responsibility of the
6 recipient of this data to determine that the level of accuracy meets the needs
7 of their application prior to making any judgments or decisions based on
8 this information. The District is not responsible for any damages that may
9 arise from the use of, or inability to use, the information provided."

10 M. CSUSB shall furnish DISTRICT with an exact duplicate electronic
11 copy in ".jpg" format of all electronic image files and their metadata produced under this MOU.
12 DISTRICT shall, at its sole cost and expense, provide the memory storage device(s) for the files
13 produced.
14

15 N. DISTRICT shall receive full recognition as donor in all instances,
16 including websites, printed publications, in metadata, and every citation where appropriate. All
17 citations will be as follows:
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19 Riverside County Flood Control and Water Conservation District

20 II. DISTRICT ROLE AND RESPONSIBILITIES

21 A. DISTRICT shall furnish an electronic spreadsheet identifying its
22 flight data to CSUSB.
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24 B. DISTRICT shall not bear any responsibility or liability whatsoever for
25 the accuracy of any data added by CSUSB in the course of its production of any electronic
26 image files.
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1 C. DISTRICT shall be solely responsible for determining the order in
2 which the aerial photos shall be released to CSUSB.

3 D. DISTRICT has the sole right to select which of its aerial photographs
4 are to be released to CSUSB.

5 E. DISTRICT will waive copyright infringement for those photos for
6 which it holds all rights so that CSUSB may digitize these images to make prints or digital
7 copies that can be used to inform students, faculty, researchers and the public and/or display
8 these images in appropriate ways.

9 F. DISTRICT may utilize, print or otherwise publish the electronic
10 image files furnished by CSUSB pursuant to this MOU in any manner it deems to be in the
11 public interest.
12

13 III. MUTUAL UNDERSTANDING

14 A. CSUSB may sell copies of the electronic image files produced
15 pursuant to this MOU, or prints thereof, to interested parties for an appropriate fee as
16 determined by CSUSB.
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18 B. DISTRICT may sell copies of electronic image files produced
19 pursuant to this MOU, or prints thereof, to interested parties for a fee set by DISTRICT to cover
20 its cost of service.

21 C. To minimize the impact to DISTRICT'S aerial photograph users,
22 CSUSB and DISTRICT shall develop a mutually agreeable schedule for processing
23 DISTRICT'S aerial photo collection.
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25 D. The digital images of the photos produced pursuant to this MOU and
26 subsequently provided to the public are not to be considered certified copies of DISTRICT'S
27 aerial photo collection. As such, DISTRICT makes no warranties, expressed or implied.
28

1 E. CSUSB wishes to be considered for housing the original physical
2 aerial photo collection if at any time DISTRICT chooses to divest itself of its aerial photo
3 collection.

4 IV. TERM

5 A. This MOU shall take effect on the date it is signed by both parties and
6 will remain in effect until the collection of photos is copied, or four (4) years, whichever occurs
7 earlier. Either party may terminate this MOU at any time and for any reason with 30 days'
8 notice to the other party. Upon termination all photos still "checked out" shall be immediately
9 returned to DISTRICT and DISTRICT shall receive an electronic copy of any photos provided
10 to and digitized by CSUSB.

11 B. The General Manager-Chief Engineer, or his/her appointed designee,
12 is authorized to exercise DISTRICT'S rights with respect to any termination of this MOU.
13 CSUSB Director, or his/her appointed designee, has authority to terminate this MOU on behalf
14 of CSUSB. Termination of this MOU, once digital images have been completed, does not
15 preclude CSUSB from continuing to use, display and house copies of said digital images. Such
16 use shall be governed by the terms of this MOU.

17 V. INDEMNIFICATION

18 A. CSUSB agrees to indemnify, defend (with counsel reasonably
19 approved by DISTRICT) and hold harmless DISTRICT and their authorized officers,
20 employees, agents and volunteers from any and all claims, actions, losses, damages, and/or
21 liability arising out of this contract from any cause whatsoever, including the acts, errors or
22 omissions of any person and for any costs or expenses incurred by DISTRICT on account of any
23 claim except where such indemnification is prohibited by law. This indemnification provision
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1 shall survive any termination of this MOU and shall apply regardless of the existence or degree
2 of fault of indemnities.

3 B. DISTRICT agrees to indemnify, defend (with counsel reasonably
4 approved by CSUSB) and hold harmless CSUSB and their authorized officers, employees,
5 agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising
6 out of this contract from any cause whatsoever, including the acts, errors or omissions of any
7 person and for any costs or expenses incurred by CSUSB on account of any claim except where
8 such indemnification is prohibited by law. This indemnification provision shall survive any
9 termination of this MOU and shall apply regardless of the existence or degree of fault of
10 indemnities.
11

12 VI. INSURANCE

13 A. DISTRICT and CSUSB are authorized self-insured public entities for
14 purposes of Professional Liability, General Liability, Automobile Liability and Workers'
15 Compensation and warrant that through their respective programs of self insurance, they have
16 adequate coverage or resources to protect against liabilities arising out of the performance of the
17 terms, conditions or obligations of this MOU.
18

19 VII. NOTICES

20 A. Any and all notices sent or required to be sent to the parties of this
21 Agreement shall be mailed by first class mail, postage prepaid, to the following addresses:
22

23 Riverside County Flood Control	California State University San Bernardino
24 and Water Conservation District	5500 University Parkway
25 1995 Market Street	San Bernardino, CA
26 Riverside, CA 92501	Attn: Boykin Witherspoon, Director, WRI
27 Attn: Reproduction Section	Suzie Earp, Archives Manager, WR

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VIII. GENERAL PROVISIONS

A. Any alterations, variations, modifications, or waivers of provisions of the MOU, unless specifically allowed in the MOU, shall be valid only when they have been reduced to writing, duly signed and approved by both parties as an amendment to this MOU. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

IX. CONCLUSION

A. This MOU, consisting of 10 pages, is the full and complete document describing services to be rendered by CSUSB to DISTRICT including all covenants, conditions and benefits.

B. The signatures of the parties affixed to this MOU affirm that they are duly authorized to commit and bind their respective departments to the terms and conditions set forth in this document.

C. This MOU shall be governed by and construed in accordance with the laws of the State of California without regard to its conflict of law principles.

D. This MOU embodies the entire agreement and understanding of the parties and supersedes all prior negotiations, agreements, and understandings among the parties with respect to subject matter of this MOU.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

(to be filled in by the Clerk of the Board)

RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**

By Steve Thomas
WARREN D. WILLIAMS
General Manager-Chief Engineer

For

By _____
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel
By Pamela Walls
NEAL R. KIPNIS
Deputy County Counsel

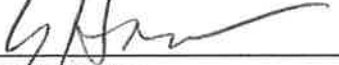
KECIA HARPER-IHEM
Clerk of the Board
By _____
Deputy

(SEAL)

MOU: Digitizing of Aerial Photographs
California State University San Bernardino
01/13/14
LV:GM:bjp:bad

1 **CALIFORNIA STATE UNIVERSITY SAN BERNARDINO**

2 APPROVED:

3 By 

4 Kathy Hansen, Director,
5 Procurement and Support Services
6 California State University San Bernardino

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