



BOARD OF SUPERVISORS AGENDA ITEM REPORT  
AWARDS / CONTRACTS / GRANTS

Award  Contract  Grant

Requested Board Meeting Date: 06/07/2022

\* = Mandatory, information must be provided

or Procurement Director Award:

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

Tucson Airport Authority

**\*Project Title/Description:**

IGA w/Tucson Airport Authority Regional Drainage Facility

**\*Purpose:**

The Pima County Regional Flood Control District (District) is partnering with the Tucson Airport Authority (TAA) to fund construction work during TAA's Airfield Safety Enhancement Project, which will serve a regional purpose by decreasing flood hazards downstream from the airfield. The District's regional Improvements will include construction of the Hughes Wash Pond 1 Outfall Channel and culvert.

**\*Procurement Method:**

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

**\*Program Goals/Predicted Outcomes:**

Construction of the channel and culvert improvements located on TAA land will benefit to the regional watersheds downstream.

**\*Public Benefit:**

Construction of the channel improvements will prevent flow from breaking out of the Hughes Wash watershed, and keeping the flows contained within the constructed channel. Areas within the El Vado Watershed downstream will be protected from these flood flows. This IGA takes advantage of the TAA's ongoing construction to save construction costs and provide downstream benefits.

**\*Metrics Available to Measure Performance:**

Construction of the channel and culvert improvements

**\*Retroactive:**

No

TO: COB 5-19-22  
vers: 1  
pgs: 10

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): 22\*370
Commencement Date: 6/7/22 Termination Date: 6/6/23 Prior Contract Number (Synergen/CMS):
Expense Amount \$ 720,000 \* 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: Janice Hughes (M. Guzman 4-4611 P/U)

Department: Regional Flood Control District

Telephone: 724-4635

Department Director Signature: Suzanne Shultz

Date: 5/11/22

Deputy County Administrator Signature: [Signature]

Date: 5/18/2022

County Administrator Signature: [Signature]

Date: 5/19/2022

## Intergovernmental Agreement

### Between

### Pima County Regional Flood Control District and Tucson Airport Authority

### Regional Drainage Facility – Tucson International Airport

This Intergovernmental Agreement (IGA) is entered into by and between Pima County Regional Flood Control District (“District”), a political taxing subdivision of the State of Arizona, and **Tucson Airport Authority** (“TAA”) pursuant to A.R.S. § 11-952.

### Recitals

- A. District and TAA may contract for services and enter into agreements with one another for joint or cooperative action pursuant to A.R.S. § 11-951, et seq.
- B. District was organized under Arizona Revised Statutes § 48-3601 and 48-3602 for flood protection within incorporated and unincorporated areas of Pima County. District has authority under A.R.S. § 48-3603 to acquire, construct, maintain, and operate, and enter into contracts for acquiring, constructing, maintaining, and operating, flood-control and improvements and incidental improvements.
- C. TAA is authorized by A.R.S. §§ 28-8423 through -8426 to enter into this IGA.
- D. TAA’s current airfield safety enhancement project (ASE Project) will significantly improve the infrastructure of the airfield. The ASE Project improvements include drainage improvements that are required as a result of the ASE Project. The District has long term plans to make regional drainage improvements west of the TAA property; however, the District has very limited property available to accommodate the District’s planned regional drainage needs. TAA has airfield property (the “TAA Property”) that can accommodate the drainage improvements that will benefit not only TAA but also incorporate improvements that have regional benefit in the District’s plans.
- E. District and TAA wish to take advantage of the current work TAA is doing for its ASE Project, in the form of efficiencies, time, and reduced design, mobilization and completion costs, to complete additional regional drainage improvements on TAA property to the benefit of the regional watershed.

NOW, THEREFORE, the parties, pursuant to the above recitals, and in consideration of the matters and things hereinafter set forth, do mutually agree as follows:

### Agreement

1. **Purpose.** The purpose of this IGA is to document the cost share responsibilities for the TAA and District regarding the design, construction, and maintenance costs for the District regional drainage improvements; which consists of the Hughes Wash Pond-1 Outfall Channel (the “District Regional Facility”). The District Regional Facility will be located

on TAA Property. TAA will contract with both the design and construction teams to complete the District Regional Facility. The District will separately contract for hydrologic and hydraulic modeling to incorporate the ASE Project and the District Regional Facility into the regionally approved floodplain model. TAA acknowledges that their design for the ASE Project must demonstrate that ASE Project comply with floodplain management regulations and existing development conditions and District acknowledges that TAA is not responsible for any costs associated with the design and construction of the District Regional Facility. District acknowledges that the design for the ASE Project meets design criteria and intent for the project based on coordination efforts as of March 25, 2022.

**2. Scope.**

Design: TAA will select and contract with a design firm to design the District Regional Facility. The design firm will be selected in accordance with applicable Arizona law and TAA procurement rules. The design must eliminate the current breakout from Hughes Wash Watershed into Airfield Wash Watershed by either of the following: Improve channel capacity without adverse downstream impacts or reduction of peak discharge through modification of the current proposed upstream detention basin(s) (volume and/or pond outlets). Separately, the District will select and contract with an engineering firm to incorporate the TAA design firm's proposed infrastructure into the Airport Wash South Basin Management Study floodplain mapping to verify the hydrologic and hydraulic design meets appropriate regulations and agreements.

Construction: TAA will contract with a construction firm to construct the District Regional Facility. The parties intend this to be done via separate change order to the existing Construction Manager at Risk (CMAR) contract on the ASE Project to realize savings to the District and public funds, by taking advantage of efficiencies associated with the related drainage element of the ASE Project already included in the CMAR's scope of work.

**3. Financing and Access.** The District will be responsible for all costs associated with the design and construction of the District Regional Facility. The District funding will not hold up any planned TAA improvements.

**a. Design.** No later than 60 days after the effective date of this Agreement, District will deposit with TAA the amount of \$70,000 which represents the District's and TAA's initial estimate of the costs of design for the District Regional Facility. Any variation from the original agreed upon scope will be reviewed and approved by the District prior to TAA authorizing the addition work or expense. If the amount on deposit with TAA is insufficient to pay all costs associated with the District Regional Facility design, District will pay any and all invoices from TAA for all approved amounts over and above the amount deposited with TAA for the District Regional Facility design. Such payments from District to TAA shall follow all prompt payment requirements of public entities under Arizona law, as if TAA were District's contractor.

**b. Construction.** Prior to a Notice to Proceed by TAA to its contractor, TAA and District will review the estimated cost of construction of District Regional Facility. If

the estimated cost of the Facility is determined to be excessive by either, this agreement to construct can be terminated. If determined to be acceptable, District will deposit with TAA the amount of \$650,000, which represents the estimate of the costs of construction for the District Regional Facility. TAA will draw down these funds based on District approved, invoiced work. Any change orders, variations in field conditions, or other factors leading to additional costs will be reviewed and approved by the District prior to TAA authorizing their contractor to proceed. Any field changes requested by TAA solely related to TAA's ASE Project shall be the financial responsibility of TAA. Any field changes requested by the District shall be the financial responsibility of the District. If the amount on deposit with TAA is insufficient to pay all costs associated with the construction, District will pay any and all invoices from TAA for all amounts over and above the amount deposited with TAA for District-approved increases to the District Regional Facility construction. Such payments from District to TAA shall be in compliance with all prompt payment requirements of public entities under Arizona law, as if TAA were District's contractor. The District will provide a construction Liaison that will be given reasonable access to construction of the District Regional Facility and invited to attend construction meetings related to these improvements.

- i. District will pay for improvements associated with the District Regional Facility including grading, erosion protection, final stabilization and modification of inlet/outlet structures. If grading is concurrent to TAA facility grading, SWPPP measures and inspection will be considered incidental to the TAA contract. Any associated modifications to runway/taxiway or storm drain systems is excluded from District costs unless caused by the needs of the District Regional Facility. Any environmental or hazardous materials remediation costs related to construction of District Regional Facility are the responsibility of TAA. TAA agrees to incorporate any and all Fill material generated from the District Regional Facility or otherwise accept it on the TAA property. Fill material becomes the property of TAA and/or its contractor after placement.
- c. **Maintenance.** TAA will be responsible for maintenance activity and costs associated with District Regional Facility.
- d. **Facility Inspection.** TAA agrees to allow District Personnel or their designee access to the District Facilities to conduct annual inspection and inspections following significant storm events. District shall provide 48 hours' notice and coordinate access with TAA.
  - i. Upon request, subject to all applicable TAA security requirements and available personnel, District shall be granted physical access and will be granted Right of Entry for the purpose of periodic inspection of the District Regional Facility
  - ii. Activities of TAA on the District Regional Facility shall not alter the flood control function of the structures. This includes modifying the inlet and outlet structures, excavating or filling any portion of the basin, channel or culvert in

such a manner that would impact capacity of flood waters or stability of the side slopes. Any proposed alteration of the facilities in the future will be submitted to the District for review and approval prior to implementation. Review/approval of the alteration will be based on the proposed impact to the flood control capacity/function of the Regional Facility.

4. **Term.** This IGA will be effective on the date it is fully executed by both parties and will continue from year to year until all amounts due and owing to TAA from the District under this IGA are paid in full and construction of District Regional Facility is complete and accepted or until terminated in accordance with paragraph 19.
5. **Indemnification.** Each party (as Indemnitor) agrees to indemnify, defend and hold harmless the other party (as Indemnitee) for, 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 associated with their performance of this IGA, 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. This provision survives the termination of this agreement.
6. **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:
  - a) Commercial General Liability in the amount of \$2,000,000.00 combined single limit Bodily Injury and Property Damage.
  - b) Commercial or Business automobile liability coverage for owned, non-owned and hired vehicles used in the performance of this Contract with limits in the amount of \$1,000,000.00 combined single limit or \$1,000,000.00 Bodily Injury, \$1,000,000.00 Property Damage.
  - c) If this Contract involves professional services, professional liability insurance in the amount of \$1,000,000.00.
  - d) If required by law, workers' compensation coverage including employees' liability coverage.

Each party will provide thirty (30) days written notice to the other party of cancellation, non-renewal or material change of coverage.

The above requirement may be alternatively met through self insurance pursuant 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 article.

7. **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.

8. **Non-Discrimination.** 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 in the course of carrying out their duties under this IGA. The parties will comply with the provisions of Executive Order 75-5, as amended by Executive Order 2009-09, which is incorporated into this IGA by reference.
9. **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.
10. **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.
11. **Conflict of Interest.** This contract 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 Flood Control District Board of Supervisors or the Board of Directors of the Tucson Airport Authority 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, and any license entered into pursuant to Paragraph 3.c above will immediately terminate.
13. **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.
14. **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.
15. **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.

16. **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.
17. **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: Tucson Airport Authority

Suzanne Shields, PE Director Pima County Regional Flood Control District 201 N Stone Ave., 9 <sup>th</sup> Floor Tucson, AZ 85701	Bruce Goetz Executive Vice President/COO Tucson Airport Authority 7250 S. Tucson Blvd, Suite 300 Tucson, AZ 85756
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Tucson, AZ 85701

*With copies to:*

County Administrator  
130 West Congress St., 10th Floor  
Tucson, Arizona 85701

Clerk of the Board  
130 West Congress, 5<sup>th</sup> Floor  
Tucson, Arizona 85701

18. **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.

**19. Termination**

- a. TAA has zero financial responsibility if the agreement is terminated and the District has to find a different regional flood control solution offsite, except that TAA agrees to pay to District any unobligated funds prepaid to TAA by District that TAA holds as part of this Agreement.
- b. This Agreement may be earlier terminated under the following circumstances:



- i. For Cause. A party may terminate this Agreement for a material default by the other party. Prior to any termination under this paragraph, the party alleging the default will give written notice to the party alleged to be in default. The party said to be in default will have forty-five (45) days to cure the default. If the default is not cured within that time, the other party may terminate this Agreement. Any such termination will not relieve either party from liabilities or costs already incurred under this Agreement.
- ii. Failure to Agree on Project Plans. This Agreement will automatically terminate if the Parties fail to agree on the Project Plans. District agrees to pay for costs incurred and TAA agrees to return remaining unobligated funds prepaid to TAA by District.

*In Witness Whereof*, District has caused this Agreement to be executed by the Chair of its Board of Directors, upon resolution and attested to by the Clerk of the Board, and TAA has caused this Intergovernmental Agreement to be executed by the TAA President/CEO with the authority she has pursuant to the TAA Bylaws and TAA Board of Directors delegation.

TUCSON AIRPORT AUTHORITY:


  
\_\_\_\_\_  
Danette Bewley, AAE  
President/CEO

ATTEST:  
  
\_\_\_\_\_  
Clerk

**PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT:**

\_\_\_\_\_  
Chair  
Board of Directors

ATTEST:  
  
\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO CONTENT:  
  
\_\_\_\_\_

## Intergovernmental Agreement Determination

The foregoing Intergovernmental Agreement between Pima County Flood Control District and the Tucson Airport Authority 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.

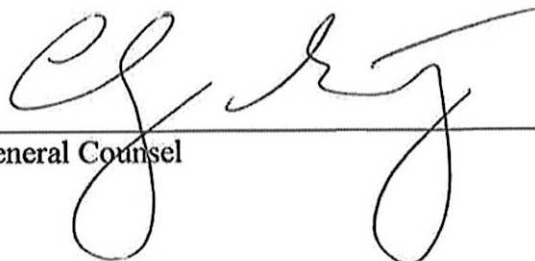
**PIMA COUNTY  
FLOOD CONTROL DISTRICT:**



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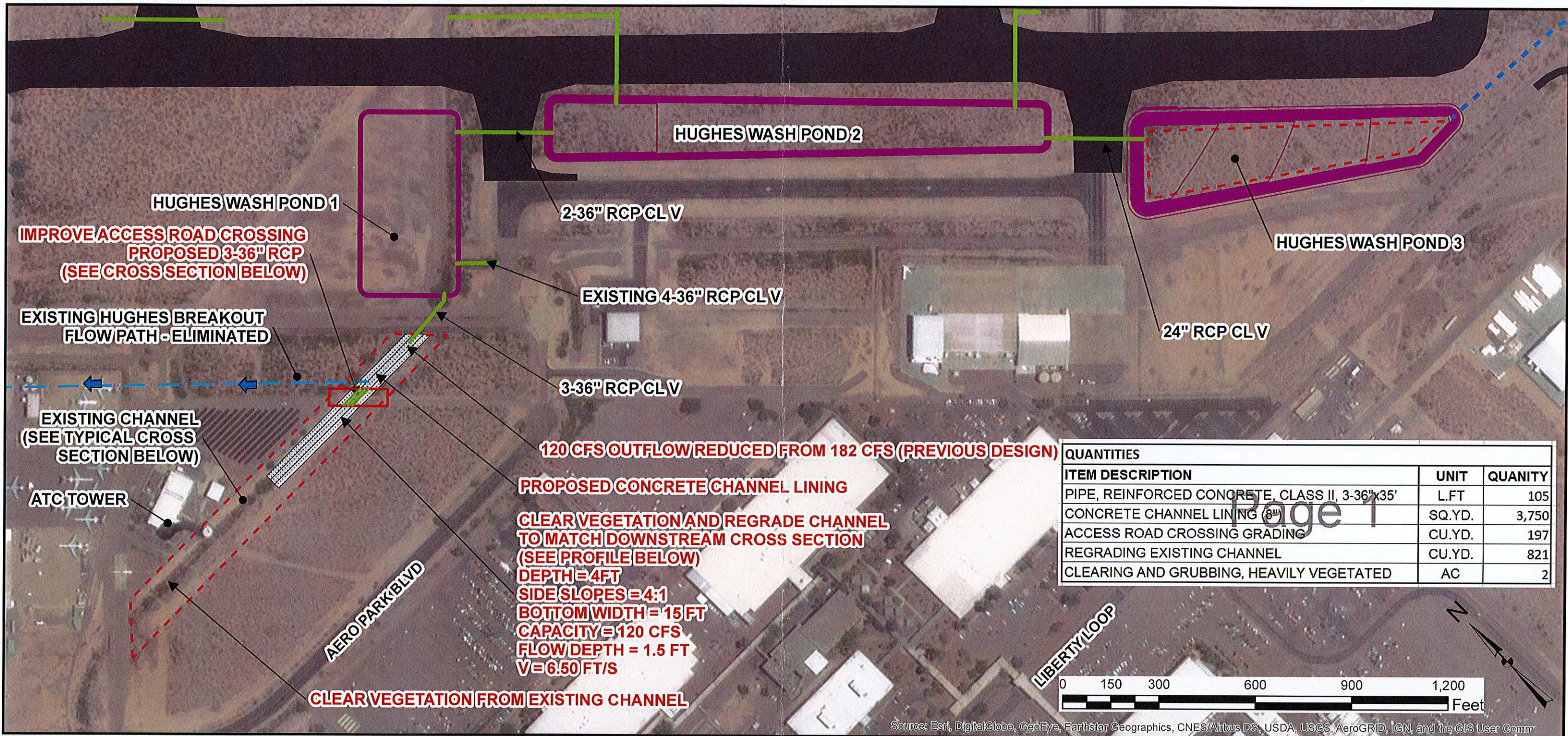
Michael LeBlanc  
Deputy County Attorney

**TUCSON AIRPORT AUTHORITY**



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General Counsel



QUANTITIES		
ITEM DESCRIPTION	UNIT	QUANTITY
PIPE, REINFORCED CONCRETE, CLASS II, 3-36"x35'	L.FT	105
CONCRETE CHANNEL LINING (8")	SQ.YD.	3,750
ACCESS ROAD CROSSING GRADING	CU.YD.	197
REGRAIDING EXISTING CHANNEL	CU.YD.	821
CLEARING AND GRUBBING, HEAVILY VEGETATED	AC	2

**LEGEND**

- PROPOSED CHANNEL LINING
- CMAR PROJECT IMPROVEMENT LIMITS
- PROPOSED PIPES
- PROPOSED POND
- PROPOSED OPEN CHANNEL
- HUGHES WASH BREAKOUT FLOW

**ABC PIMA IMPROVEMENTS**

