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BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: September 3, 2013

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

The Pima County Regional Flood Control District requests approval to amend the Intergovernmental Agreement (IGA) to facilitate completion of the Pascua Yaqui Tribe's Black Wash flood control project approved by voters in the 2004 Bond package. The 2004 Bond amount approved was \$1,000,000. Design was completed under a prior IGA that expired in 2007 due to inaction by the Tribe. In 2009, a second IGA was approved at the Tribe's request and utility relocation was completed. Two days prior to the expiration of the second IGA on June 28, 2013, the Tribe requested an amendment to facilitate completion of the project with the remaining funds of \$471,863. The Tribal Council approved the amendment on July 10, 2013.

CONTRACT NUMBER (If applicable): 01-59-P-141987-0602

STAFF RECOMMENDATION(S): Approval

| CLERK OF BOARD USE ONLY: BOS MTG |
|--|
| ITEM NO |
| PIMA COUNTY COST:0 and/or REVENUE TO PIMA COUNTY:\$ |
| FUNDING SOURCE(S): 2004 Bond (i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.) |
| Advertised Public Hearing: |
| YES X NO |
| Board of Supervisors District: |
| 1 2 3 4 5 X AII |
| IMPACT: |
| IF APPROVED: Tribe will complete selected drainage improvements. |
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| |
| IF DENIED: Flooding will continue in housing, government services, and commercial areas and all weather access will continue to be limited. |
| |
| DEPARTMENT NAME: Regional Flood Control District |
| CONTACT PERSON: Greg Saxe TELEPHONE NO.:724-4600 |
| DIRECTOR'S SIGNATURE: Suzanne Shields, P.E. |
| Page 2 of 2 |

PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT INTERGOVERNMENTAL AGREEMENT AMENDMENT CONTRACT PROJECT: Construction of the Pascua Yaqui NO. CT. FC: 12000000000001179 Reservation Local Drainage Improvements AMENDMENT NO. Parties: Pima County, Pima County Regional Flood This number must appear on all Control District and the Pascua Yagui Tribe invoices. correspondence and documents pertaining this PCRFCD CONTRACT NO.: 01-59-P-141987-0602 contract. IGA AMENDMENT No. One ORIG. AGREEMENT TERM: 06/02/2009 to 06/30/2013 ORIGINAL AMOUNT: \$832,870.50 TERMINATION DATE PRIOR AMENDMENT: N/A PRIOR AMENDMENTS: No change TERMINATION THIS AMENDMENT: 06/30/2016 THIS AMENDMENT: No change Amendment Number 1 WHEREAS, the Pima County Regional Flood Control District ("District"), Pima County ("County"), and the Pascua Yaqui Tribe ("Pascua Yaqui") entered into an Intergovernmental Agreement ("IGA"), Contract No. 01-59-P-141987-0602 for the Construction of Drainage Improvements on the Pascua Yaqui Reservation (the "Project"), and WHEREAS, the subject IGA is due to expire on June 30, 2013 although the Project has not been fully completed, and WHEREAS, the parties wish to extend the termination date of the IGA to accommodate the remainder of the Project, NOW, THEREFORE, in consideration of the above the effective period of the IGA is hereby extended to June 30. This Amendment shall be effective as of the date of the last signature below. Pascua Yaqui Tribe: ATTEST: Chairperson, Tribal Council Council Clerk date Pima County Regional Flood Control District ATTEST: Board of Directors: Clerk of the Board Ramón Valadez, Chairman date ATTEST: Pima County Board of Supervisors: Clerk of the Board Ramón Valadez, Chairman date

Approved as to form:

Deputy County Attorney for the County

JUL 3 0 2013

PASCUA YAQUI TRIBE

RFCD

RESOLUTION NO. C07-157-13

RESOLUTION OF THE PASCUA YAQUI TRIBE ADOPTING AMENDMENT NUMBER ONE TO THE 2009 PIMA COUNTY LOCAL DRAINAGE IMPROVEMENTS IGA WITH PIMA COUNTY, ARIZONA, FOR FLOOD CONTROL IMPROVEMENTS ON THE PASCUA YAQUI RESERVATION.

- WHEREAS, the Tribal Council is vested with the power to negotiate and execute agreements with state and local governments, including Pima County, to apply for and accept grants, and to appropriate available tribal funds for public, governmental and business purposes serving the general welfare of the Pascua Yaqui Tribe (Article VI, Sections 1(a), (d), and (s) of the Constitution of the Pascua Yaqui Tribe); and
- WHEREAS, the Tribal Council adopted Resolution C10-188-04 on December 7, 2004, approving the 2004 Pima County Local Drainage Improvements IGA (the "2004 Pima County IGA"), Contract No. 01-04-P-135374-1104, which allocates to the Tribe up to one million dollars (\$1,000,000) for reimbursement costs to construct drainage improvements designed to relieve localized flooding in and around the Pascua Yaqui Reservation; and
- WHEREAS, the term of the 2004 Pima County IGA expired on December 31, 2007, which was prior to the completion of the work called for in that agreement; and
- WHEREAS, the parties desired to extend the term for completion of the project, the Tribal Council approved Resolution C04-55-09 on April 7, 2009, which executed the 2009 Pima County Local Drainage Improvements IGA (the "2009 Pima County IGA"), Contract No. 01-59-P-141987-0602, extending the term for the completion of the project to June 30, 2013; and
- WHEREAS, the term of the 2009 Pima County IGA expired on June 30, 2013, before the project could be fully completed; and
- WHEREAS, the parties yet again desired to extend the term for completion of the project, Pima County has proposed an amendment (the "Amendment Number One") to the 2009 Pima County IGA, which is incorporated by reference, that extends the completion date of the agreement until June 30, 2016; and

PAGE 2 RESOLUTION NO. C07-157-13 2009 PIMA COUNTY IGA

WHEREAS, the Tribal Council of the Pascua Yaqui Tribe believes it is in the best interests of the health and welfare of the Pascua Yaqui Tribe, and its members, to adopt Amendment Number One to the 2009 Pima County IGA.

NOW THEREFORE BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE PASCUA YAQUI TRIBE that the Tribal Council hereby (1) approves Amendment Number One to the 2009 Pima County IGA, Contract No. 01-59-P-141987-0602, to extend the effective completion date of the project until June 30, 2016; (2) authorizes the Chairman of the Tribe to execute the amended agreement on behalf of the Tribe; and (3) authorizes the Chairman of the Tribe to sign all documents and take any necessary and proper action to execute, implement, and enforce Amendment Number One to the 2009 Pima County IGA, Contract No. 01-59-P-141987-0602.

CERTIFICATION

THE FOREGOING was on July 10, 2013 duly adopted by a vote of <u>TEN</u> in favor, <u>ZERO</u> opposed, and <u>ZERO</u> abstained, by the Tribal Council of the Pascua Yaqui Tribe pursuant to authority vested in it by Article VI, Section 1(a), (d), and (s) of the Constitution of the Pascua Yaqui Tribe, as adopted on January 26, 1988 and approved by the Secretary of the Interior on February 8, 1988 pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 48).

CHAIRMAN OF THE PASCUA YAQUI TRIBE

SECRETARY OF THE PASCUA YAQUI TRIBE