



BOARD OF SUPERVISORS AGENDA ITEM REPORT
AWARDS / CONTRACTS / GRANTS

Award Contract Grant

Requested Board Meeting Date: August 15, 2022

* = Mandatory, information must be provided

or Procurement Director Award:

***Contractor/Vendor Name/Grantor (DBA):**

Town of Oro Valley

***Project Title/Description:**

Intergovernmental Agreement between Regional Flood Control District and Town of Oro Valley for Maintenance of Watercourses and River Park in the Town and other purposes.

***Purpose:**

The Regional Flood Control District (District) has been performing maintenance in the Town of Oro Valley (Town) pursuant to an Intergovernmental Agreement (IGA) executed in 1984. The District and Town desire a new IGA that more precisely defines each jurisdiction's maintenance responsibilities by watercourse, establishes maintenance responsibilities for The Loop, provides clear lines of communication for new development and projects that may impact a jurisdiction's maintenance responsibilities, and provides a location for the Town to store material and equipment in order to meet the IGA's obligations within the Town.

***Procurement Method:**

This IGA is a non-procurement contract and not subject to procurement rules.

***Program Goals/Predicted Outcomes:**

By clearly defining each jurisdictions responsibilities, the goal is to reduce operational uncertainty, particularly after a flood, and increase the timeliness of any operations and maintenance needs that are identified.

***Public Benefit:**

A clear set of expectations for each jurisdiction facilitates faster response times for jurisdictional action for operations and maintenance needs, and allows for a jurisdiction to plan for large maintenance projects.

***Metrics Available to Measure Performance:**

Responsiveness to requests for maintenance by each jurisdiction.

***Retroactive:**

No

TO: COB 7-27-22 (2)

Vers: 1

Pgs: 13

JUL26'22PM0349 PD

THE APPLICABLE SECTION(S) BELOW MUST BE COMPLETED

Click or tap the boxes to enter text. If not applicable, indicate "N/A". Make sure to complete mandatory (*) fields

Contract / Award Information

Document Type: CT Department Code: FC Contract Number (i.e., 15-123): 23*041
Commencement Date: 08/15/2022 Termination Date: 08/14/2047 Prior Contract Number (Synergen/CMS):
Expense Amount \$ 0.00 * Revenue Amount: \$

*Funding Source(s) required: Flood Control Tax Levy

Funding from General Fund? Yes No If Yes \$ %

Contract is fully or partially funded with Federal Funds? Yes No

If Yes, is the Contract to a vendor or subrecipient?

Were insurance or indemnity clauses modified? Yes No

If Yes, attach Risk's approval.

Vendor is using a Social Security Number? Yes No

If Yes, attach the required form per Administrative Procedure 22-10.

Amendment / Revised Award Information

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

Amendment No.: AMS Version No.:

Commencement Date: New Termination Date:

Prior Contract No. (Synergen/CMS):

Expense Revenue Increase Decrease

Amount This Amendment: \$

Is there revenue included? Yes No If Yes \$

*Funding Source(s) required:

Funding from General Fund? Yes No If Yes \$ %

Grant/Amendment Information (for grants acceptance and awards)

Award Amendment

Document Type: Department Code: Grant Number (i.e., 15-123):

Commencement Date: Termination Date: Amendment Number:

Match Amount: \$ Revenue Amount: \$

*All Funding Source(s) required:

*Match funding from General Fund? Yes No If Yes \$ %

*Match funding from other sources? Yes No If Yes \$ %

*Funding Source:

*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?

Contact: Eric Shepp

Department: Regional Flood Control District

Telephone: (520) 724-4610

Department Director Signature: S Shields Date: 7/26/22

Deputy County Administrator Signature: Date: 7/26/2022

County Administrator Signature: Date: 7/27/22

Intergovernmental Agreement
between
Pima County Regional Flood Control District and Town of Oro Valley
for
Maintenance of Watercourses and River Park in the Town
and other purposes

This Intergovernmental Agreement ("IGA") is entered into by and between the Pima County Regional Flood Control District, a political taxing subdivision of the State of Arizona ("District") and the Town of Oro Valley ("Town"), referred to together as the "Parties".

1. Background.

- 1.1. The District is authorized by A.R.S. § 48-3603(C)(3) to contract and join with any other flood control district, municipality, political subdivision or governmental agency in acquiring, constructing, maintaining and operating flood control works.
- 1.2. District and Town may contract for services and enter into agreements with one another for joint or cooperative action pursuant to A.R.S. § 11-952 and 48-3603(C)(9).
- 1.3. District and Town agree the District is responsible for operation and maintenance of certain watercourses in the Town as allowed by A.R.S. § 48-3603(C)(1).
- 1.4. District and Town have previously entered into an Intergovernmental Agreement entitled: *An Intergovernmental Agreement For the Maintenance of The Cañada Del Oro Wash And Its Tributaries* in May 1984. District and Town agree that the 1984 IGA needs to be replaced.
- 1.5. District and Town agree that certain Town uses and other development in and adjacent to these watercourses may occur and both parties agree to establish conditions and expectations regarding such uses and development and maintenance responsibilities.
- 1.6. District and Town agree that under certain agreed to circumstances it is mutually beneficial for either Party to perform certain maintenance functions on the shared use river park elements along the Canada Del Oro Wash and Big Wash that are within the jurisdictional limits of the Town.
- 1.7. District and Town agree that title to certain properties in the Town are inaccurately recorded in the Pima County Recorder's Office. There are properties owned by the District and ownership of these properties needs to be rectified as being owned by the Town. Similarly, there are properties owned by the Town in error and ownership of these properties needs to be rectified as owned by the District.
- 1.8. District and Town agree that in order to ensure that adequate maintenance of the watercourses and river park can occur, a location for the Town to store maintenance equipment and material is needed.

- 2. Purpose.** The purpose of this IGA is to clearly establish the Town and District's responsibility for operation and maintenance of the watercourses and river park elements in the Town and to ensure adequate and accurate property ownership is reflected in the record. The purpose

is also to provide clear processes for Town and District to facilitate the completion of needed maintenance by either the District or the Town.

2.1. District Responsibilities.

- 2.1.1. The District will be responsible for the watercourses, or portions thereof, as shown as District's responsibility in Exhibit A ("District Watercourses").
- 2.1.2. District will maintain the District Watercourses. For District Watercourses that contain constructed flood control facilities (i.e. levees, channels, erosion control, etc.), maintenance includes routine maintenance to ensure design performance, and if the flood control facility is damaged, the design and construction of any repairs to ensure continued function of the facility as designed. Maintenance of natural watercourse may consist of minor sediment removal. Nothing in this IGA requires the District to construct new flood control facilities or make other improvements to District Watercourses.
- 2.1.3. District will timely review any possible effects on District Watercourse as provided in Section 2.2.2 of this agreement to ensure that any improvements do not create an undue burden on the District' operation and maintenance of District Watercourses.
- 2.1.4. District will be responsible for major maintenance on the portions of the river park located in Town. Major maintenance is defined as pavement management to include asphalt rehabilitation, asphalt removal and replacement, and bridge structure repair or replacement
- 2.1.5. The District will provide an operations yard for the Town to store maintenance equipment and materials for the Town to perform its maintenance obligations. The operations yard is depicted in Exhibit B.
- 2.1.6. The District may request the Town to perform inspection and monitoring of the District Watercourses. The District will grant the Town, without requirements, the right to enter District property in order to conduct any and all inspection and monitoring by the Town.

2.2. Town Responsibilities.

- 2.2.1. The Town will be responsible for the watercourses, or portions thereof, as shown as Town's responsibility in Exhibit A ("Town Watercourses").
- 2.2.2. Town will notify the District of any rezoning, new development, or capital projects that may impact District Watercourses. The District will convey its concerns regarding impacts to watercourse operation and maintenance to the Town. In the event that adverse conditions to the District Water courses exist, the Town will impose appropriate and reasonable conditions of development to mitigate the adverse effects on the District Watercourses.
- 2.2.3. When possible, the Town will require development that occurs along the District Watercourses to dedicate to the District the watercourse and any adjacent areas necessary for the operation and maintenance of the watercourse.

- 2.2.4. Town will inform the District of the need to maintain any of the District Watercourses and the Town will respond to resident inquiries regarding any maintenance.
- 2.2.5. Town will perform routine maintenance on the portions of the river park located within the Town. Routine maintenance is defined as vegetation and landscape management, trash and debris removal, pathway sweeping, pathway re-stripping, signage management, access control management, and asphalt pothole and crack sealing management.
- 2.2.6. In addition to complying with the Right-of-entry requirements for the operations yard as provided in Exhibit C, the Town agrees to allow the District to temporarily utilize a portion of the site, if space is available, agree to perform reasonable maintenance or improvement to the site based on inspection by the District or compliant by the public, and restore the site upon termination or discontinuation of the use of the site.

2.3. Mutual responsibilities of both Parties

- 2.3.1. The Parties agree to maintain and update Exhibit A as necessary to implement the IGA
 - 2.3.2. In the event of significant damage to a Town Watercourses due to flooding, the Town and District shall cooperate to mitigate the damage.
 - 2.3.3. In the event that conditions regarding development in and adjacent to the watercourses are met the Parties agree to cooperate to have the District accept maintenance responsibility for such watercourses in the Town.
 - 2.3.4. In the event the either Party owns property that may be utilized by the other Party for necessary government activities, the Parties agree to cooperate in any such property transfer.
- 3. **Financing.** Each Party will be responsible for financing its own respective obligations.
 - 4. **Term.** This IGA will be effective on the date it is fully executed by both parties and will continue for a period of 25 years unless it is, prior to the expiration of such period, extended or terminated by agreement of the parties.
 - 5. **Disposal of Property.** Termination will not relieve any party from liabilities or costs already incurred under this IGA, nor affect any ownership of property pursuant to this IGA.
 - 6. **Indemnification.** Each party (as Indemnitor) agrees to indemnify, defend and hold harmless the other party (as Indemnatee) from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") for bodily injury of any person (including death) or property damage, but only to the extent that such injury or damage is caused or alleged to be caused by a negligent or intentionally wrongful act or omission of the Indemnitor, or of any of its officers, officials, agents, employees, or volunteers.

7. **Insurance.** Each party will obtain and maintain at its own expense, during the entire term of this IGA the following type(s) and amounts of insurance:
 - 7.1. Commercial General Liability in the amount of \$2,000,000.00 combined single limit Bodily Injury and Property Damage.
 - 7.2. Commercial or Business automobile liability coverage for owned, non-owned and hired vehicles used in the performance of this IGA with limits in the amount of \$2,000,000.00 combined single limit or \$1,000,000.00 Bodily Injury, \$1,000,000.00 Property Damage.
 - 7.3. If required by law, workers' compensation coverage including employees' liability coverage.
 - 7.4. Each party will provide thirty (30) days written notice to the other party of cancellation, non-renewal or material change of coverage.
 - 7.5. The above requirement may be alternatively met through a self-insurance program under to A.R.S. §§ 11-261 and 11-981 (or if a school district, § 15-382) or participation in an insurance risk pool under A.R.S. § 11.952.01 (if a school district, § 15-382), at no less than the minimum coverage levels set forth in this Section
8. **Compliance with Laws.** The parties will comply with all federal, state and local laws, rules, regulations, standards and Executive Orders. The laws and regulations of the State of Arizona will govern the rights of the parties, the performance of this IGA and any disputes. Any action relating to this IGA will be brought in a court in Pima County.
9. **Non-Discrimination.** The parties will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this IGA, including flow-down of all provisions and requirements to any subcontractors. During the term of this IGA, the parties will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
10. **ADA.** The parties will comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.
11. **Conflict of Interest.** This IGA is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated herein by reference.
12. **Non-Appropriation.** Notwithstanding any other provision in this IGA, this IGA may be terminated if for any reason the Pima County Board of Directors or Oro Valley Town Council does not appropriate sufficient monies for the purpose of maintaining this IGA. In the event of such cancellation, the parties will have no further obligations under this IGA other than for payment for services rendered prior to cancellation.
13. **Worker's Compensation.** Each party will comply with the notice of A.R.S. § 23-1022 (E). For purposes of A.R.S. § 23-1022, irrespective of the operations protocol in place, each party is solely responsible for the payment of Worker's Compensation benefits for its employees.
14. **No Joint Venture.** It is not intended by this IGA to, and nothing contained in this IGA will be construed to, create any partnership, joint venture or employment relationship between the

parties or create any employer-employee relationship between a party and the employees of the other party. Neither party will be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other party's obligation to withhold Social Security and income taxes for itself or any of its employees.

15. **No Third-Party Beneficiaries.** Nothing in this IGA is intended to create duties or obligations to or rights in third parties not parties to this IGA or affect the legal liability of either party to the IGA by imposing any standard of care with respect to the maintenance of public facilities different from the standard of care imposed by law.
16. **Notice.** Any notice required or permitted to be given under this IGA must be in writing and served by delivery or by certified mail upon the other party as follows (or at such other address as may be identified by a party in writing to the other party):

District:

Suzanne Shields
Director
201 N Stone Ave 9th Floor
Tucson, AZ 85701

Town of Oro Valley:

Town Engineer
11000 N. La Canada Drive
Oro Valley, AZ. 85737

17. **Amendment.** This IGA may only be modified, amended, altered or changed by written agreement signed by the parties.
18. **Severability.** If any provision of this IGA, or any application of a provision to the parties or any person or circumstance, is found by a court to be invalid, that invalidity will not affect other provisions or applications of this IGA that can be given effect without the invalid provision or application.
19. **Legal Authority.** Neither party warrants to the other its legal authority to enter into this IGA. If a court, at the request of a third person, should declare that either party lacks authority to enter into this IGA, or any part of it, then the IGA, or parts of it affected by such order, will be null and void, and no recovery may be had by either party against the other for lack of performance or otherwise.
20. **Entire Agreement.** This document, and any exhibits attached to it, constitutes the entire agreement between the parties pertaining to the subject matter addressed, and all prior or contemporaneous agreements and understandings, oral or written, are superseded and merged into this IGA. This IGA may not be modified, amended, altered or extended except through a written amendment signed by the parties.
21. **Effective Date.** This IGA will become effective when all parties have signed it. The effective date of the IGA will be the date this IGA is signed by the last party (as indicated by the date associated with that party's signature).

**PIMA COUNTY REGIONAL FLOOD
CONTROL DISTRICT**

Town of Oro Valley

E-SIGNED by Joseph C. Winfield
on 2022-07-21 18:18:23 GMT

Chair
Board of Directors

Mayor
Town of Oro Valley

ATTEST

ATTEST

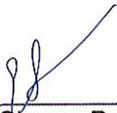
E-SIGNED by Michael Standish
on 2022-07-25 16:06:15 GMT

Clerk of the Board

Mike Standish, Town Clerk

Approval

The foregoing Intergovernmental Agreement between the District and Town of Oro Valley has been reviewed by the undersigned and is hereby approved as to content.



Eric Shepp, Deputy Director

Intergovernmental Agreement Determination

The foregoing Intergovernmental Agreement between Pima County and the Town of Oro Valley has been reviewed by the undersigned, each of whom has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the party he or she represents.

**PIMA COUNTY
REGIONAL FLOOD CONTROL DISTRICT**

Town of Oro Valley



Deputy County Attorney

E-SIGNED by Tobin Sidles
on 2022-07-21 21:31:12 GMT

Tobin Sidles, Legal Services Director

EXHIBIT A

Exhibit A: Town of Oro Valley & Pima County Flood Control District Wash Maintenance Inter-Governmental Agreement

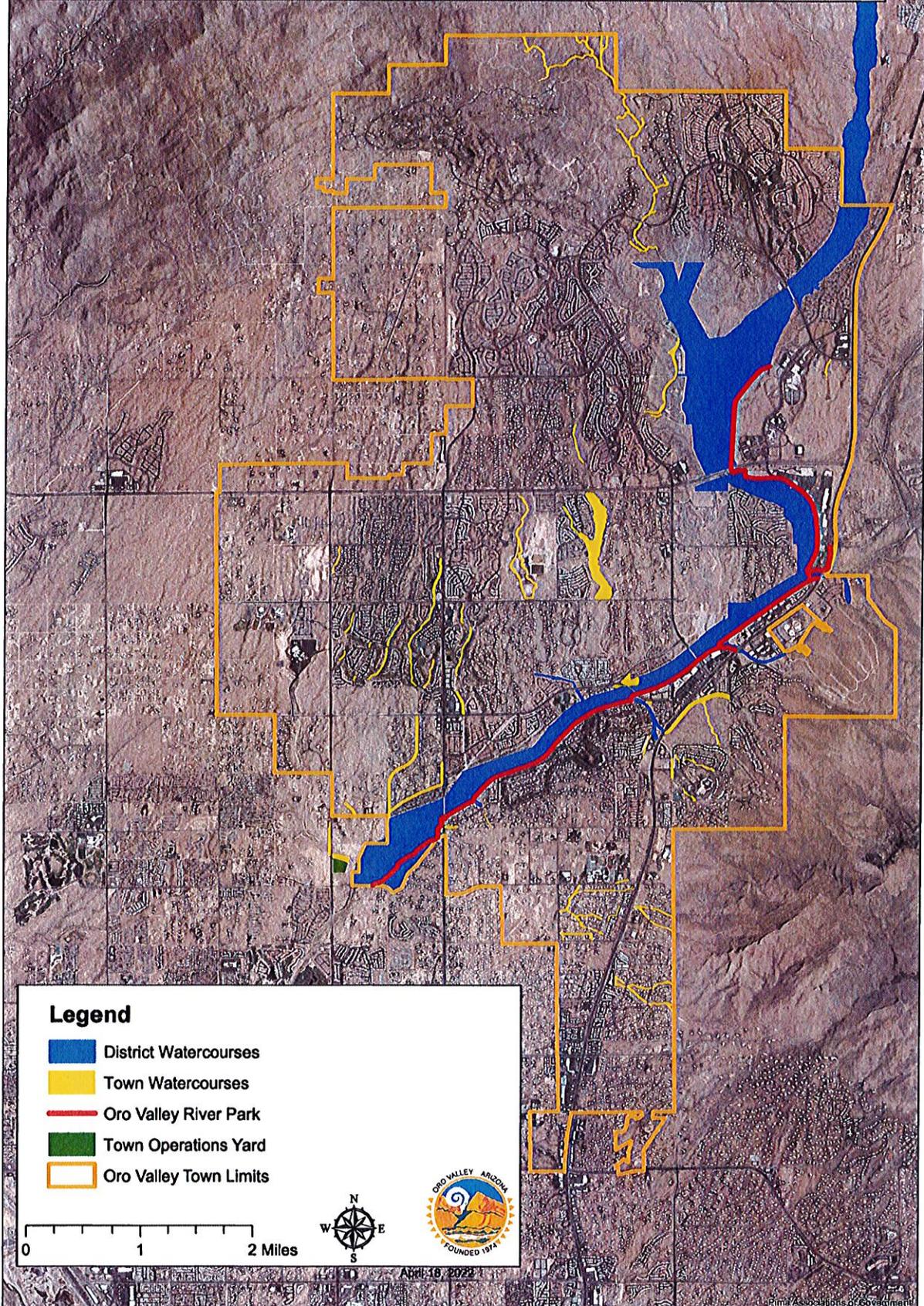


EXHIBIT B

Exhibit B: Town of Oro Valley Operations Laydown Yard Security Fence Plan

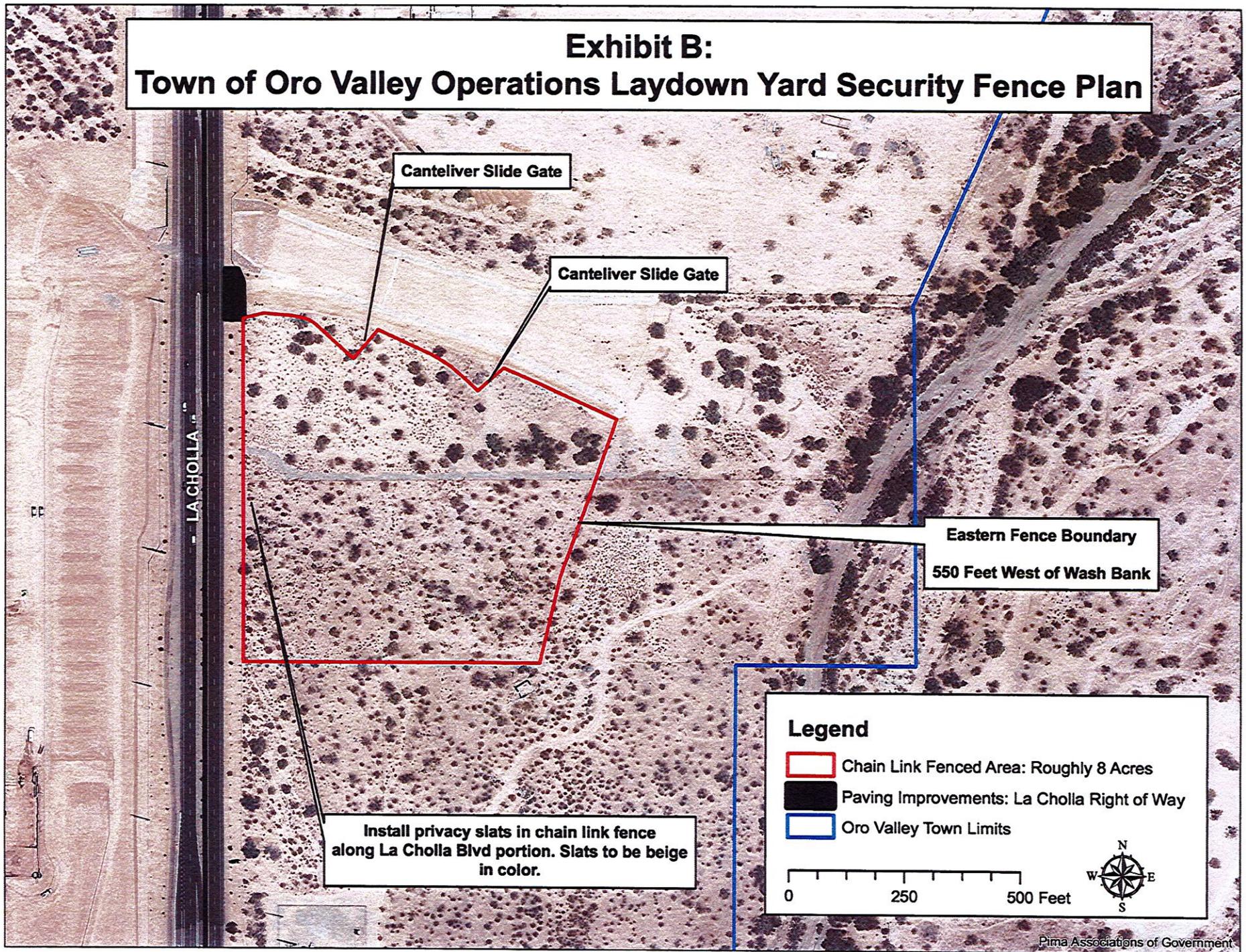


EXHIBIT C

Exhibit C



Public Works Administration

Real Property Services

201 N. Stone Avenue, Sixth Floor
Tucson, Arizona 85701-1215
(520) 724-6313 FAX (520) 724-6763

RIGHT OF ENTRY

The Pima County Flood Control District, a political taxing subdivision of the State of Arizona (the "Grantor"), hereby grants to the Town of Oro Valley, (the "Grantee"), its representatives, authorized agents and volunteers, permission to enter upon the land identified on the attached Exhibit A (the "Property"). This Right of Entry shall be for a laydown yard and material storage until such time as an IGA between the parties is completed.

Conditions:

1. Grantee is responsible for repairing any damage to Grantor's property caused by Grantee and restoring the property to its existing condition to the extent that is reasonable and practical and shall leave the Property free of trash.
2. Any activities that will involve ground disturbance must be approved by the Grantor prior to initiating work.
3. Grantee shall be required to obtain all required permits, provide all required notice of intents, and comply with all required general and individual permits for the intended use.
4. Grantee, and its authorized agents, agrees to indemnify, defend and hold Grantor harmless from any and all suits, claims, demands, judgments or liabilities of any type whatsoever, including, but not limited to, injury to any person or damage to any property, arising out of, incidental to or in any way relating to Grantee's use of, operations upon, maintenance of, or restoration of the Property, including but not limited to any acts of any employees or agents of Grantee. Grantee further agrees to indemnify and hold harmless Grantor from all costs and expenses arising out of any such suit, claim, demand, judgment or liability, including, but not limited to, the reasonable attorney's fees of Grantor.
5. County acknowledges that Grantee is self-insured. Grantee agrees to maintain coverages sufficient to satisfy its insurance obligation covering the use of the Property, but not less than \$2,000,000 commercial general liability insurance throughout the term of this Right of Entry. Grantee will supply verification of coverage or a letter of self-insurance responsibility on request.

6. Grantee shall coordinate their activities exercised under this Right-of-Entry with Colby Fryar, of Pima County Flood Control (724-4663) or email: Colby.fryar@pima.gov.

7. Cultural Resources Compliance. Consistent with Pima County Board of Supervisors Policy No. C 3.17, Grantee, its employees, contractors and agents shall comply with all applicable federal, state and local cultural resources and historic preservation statutes, regulations, ordinances, policies and guidelines prior to and during any ground disturbance within the Property.

This permission shall commence upon execution by the Grantor and terminate on the earlier of July 31 or completion of an approved IGA. This permission may be revoked for any reason by Grantor upon 48 hours written notice to Grantee. Upon termination, Grantee must remove their material and equipment from the site.

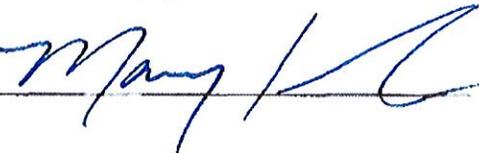
RECOMMEND FOR APPROVAL

Eric Shepp, PE
Deputy Director, Pima County Flood Control District

GRANTOR:
Pima County, a political subdivision of the State of Arizona

By: _____ Date _____
Manager, Real Property Services

GRANTEE:
Town of Oro Valley

By:  _____ Date 5-3-22
Date

Mary Jacobs, Town Manager
Town of Oro Valley
11000 N. La Canada Dr.
Oro Valley Az. 85745
520-229-4725 (Office) •