



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

Requested Board Meeting Date: April 19, 2016

or Procurement Director Award ☐

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

Project Title/Description:

Saguaro Bloom Sewer including force main sewer line under Santa Cruz River Channel, and associated levees and bank protection

Purpose:

Marana needs a temporary construction easement and a permanent sewer easement from the Regional Flood Control District

Procurement Method:

Intergovernmental Agreement

Program Goals/Predicted Outcomes:

Construction of sewer in cooperation with the Regional Flood Control District

Public Benefit:

Marana will provide sewer services to the Saguaro Bloom development project and construct the project in a manner acceptable to the Regional Flood Control District.

Metrics Available to Measure Performance:

Marana will pay appraised value of the easements in the amount of \$512.

Retroactive:

No

Original Information

Document Type: CTN Department Code: PW Contract Number (i.e., 15-123): 16*0149

Effective Date: 4/19/2016 Termination Date: 12/31/2017 Prior Contract Number (Synergen/CMS): _____

☐ Expense Amount: \$ _____ ☒ Revenue Amount: \$ 512.00

Funding Source(s): Regional Flood Control District

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

Amendment No.: _____ AMS Version No.: _____

Effective Date: _____ New Termination Date: _____

☐ Expense ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ _____

Funding Source(s): _____

Cost to Pima County General Fund: _____

To: COB- 4-13-16 (3)

Ver. - 1

Pgs - 13

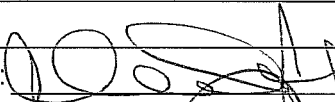
Addendum

Contact: Neil J Konigsberg

Department: Real Property Services

Telephone: 724-6582

Department Director Signature/Date:

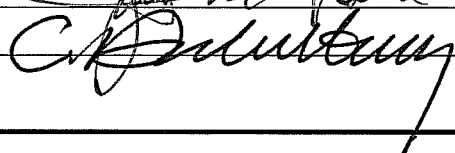
 4-8-2016

Deputy County Administrator Signature/Date:

 4/11/16

County Administrator Signature/Date:

(Required for Board Agenda/Addendum Items)

 4-11-16

CONTRACT	
NO. <u>CTN. PW-16-149</u>	
AMENDMENT NO. _____	
This number must appear on all invoices, correspondence and documents pertaining to this contract.	

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE
PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT AND
THE TOWN OF MARANA FOR
CONSTRUCTION AND MAINTENANCE OF THE
SAGUARO BLOOM SEWER LINE UNDER THE
LOWER SANTA CRUZ LEVEE**

(TOWN OF MARANA, PIMA COUNTY, ARIZONA)

This Intergovernmental Agreement ("Agreement") is entered into by and between the PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT (the "District"), a political taxing subdivision of the State of Arizona, and the TOWN OF MARANA (the "Town"), an Arizona municipal corporation, pursuant to Arizona Revised Statutes Section (A.R.S. §) 11-952.

RECITALS

- A. The District is authorized by A.R.S. § 48-3606 (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.
- B. The Town and the District have statutory authority to enter into intergovernmental agreements for joint and cooperative action pursuant to A.R.S. § 11-952.
- C. The Town anticipates executing within the next six months an agreement to construct a sewer force main and associated structures that cross under river channel and FEMA-accredited levee under the Santa Cruz River (the "Project"), as depicted in the attached **Exhibit A**.
- D. Construction of the Project is scheduled to commence in 2016, subject to acquisition of necessary permits, easements and utility clearances, and is currently estimated to be completed approximately 24 months after the start of construction.
- E. The Town needs a temporary construction easement from the District to construct the Project and a permanent easement from the District to operate and maintain the sewer line and related improvements.
- F. The Town engaged an independent appraiser to determine the total just compensation due to the District for the permanent easement, and the District reviewed the appraisal report and concurred in the appraiser's opinion of total just compensation due.
- G. The District and the Town desire to establish specific responsibilities as to the construction, operation, and maintenance of the Project and related facilities located on District property.

AGREEMENT

SECTION 1. PURPOSE

The purpose of this Agreement is to set forth the responsibilities of the parties regarding the construction, operation and maintenance of the Project, the easement rights necessary for the Project, and to address legal and administrative matters among the parties.

SECTION 2. THE PROJECT

The Project consists of the construction of the Saguaro Bloom Sewer, which includes a force main sewer line under the Santa Cruz River Channel, and associated FEMA-accredited levees and bank protection. The Project will connect the Saguaro Bloom development project to the Town-owned and -operated municipal wastewater utility, in accordance with paragraph 15.3.4 ("Saguaro Bloom") of the April 9, 2013 "Intergovernmental Settlement Agreement between Pima County and the Town of Marana Relating to the Provision of Sewer Service."

SECTION 3. TOWN OBLIGATIONS AND RESPONSIBILITIES

- 3.1. The Town shall design and construct the Project in accordance with the Project plans and specifications as set forth for Town of Marana Project Number WR010, Tangerine/ Downtown Sewer Conveyance System Phase II (the "Project Plans"). In addition to the Project Plans, the Town shall provide copies of the drainage report and environmental reports to the District. The Town acknowledges that the Project will require a Floodplain Use Permit and will be subject to all the terms and conditions thereof.
- 3.2. The Town shall obtain all necessary permits including, but not limited to, permits required pursuant to Section 404 of the Clean Water Act, dewatering permits, and AZPDES construction general permit.
- 3.3. During construction of the Project, the Town will have responsibility for all grounds, structures and improvements, and all activities occurring within the Project limits including all necessary inspections, maintenance and repair of the Project and the Lower Santa Cruz River Levee and bank protection as result of the Project.
- 3.4. In the spirit of collaboration, the Town shall confer with the District throughout the construction of the Project for the purpose of facilitating the timely and satisfactory completion of the Project.
- 3.5. The Town shall confer with the District before constructing any improvements, structures or other modifications not included in the Project Plans. The Town has agreed to construct the sewer line using Horizontal Directional Drilling which should not directly impact the Lower Santa Cruz Levee and bank protection on the north bank of the river.
- 3.6. On completion of the Project and all related features and appurtenances, the Town shall assume full responsibility and liability for the sewer and all related facilities. In addition, the Town acknowledges responsibility and liability for damage to the Lower Santa Cruz Levee and bank protection as a result of construction of the Project or maintenance of the sewer line. Further, the Town acknowledges that damage from settling may occur after construction and the Town remains liable for such occurrences even after construction of the Project is complete.

- 3.7. The Town agrees to restore the south bank portion of the Lower Santa Cruz Levee to its pre-Project condition and provide an "As-built" certification of the replacement. The certification shall be sealed by and Arizona-registered civil engineer.
- 3.8. The Town shall inform the District when maintenance of the sewer line is required within the vicinity of the District's drainage infrastructure. The end result of any maintenance of the sewer line is not to impact the performance or certification of any FEMA accredited levee system.
- 3.9. The Town shall provide survey and legal descriptions for the temporary and permanent easements and shall provide staking of such at the District's request.
- 3.10. The Town shall, within 30 days of the execution of this Agreement, pay to the District the sum of FIVE HUNDRED TWELVE DOLLARS and No/100 (\$512.00) in total just compensation for the District's grant of the permanent easement under Section 4.3 of this Agreement.

SECTION 4. DISTRICT OBLIGATIONS AND RESPONSIBILITIES

- 4.1. Upon execution of this Agreement, the District shall grant to the Town a temporary construction easement over District property (originally acquired in the name "Pima County Flood Control District"), authorizing the Town to enter upon the District-owned property described in the attached **Exhibit B**, for the purpose of constructing the Project and all related improvements.
- 4.2. The District shall confer, as needed, with the Town throughout the construction of the Project for the purpose of facilitating a timely and satisfactory completion of the Project.
- 4.3. On completion of the Project and all related features and appurtenances, and after the Town's payment of just compensation described in Section 3.10 of this Agreement, the District shall grant to the Town a permanent easement for the Saguaro Bloom Sewer over the District-owned real property described in attached **Exhibit C** ("Permanent Easement Area").
- 4.4. On completion of the Project and all related features and appurtenances, the District agrees to perform periodic inspection of the Lower Santa Cruz Levee and bank protection in the vicinity of the Project, and alert the Town of any signs of impact to the infrastructure due to the sewer.
- 4.5. After completion of the Project, the District shall inform the Town of any levee maintenance needs in the vicinity of the sewer line.

SECTION 5. OWNERSHIP OF PROJECT FACILITIES

- 5.1. Upon completion of the Project, ownership of the Saguaro Bloom Sewer shall automatically vest in the Town and no other action shall be necessary to establish the Town's ownership of the Saguaro Bloom Sewer; that is, all sewer utility improvements constructed in connection with the Project.
- 5.2. The parties agree to notify each other in case any event occurs after the Project is completed requiring significant operations, repairs, maintenance activities, etc. The parties further agree that this commitment will survive the termination or expiration of this Agreement.

SECTION 6. EFFECTIVE DATE AND DURATION

- 6.1. This Agreement shall be effective upon the date of complete execution by the Parties and shall expire no later than December 31, 2017, unless terminated or extended pursuant to the terms contained herein.
- 6.2. This Agreement may be extended or terminated at any time by mutual agreement of the parties and execution of an amendment that accomplishes such action.
- 6.3. This Agreement is subject to the provisions of A.R.S. § 38-511, which allows for cancelation of contracts by governmental entities in certain instances involving conflicts of interest.

SECTION 7. LEGAL JURISDICTION

Nothing in this Agreement shall be construed as either limiting or extending the legal jurisdiction of the District or the Town.

SECTION 8. NO JOINT VENTURE

This Agreement shall not be construed to create any partnership, joint venture or employer-employee relationship between the Town and the District. No party shall be liable for any debts, accounts, obligations, or other liabilities whatsoever of the other party as a result of this Agreement, including, without limitation, any party's obligation to withhold Social Security and income taxes for itself or its employees.

SECTION 9. NO THIRD PARTY BENEFICIARIES

This Agreement shall not create any right to any person or entity as a third party beneficiary.

SECTION 10. COMPLIANCE WITH LAWS

The parties shall comply with all applicable federal, state and local laws, rules, regulations, standards and executive orders, without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Agreement and any disputes under this Agreement. Any action relating to this Agreement shall be brought in an Arizona court.

- 10.1. *Anti-Discrimination.* The provisions of A.R.S. § 41-1463 and Executive Order Number 2009-09 issued by the Governor of the State of Arizona are incorporated by this reference as a part of this Agreement.
- 10.2. *Americans with Disabilities Act.* This Agreement is subject to 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.

SECTION 11. FORCE MAJEURE

A party shall not be in default under this Agreement if it does not fulfill any of its obligations under this Agreement because it is prevented or delayed in doing so by reason of uncontrollable forces. The term "uncontrollable forces" shall mean, for the purpose of this Agreement, any cause beyond the control of the party affected, including but not limited to floods, earthquakes, acts of God, or orders of any regulatory government officer or court (excluding orders

promulgated by the parties themselves), which, by exercise of due diligence and foresight, such party could not reasonably have been expected to avoid. Any party rendered unable to fulfill any obligations by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

SECTION 12. WAIVER

Waiver by any party of any breach of any term, covenant or condition herein contained shall not be deemed a waiver of any other term, covenant or condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

SECTION 13. INDEMNIFICATION

- 13.1. *Mutual Indemnity.* To the fullest extent permitted by law, each party to this Agreement shall indemnify, defend and hold the other party, its governing board or body, officers, departments, employees and agents, harmless from and against any and all suits, actions, legal or administrative proceedings, claims, demands, liens, losses, fines or penalties, damages, liability, interest, attorney's, consultant's and accountant's fees or costs and expenses of whatsoever kind and nature, resulting from or arising out of any act or omission of the indemnifying party, its agents, employees or anyone acting under its direction or control, whether intentional, negligent, grossly negligent, or amounting to a breach of contract, in connection with or incident to the performance of this Agreement.
- 13.2. *Notice.* Each party shall notify the other in writing within 30 days of the receipt of any claim, demand, suit or judgment against the receiving party for which the receiving party intends to seek indemnity from the other party to this Agreement. Each party shall keep the other party informed on a current basis of its defense of any claims, demands, suits, or judgments in matters for which indemnity will or may be sought under this Agreement.
- 13.3. *Negligence of indemnified party.* The obligations under this SECTION 13 shall not extend to the negligence of the indemnified party, its agents or employees.
- 13.4. *Survival of termination.* This SECTION 13 shall survive the termination, cancellation or revocation, whether in whole or in part, of this Agreement.

SECTION 14. INSURANCE

Each party to this Agreement warrants that it is self-insured or otherwise maintains adequate insurance to fully cover that party's liability regarding the Project.

SECTION 15. BOOKS AND RECORDS

Each party shall keep and maintain proper and complete books and records. All design and construction drawings, records, documentation and correspondence shall be the property of the Town at the completion of the Project, except copies maintained by the District for its records. Within three months after the Town's acceptance of the Project, the Town shall provide, at no cost to the District, "As-Built" original drawings of the Project, including restoration of the southern portion of the Lower Santa Cruz Levee.

SECTION 16. INSPECTION AND AUDIT OF RECORDS

The appropriate designated representatives of either party may perform any inspection of the Project or reasonable audit of any books or records of the other party to confirm that the Project has been operated and maintained in accordance with this Agreement. Each party shall maintain any and all records regarding the Project for a minimum of five years after the completion of the Project and its acceptance by the Town.

SECTION 17. SEVERABILITY

If any provision of the Agreement or the application thereof is held invalid, such invalidity shall have no effect on other provisions and their application which can be given effect without the invalid provision, or application, and to this extent the provisions of the Agreement are severable.

SECTION 18. REMEDIES

Any dispute arising under this Agreement shall be reviewed and resolved by the officially designated Chief Engineer of each party and in the event resolution cannot be accomplished thereby, the dispute shall be submitted to the Town Manager and District General Manager for resolution.

SECTION 19. NOTIFICATION

All notices or demands upon any party to this Agreement shall be in writing, unless other forms are designated elsewhere, and shall be delivered in person or sent by mail addressed as follows:

To the Town: John Kmiec, Director
Marana Water Department
5100 West Ina Road
Tucson, Arizona 85743

With a copy to: Marana Town Attorney
11555 West Civic Center Drive
Marana, Arizona 85653

To the District: Suzanne Shields, P.E., Director
Pima County Regional Flood Control District
97 East Congress Street, 3rd Floor
Tucson, Arizona 85701

With a copy to: Pima County Attorney
32 North Stone, Suite 2100
Tucson, Arizona 85701-1412

SECTION 20. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Town has caused this Agreement to be executed by the Mayor, upon resolution of the Mayor and Council and attested to by the Town Clerk, and the District has caused this Intergovernmental Agreement to be executed by the Chair of its Board of Directors, upon resolution of the Board and attested to by the Clerk of the Board.

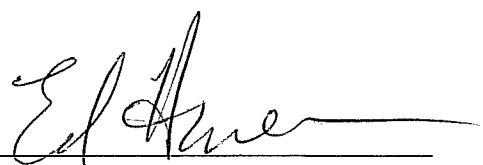
The "District"

PIMA COUNTY REGIONAL FLOOD CONTROL
DISTRICT, a political taxing subdivision of the
State of Arizona

The "Town"

TOWN OF MARANA, an Arizona municipal
corporation

By: _____
Chair, Board of Directors

By: 
Mayor Ed Honea


Date: _____

Date: 3/1/2016

ATTEST:

ATTEST:

Clerk of the Board


Jocelyn Bronson, Town Clerk

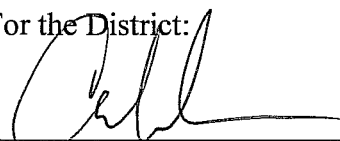
Date: _____

Date: 3/1/2016

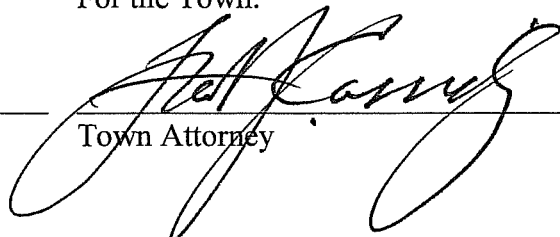
INTERGOVERNMENTAL AGREEMENT DETERMINATION

The foregoing Intergovernmental Agreement between the Pima County Regional Flood Control District and the Town of Marana has been reviewed pursuant to A.R.S. Section 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 Agreement represented by the undersigned.

For the District:


Deputy County Attorney
ANDREW FLAGG

For the Town:


Town Attorney

**EXHIBIT A TO
INTERGOVERNMENTAL AGREEMENT BETWEEN THE
PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT AND
THE TOWN OF MARANA FOR
CONSTRUCTION AND MAINTENANCE OF THE
SAGUARO BLOOM SEWER LINE UNDER THE
LOWER SANTA CRUZ LEVEE**

[Plan set entitled "TOWN OF MARANA PUBLIC SEWER IMPROVEMENT PLAN TANGERINE/
DOWNTOWN SEWER CONVEYANCE SYSTEM PHASE II T.O.M. PROJECT NUMBER WR010,"
the 90% plans of which are currently on file with the Town of Marana Public Works Department, 11555
W. Civic Center Dr., Marana, AZ 85653]

CONTINUATION OF
EXHIBIT A

PCDOT & FCD
JUNE 2, 1997

Parcel O

**LEGAL DESCRIPTION
FOR THE PROPOSED TAKE OF A PORTION OF
THE NORTHWEST QUARTER
SECTION 7, T 12S, R 12E**

PARCEL 3:

That portion of the northwest quarter of Section 7, Township 12 South, Range 12 East, Gila and Salt River Meridian, Pima County, Arizona, described as follows:

BEGINNING at the north quarter corner of said Section 7;

THENCE S 00° 35' 16" E along the east line of the northwest quarter of Section 7 a distance of 760.49 feet;

THENCE N 63° 17' 44" W a distance of 1667.30 feet to a point on the northerly line of said Section 7;

THENCE N 89° 34' 04" E along the north line of the northwest quarter of Section 7, a distance of 1481.70 feet, the **POINT OF BEGINNING**.

Containing approximately 12.93 ± acres.

CONTINUED

TAX CODE NO: 216-14-005
OWNER: B.K.W. Farms

10878 3205

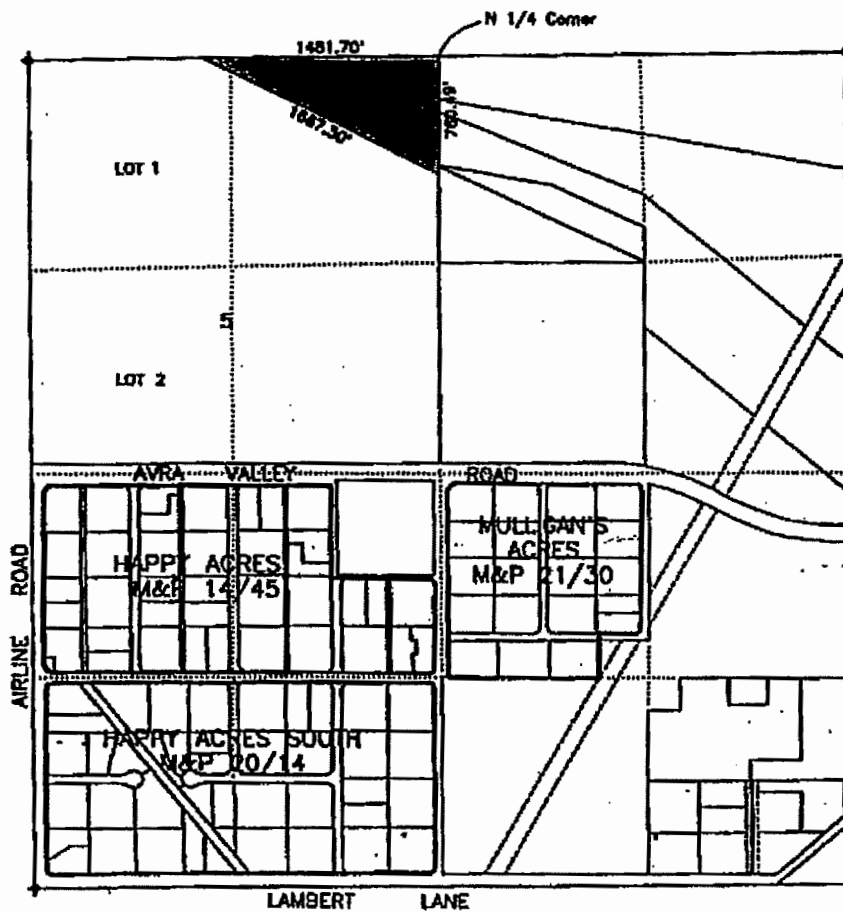
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TOWNSHIP 12 SOUTH

SECTION 07
TOWNSHIP 12 SOUTH
RANGE 12 EAST

EXHIBIT A

216-14



10878 8206

4FJAP



PIMA COUNTY DEPARTMENT OF TRANSPORTATION
TECHNICAL SERVICES DIVISION

Page 6 of 6

100-12 00-1-10



Stantec Consulting Services Inc.
5151 E Broadway Boulevard Suite 400, Tucson AZ 85711-3712

DESCRIPTION OF A PUBLIC SEWER EASEMENT

DESCRIPTION of a public sewer easement over, under and across a portion of Pima County Assessor Parcel No. 216-14-005B, located in the Northwest Quarter of Section 7, Township 12 South, Range 12 East, G&SRM, Pima County, Arizona. Said easement being more fully described as follows:

BEGINNING at the North Quarter corner of said Section, marked by a found 2-inch pipe with nail, from which the Center of said Section 7, marked by a found 2-inch brass cap, bears South 00°39'27" East, a distance of 2639.97 feet;

THENCE South 00°10'20" West a distance of 510.84 feet;

THENCE South 63°05'17" East a distance of 5.14 feet;

THENCE South 00°09'13" West a distance of 254.64 feet, more or less, to a point on the South line of said parcel;

THENCE along said South line, North 63°10'29" West a distance of 56.18 feet;

THENCE departing said line, North 00°08'15" East a distance of 254.77 feet;

THENCE South 63°05'17" East a distance of 17.57 feet;

THENCE North 00°10'20" East a distance of 495.47 feet, more or less, to a point on the North line of said parcel;

THENCE North 89°42'10" East a distance of 30.00 feet to the **POINT OF BEGINNING**.

The above described easement contains 27,891 square feet or 0.640 acres of land, more or less.

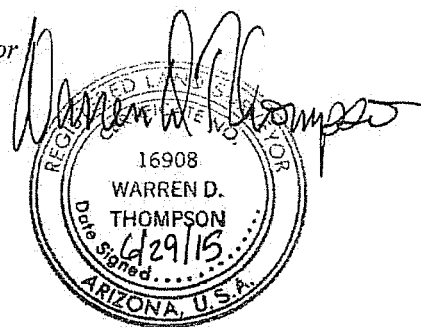
Stantec Consulting accepts no liability for this description if it has been modified or reformatted in any way from its original format and content, or used for any purpose other than that for which it was originally intended.

Prepared by Warren D. Thompson, RLS 16908

Prepared on May 29, 2015

Prepared for and on behalf of Stantec Consulting Services Inc.

Project Number: 181300419



EXPIRES ON 9-30-2016



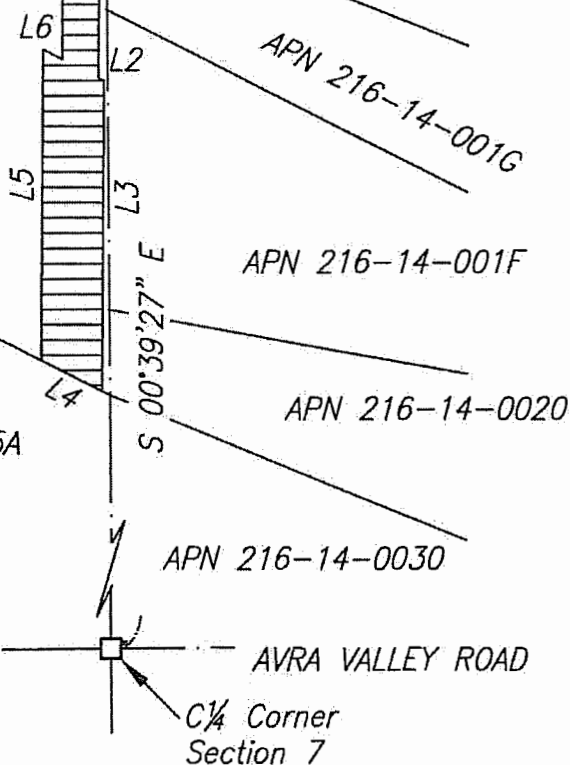
Point of Beginning
N $\frac{1}{4}$ Corner
Section 7

LINE TABLE		
LINE	LENGTH	BEARING
L1	510.84	S00°10'20"W
L2	5.14	S63°05'17"E
L3	254.64	S00°09'13"W
L4	56.18	N63°10'29"W
L5	254.77	N00°08'15"E
L6	17.57	S63°05'17"E
L7	495.47	N00°10'20"E
L8	30.00	N89°42'10"E

APN 216-12-009K

APN 216 12 0350

APN 216-14-005B
TOWNSHIP 12 SOUTH
RANGE 12 EAST
SECTION 07



APN 216-14-005A

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6/29/2015 1:02 PM

ORIGINAL SHEET - ANSI A

May 2015
181300419



5151 E. Broadway Blvd., Suite 400
Tucson, AZ 85711
www.stantec.com

EXHIBIT C TO TOWN OF MARANA/PCR FCD IGA Sewer Easement Exhibit
Page 2 of 2

Client/Project

TOWN OF MARANA
TANGERINE/DOWNTOWN
SEWER - WR010

Figure No.

1.0

Title

APN 216-14-005B

MARANA RESOLUTION NO. 2016-023

RELATING TO PUBLIC WORKS; APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT AND THE TOWN OF MARANA FOR CONSTRUCTION AND MAINTENANCE OF THE SAGUARO BLOOM SEWER LINE UNDER THE LOWER SANTA CRUZ LEVEE

WHEREAS the Town of Marana is constructing the Tangerine/Downtown Sewer Conveyance System, Town of Marana Project Number WR010 (the "DT Sewer Project"); and

WHEREAS Phase I of the DT Sewer Project is currently under construction and the final plans for Phase II of the DT Sewer Project are nearing completion; 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 intergovernmental agreement addressed by this resolution.


NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, that the "Intergovernmental Agreement between the Pima County Regional Flood Control District and the Town of Marana for Construction and Maintenance of the Saguaro Bloom Sewer Line Under the Lower Santa Cruz Levee" 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 intergovernmental agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of March, 2016.

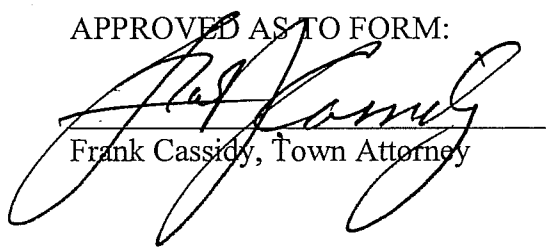


ATTEST:


Jocelyn C. Bronson, Town Clerk


Mayor Ed Honea

APPROVED AS TO FORM:


Frank Cassidy, Town Attorney