



## BOARD OF SUPERVISORS AGENDA ITEM REPORT CONTRACTS / AWARDS / GRANTS

Requested Board Meeting Date: October 6, 2015

or Procurement Director Award

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**Contractor/Vendor Name (DBA):** Town of Marana

**Project Title/Description:**

Amendment No. 1 to Intergovernmental Agreement with the Town of Marana to provide mitigation funding for Wildlife Corridors in the Marana Area

**Purpose:**

The Willow Ridge Mitigation In-Lieu Fee was an environmental mitigation condition requested by the U.S. Department of Interior, Fish and Wildlife Service (U.S. FWS) for the Willow Ridge development project in the Town of Marana. The Town pays Pima County \$5,000 per lot for the County to acquire environmentally sensitive lands (Wildlife Corridors) between the Tortolita and Tucson Mountains. Willow Ridge landowners requested some relief of the current mitigation fee this development.

The Town believes that the front-loaded costs for this development will make it less likely for the project to happen, leading to no mitigation fees at all for the foreseeable future. Due to the hilly terrain and disturbance restrictions, the site development costs are anticipated to be in the \$40,000-per-lot range. This project is in the Town of Marana's water service area, but in a higher elevation zone than the existing Marana Utilities Department water infrastructure located nearby. As a result, development of this site (and the commercial sites at the southeast and southwest corners of Cortaro and Sandy Desert Trail) requires the developer to install water booster infrastructure at an estimated cost of \$400,000. This cost will not be creditable against water impact fees--the water zone covers a small geographic area and would not have been feasible to include in the development impact fee program based on the severe constraints imposed by the 2011 municipal development impact fee legislation. Eventually a portion of this cost is likely to be reimbursed through a protected main agreement when commercial corners develop, but the full up-front cost will be on this development.

Without this amendment, the Willow Ridge developer will have difficulties selling large custom lots and meeting financial obligations and U.S. FWS conditions for this development. Amendment No. 1 to the original IGA CTN-PR-CMS139071 changes the Town of Marana's Willow Ridge Mitigation In-Lieu Fee transfer to Pima County from \$5,000 per lot for 35 lots to \$2,537 per lot for 69 lots for Willow Vista only. The County would collect \$175,053, instead of \$175,000, to acquire environmentally sensitive lands identified in the original IGA as the Wildlife Corridor.

Staff recommends approval of Amendment No. 1 to reduce the Town Marana's mitigation in-lieu fee transfer to Pima County from \$5,000 per lot for 35 lots to \$2,537 per lot for 69 lots in Willow Vista only.

**Procurement Method:**

Not applicable.

**Program Goals/Predicted Outcomes:**

This amendment is intended to maximize the chances of generating Willow Ridge Mitigation In-Lieu Fees from Willow Vista for County use for wildlife mitigation initiatives described in the original IGA.

**Public Benefit:**

Additional funding for wildlife mitigation in an accelerated timeframe.

**Metrics Available to Measure Performance:**

**Retroactive:**

To: CoB - 9-23-15 (2)  
PJS. 4

Procurement Dept 09/21/15 AM0847

### Original Information

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Contract Number (i.e., 15-123): \_\_\_\_\_

Effective Date: \_\_\_\_\_ Termination Date: \_\_\_\_\_ Prior Contract Number (Synergen/CMS): \_\_\_\_\_

Expense Amount: \$ \_\_\_\_\_  Revenue Amount: \$ \_\_\_\_\_

Funding Source(s): \_\_\_\_\_

Cost to Pima County General Fund: \_\_\_\_\_

Contract is fully or partially funded with Federal Funds?  Yes  No  Not Applicable to Grant Awards

Were insurance or indemnity clauses modified?  Yes  No  Not Applicable to Grant Awards

Vendor is using a Social Security Number?  Yes  No  Not Applicable to Grant Awards

If Yes, attach the required form per Administrative Procedure 22-73.

### Amendment Information

Document Type: CTN Department Code: PR Contract Number (i.e., 15-123): CMS139071

Amendment No.: 1 AMS Version No.: 3

Effective Date: 10/6/2015 (upon recordation by Recorder) New Termination Date: \_\_\_\_\_

Expense  Revenue  Increase  Decrease Amount This Amendment: \$ 53.00

Funding Source(s): Natural Resources, Parks and Recreation Special Revenue Fund

Cost to Pima County General Fund: \$0.00

Contact: Nanette Slusser or Lisa Matthews

Department: Public Works Administration Telephone: 724-8396

Department Director Signature/Date: \_\_\_\_\_

Deputy County Administrator Signature/Date: *Jeffrey J. Johnson* 10-12-15

County Administrator Signature/Date: \_\_\_\_\_

(Required for Board Agenda/Addendum Items)

CONTRACT	
NO. <u>CTN-PR-CMS139071</u>	
AMENDMENT NO. <u>01</u>	
This number must appear on all invoices, correspondence and documents pertaining to this contract.	

**FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT  
BETWEEN PIMA COUNTY AND THE TOWN OF MARANA TO  
PROVIDE MITIGATION FUNDING FOR WILDLIFE CORRIDORS IN  
THE MARANA AREA**

THIS FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT (this "Amendment") is entered into by and between PIMA COUNTY, a political subdivision of the State of Arizona (the "County") and the TOWN OF MARANA, an Arizona municipal corporation, (the "Town"). The Town and the County are sometimes collectively referred to as the "Parties" and individually referred to as a "Party."

**RECITALS**

A. The Parties are authorized by Arizona Revised Statutes section ("A.R.S. §") 11-952 to enter into agreements for joint and cooperative action.

B. The Parties entered into an Intergovernmental Agreement to provide Mitigation Funding for Wildlife Corridors in the Marana Area dated January 9, 2007, and recorded with its authorizing resolutions in the office of the Pima County Recorder on January 16, 2007, at Docket 12971, Page 5921 (Sequence 20070101251) (the "Original IGA").

C. Before entering into the Original IGA, the Town had entered into the "Willow Ridge Development Agreement" recorded in the office of the Pima County Recorder on April 30, 2004, at Docket 12292, Page 6664 (Sequence 20040841065) relating to the "Willow Ridge" development project, located immediately south of Cortaro Road and just over a half mile east of I-10.

D. Paragraph 2.2 of the Willow Ridge Development Agreement required the developer of Willow Ridge to pay the Town the "Willow Ridge Mitigation In-Lieu Fee," an open space, park and trail system contribution of \$6,400 for each residential lot within the Property, payable upon the issuance of a building permit for construction of a residence on that lot, to be used by the Town to acquire, maintain, enhance and improve lands in the general vicinity of the Willow Ridge project for the purposes of passive recreation, open space preservation, habitat restoration, and disturbance mitigation.

E. The Original IGA provided for the Town to transfer to the County \$5,000 per lot of the Willow Ridge Mitigation In-Lieu Fee for the County's purchase of environmentally sensitive lands identified and referred to as the "Wildlife Corridors" in the Original IGA.

F. A portion of the Willow Ridge development project was originally platted as the 35-lot "Willow Ridge Custom Lots" subdivision, recorded in the office of the Pima County Recorder on September 6, 2007, at Book 63 of Maps and Plats, Page 5 (Sequence 20071730602), the land area of which is referred to in this Amendment as "Willow Vista."

G. Willow Vista has not been developed, and the current owner of the property contends that it cannot feasibly be developed as a 35-lot subdivision for reasons including the general non-

marketability of half-acre lots, especially in that geographic area; the high cost per lot of subdivision development and infrastructure on that particular site; and the high cost per lot of fees, including the Willow Ridge Mitigation In-Lieu Fee.

H. On April 7, 2015, the Marana Town Council adopted Ordinance No. 2015.008 (the "Willow Vista Rezoning"), rezoning Willow Vista to Marana R-6 zoning (single-family residential, minimum lot size 6,000 square feet) to accommodate a 69-lot residential project (the "Willow Vista Project".

I. The Town has negotiated and approved, conditioned upon the execution of this Amendment, a revision to the Willow Ridge Development Agreement as it applies to Willow Vista (the "Willow Vista DA Amendment"), which (among other things) reduces the Willow Ridge Mitigation In-Lieu Fee to \$2,537 per lot for Willow Vista.

J. The Town approved the Willow Vista Rezoning and the Willow Vista DA Amendment based in part on the Town's acknowledgment of the Willow Vista owner's contentions listed in recital G above.

K. This Amendment is intended to maximize the chances of generating Willow Ridge Mitigation In-Lieu Fees from Willow Vista for County use in acquiring Wildlife Corridors as described in the Original IGA.

#### ***AGREEMENT***

NOW, THEREFORE, pursuant to the above recitals, which are incorporated here as the purpose of the Parties in entering into this Amendment, and in consideration of the matters and things set forth in this Amendment, the Parties agree as follows:

**1. Transfer of funding.** Paragraph 1 of the Original IGA is amended to change "\$5,000 per lot" to "\$2,537 per lot" for Willow Vista only.

**2. Effect on other provisions of the Original IGA.** Except as modified by this Amendment, all other provisions of the Original IGA shall remain in place and are incorporated by this reference in this Amendment.

**3. Term and Termination.** This Amendment shall be effective when it is recorded in the office of the Pima County Recorder and shall remain in effect until the termination of the Original IGA.

IN WITNESS WHEREOF, the County has caused this Amendment to be executed by the Chair of its Board of Supervisors, upon resolution of the Board and attested to by the Clerk of the Board, and the Town has caused this Amendment to be executed by the Mayor upon resolution of the Mayor and Council and attested to by its Clerk.

The "County"

PIMA COUNTY, a political subdivision of the  
State of Arizona

By: \_\_\_\_\_

Chair, Board of Supervisors

Date: \_\_\_\_\_

The "Town"

TOWN OF MARANA, an Arizona municipal  
corporation

By: \_\_\_\_\_

Mayor Ed Honea

Date: \_\_\_\_\_

9-1-2015

ATTEST:

Clerk of the Board

Date: \_\_\_\_\_

ATTEST:

*Jocelyn Bronson*  
Jocelyn Bronson, Town Clerk

Date: *9-1-2015*

### INTERGOVERNMENTAL AGREEMENT DETERMINATION

The foregoing Amendment to Intergovernmental Agreement between Pima County and the Town of Marana has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Amendment represented by the undersigned.

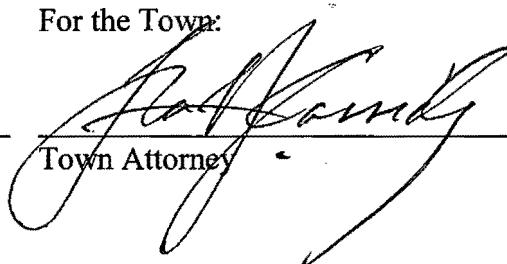
For the County:



Deputy County Attorney

**ANDREW FLAGG**

For the Town:



Town Attorney

**COPY**

## **MARANA RESOLUTION NO. 2015-094**

RELATING TO THE ENVIRONMENT; APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT BETWEEN PIMA COUNTY AND THE TOWN OF MARANA TO PROVIDE MITIGATION FUNDING FOR WILDLIFE CORRIDORS IN THE MARANA AREA

WHEREAS a copy of the "First Amendment to Intergovernmental Agreement between Pima County and the Town of Marana to provide Mitigation Funding for Wildlife Corridors in the Marana Area" (the "Mitigation Funding IGA Amendment") has been presented to the Marana Town Council for consideration; and

WHEREAS the Town Council incorporates by reference here the recitals of the Mitigation Funding IGA Amendment as the findings and background for this resolution; and

WHEREAS the Mayor and Council of the Town of Marana feel it is in the best interests of the citizens of Marana to enter into the Mitigation Funding IGA Amendment.

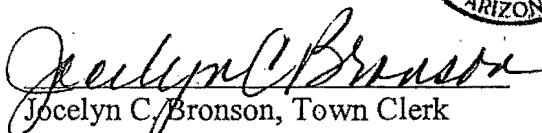
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, that the "First Amendment to Intergovernmental Agreement between Pima County and the Town of Marana to provide Mitigation Funding for Wildlife Corridors in the Marana Area" attached to this resolution as Exhibit A is hereby approved, and the Mayor is authorized to execute it for and on behalf of the Town of Marana.

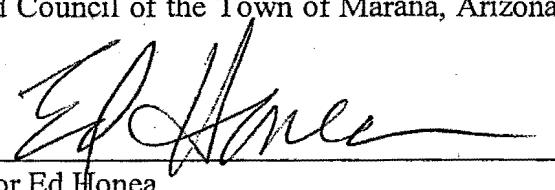
IT IS FURTHER RESOLVED that the Town Manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to carry out the terms, obligations, conditions and objectives of the Mitigation Funding IGA Amendment.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of September, 2015.

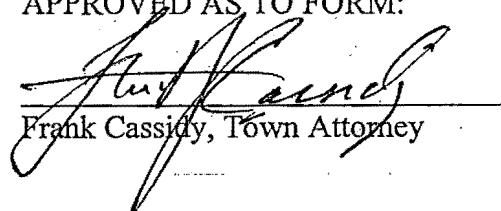


ATTEST:

  
Jocelyn C. Bronson, Town Clerk

  
\_\_\_\_\_  
Mayor Ed Honea

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Frank Cassidy, Town Attorney