



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

Requested Board Meeting Date: 12/13/2016

or Procurement Director Award

Contractor/Vendor Name (DBA): U.S. Army Corps of Engineers

Project Title/Description:

Memorandum of Agreement (MOA) for the U.S. Army Corps of Engineers (Corps) to expedite their Section 404 review, evaluation and permitting of Regional Flood Control District (District) and Pima County projects

Purpose:

Section 214 of the Water Resources Development Act authorizes the Corps to accept and expend funds contributed by a non-federal public entity to expedite the review, evaluation and permitting for public projects under Section 404 of the Clean Water Act (CWA). This MOA allows the District to ensure County and District project design and construction activities are in compliance with the CWA, and provides for timely reviews and permitting to maintain project schedules.

This is the first amendment to the original MOA, which expires on December 31, 2016. The County and District's Capital Improvement Program (CIP) still has a demand for review and permitting under Section 404 of the CWA, and this amendment extends the MOA to December 31, 2020. The amendment is for an annual amount not to exceed \$174,817.07.

Procurement Method:

Program Goals/Predicted Outcomes:

The County and District project design and construction activities will be in compliance with the CWA, and will allow expedited reviews and permitting to maintain project schedules and project delivery.

Public Benefit:

The County and District will be in compliance with Section 404 of the CWA for the protection of Waters of the United States and the environment.

Metrics Available to Measure Performance:

CIP schedules and project delivery will be met.

Retroactive:

No

To: COB- 11-30-16 (1)
Pgs. 8

Original Information

Document Type: _____ Department Code: FC 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: CT Department Code: FC Contract Number (i.e.,15-123): 12-1947

Amendment No.: 1 AMS Version No.: 9

Effective Date: 12/13/2016 New Termination Date: 12/31/2020

Expense Revenue Increase Decrease Amount This Amendment: \$ 174,817.07

Funding Source(s): Flood Control Tax Levy

Cost to Pima County General Fund: NA

Contact: Suzanne Shields

Department: Pima County Flood Control District Telephone: 520-724-4680

Department Director Signature/Date: *Suzanne Shields*

Deputy County Administrator Signature/Date: *John W. Ford* 11/28/16

County Administrator Signature/Date: *C. R. Schubert* 11/29/16
(Required for Board Agenda/Addendum Items)



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CALIFORNIA 90017

FIRST AMENDMENT
To
MEMORANDUM OF AGREEMENT (137197)
BETWEEN
THE PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT,
THE REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY,
AND
THE U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

SUBJECT: First Amendment to Memorandum of Agreement between Pima County Regional Flood Control District, the Regional Transportation Authority of Pima County, and United States Army Corps of Engineers, Los Angeles District

This First Amendment to Memorandum of Agreement ("FIRST AMENDMENT") is entered into by Pima County Regional Flood Control District (hereinafter the "DISTRICT"), the Regional Transportation Authority of Pima County (hereinafter the "RTA"), and the United States Army Corps of Engineers, Los Angeles District (hereinafter the "Corps"), collectively referred to as the "Parties."

RECITALS

WHEREAS, the Corps has jurisdiction over certain activities occurring in waters of the United States, including wetlands, pursuant to section 404 of the Clean Water Act of 1972, as amended, and navigable waters of the United States pursuant to section 10 of the Rivers and Harbors Act of 1899, as amended; and

WHEREAS, the Parties entered into a Memorandum of Agreement ("MOA"), dated March 15, 2012, for expedited and priority review of DISTRICT and RTA-designated priority projects by the Corps; and

WHEREAS, the MOA is set to expire December 31, 2016; and

WHEREAS, section 214 of the Federal Water Resources Development Act of 2000, Public Law 106-541 ("WRDA 2000") as amended and codified at 33 U.S.C. § 2352 authorizes the Secretary of the Army, after public notice, to accept and expend funds contributed by a non-Federal public entity to expedite the evaluation of a permit of that entity related to a project or activity for a public purpose under the jurisdiction of the Department of the Army; and

WHEREAS, the Chief of Engineers, by memorandum dated September 2, 2015, has authorized the District and Division Engineers of the Corps to accept and expend funds contributed by non-Federal public entities subject to certain limitations; and

WHEREAS, the Parties desire to extend the duration of the MOA an additional four years to December 31, 2020; and

WHEREAS, the Corps has determined additional funding from the DISTRICT and RTA is necessary to continue to fund permit evaluation-related activities through December 31, 2020.

NOW, THEREFORE, the Parties agree as follows:

FIRST AMENDMENT

1. Article IV – RESPONSIBILITIES OF THE PARTIES. Paragraph B.2. of Article IV is deleted in its entirety and replaced with the following:

“2. Upon submittal of new permit applications and following any meetings and discussions to clarify the scope of anticipated permit application review processes, Corps staff will provide the DISTRICT and RTA with an estimated schedule to complete the permit evaluation process for each application submitted. The DISTRICT and RTA shall be able to comment on these schedules and adjust priorities per Appendix A, or provide additional resources per Article V.D.”

2. Article V -FUNDING. This entire Article is deleted in its entirety and replaced with the following:

“A. Within 30 days of execution of this MOA, the DISTRICT and RTA shall pay the anticipated costs expected to be incurred through September 30, 2017 at the level specified in the Corps’ budget estimate, which is included as Appendix B to this MOA and incorporated herein by reference. Separate amounts for DISTRICT and RTA priority projects shall be indicated.

B. No later than July 1 of each year that this MOA remains in effect, the Corps will provide the DISTRICT and RTA with an anticipated cost invoice (“Invoice”) that provides an updated budget estimate of costs for the next Federal fiscal year, including any proposed changes in level of staffing, less any estimated carry-over of unobligated funds, as provided in Article V.E, from the prior Federal fiscal year. Separate amounts for DISTRICT and RTA priority projects shall be specified. Each Invoice shall be provided on Corps letterhead, and include (1) the Corps’ name and address, (2) Corps’ remittance address, if different, (3) service dates, and (4) total amount. Revisions agreed to by the Parties will be incorporated into a revised budget estimate(s). Invoices will be submitted by the Corps to:

Pima County Regional Flood Control District
201 North Stone Avenue, 9th Floor
Tucson, Arizona 85701 – 1207

C. Prior to the Corps incurring any expenditure to expedite permit evaluation-related activities as specified in this MOA, the DISTRICT and RTA will each make a lump sum payment to the Corps of the total amount specified in the Appendix B budget estimate or the Corps’ Invoice(s). Payments by the DISTRICT and RTA are to be made by check

payable to the Finance and Accounting Officer and sent to the following address, unless the Corps provides a different remittance address in the Invoice:

U.S. Army Corps of Engineers, Los Angeles District
Finance and Accounting Officer
915 Wilshire Blvd.
Los Angeles, CA 90053-2325
Attn: Carlos M. Tabares

D. If the Corps' actual costs for providing the agreed upon level of service will at any time during the term of this MOA exceed the amount of funds available, the Corps will notify the DISTRICT and RTA at least ninety (90) days prior to fund exhaustion of the incremental amount of funds needed to defray the remaining anticipated costs. The DISTRICT and RTA will have the option of (i) making a payment to the Corps for the incremental amount, provided the total amount of payments to the Corps does not exceed the total funding amount, (ii) increasing the total funding amount through an amendment to this MOA, or (iii) agreeing to a reduced level of service.

E. The Corps will carry-over any unobligated funds from year to year, or will refund such unobligated funds if this MOA is terminated pursuant to Article IX.B or expires in accordance with Article XI."

3. Article X – MISCELLANEOUS. Paragraph B of Article X is deleted in its entirety.

4. Article XI - EFFECTIVE DATE. This Article is deleted in its entirety and replaced with the following:

"This MOA and any amendments will become effective on the date of signature by the last Party. Unless amended or modified pursuant to Article IX.A., this MOA shall remain in force until whichever of these events occurs first: 1) December 31, 2020 or 2) the MOA is terminated pursuant to Article IX.B."

5. Integration. This FIRST AMENDMENT represents the entire understanding of the Parties regarding the changes to the MOA. All other terms and conditions of the MOA remain in full force and effect.

[Signatures follow on next two pages]

IN WITNESS WHEREOF, this FIRST AMENDMENT is executed by DISTRICT and RTA, acting by and through their respective Boards of Directors, and by the U.S. Army Corps of Engineers, through its authorized officer.

PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT

BOARD OF SUPERVISORS

Chair

Date: _____

ATTEST:

Robin Brigode, Clerk of the Board

APPROVED AS TO FORM:

By: 

Deputy County Attorney
ANDREW FLAGG

REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY

Chairman, Board of Directors


APPROVED AS TO FORM:

By: _____

Counsel for RTA

Date: _____

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

By: 

Kirk E. Gibbs
Colonel, U.S. Army
Commander and District Engineer

Date: 4 NOV 16

Appendix A: DISTRICT and RTA Priority Projects

(Dated: November 23, 2011)

The list of priority projects under this MOA includes, but is not restricted to, the following:

1. Processing 404 Permits for RTA Roadway Element projects
2. Completing Preliminary Jurisdictional Delineations for RTA Roadway corridors including Period 2 Corridors:
 - a. Silverbell Road, Sunset Road
 - b. Valencia Road
 - c. Tangerine Road
 - d. Wilmot Road
 - e. La Cholla Blvd
3. Completing Preliminary Jurisdictional Delineations for Later roadway corridors:
 - a. Broadway, Camino Seco to Houghton
 - b. First Avenue, north of Orange Grove
 - c. 22nd Street, Golf Links to Irvington
 - d. Irvington, west of I-19 to Santa Cruz
4. Processing 404 Permits for RFCD Capital Improvement Projects
 - a. Paseo de las Iglesias
 - b. Pantano/Tanque Verde bank stabilization
5. Processing of RGP81 requests for various watercourse maintenance activities
6. Processing New Regional General Permit for Multispecies Conservation Plan
7. Development and implementation assistance for possible RFCD-sponsored in-lieu fee program
8. Processing Preliminary Jurisdictional Delineations and 404 Permits for various river park and other transportation-related projects, as required.



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
3636 N CENTRAL AVENUE, SUITE 900
PHOENIX, ARIZONA 85012-1939

September 21, 2016

SUBJECT: WRDA Appendix B

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

Dear Ms. Shields, P.E.:

I am writing in reference to the Memorandum of Agreement, (MOA No.: 137197), executed on March 18, 2013, between the Pima County Regional Flood Control District (District), the Regional Transportation Authority (RTA) of Pima County, and the U.S. Army Corps of Engineers, as amended, regarding the acceptance and use of Water Resources Development Act (WRDA) Section 214 funds. The Corps respectfully submits this invoice in the amount of **\$174,817.07** for expedited services to evaluate priority permit applications under the jurisdiction of the Corps. This annual estimate is further detailed in Appendix B, attached. This request is pursuant to Article V of the Memorandum of Agreement and authorized under the Water Resources Development Act (WRDA), section 214.

Payment by Electronic Funds Transfer (EFT) – Preferred Method:

This method can save weeks of processing and streamline receipt of funding. Please see the enclosed Standard Operating Procedure (SOP) for Electronic Funds Transfer by Non-Federal Sponsors from our Finance Center in Millington, Tennessee. This SOP provides instructions and information for your financial institution on how to use the EFT procedures using either the ACH CCD+ format or the ACH CTX format. The following information is provided to you as discussed in paragraph 4.c of the enclosed SOP:

Receiving ABA Number: 051036706
Account Number: 220025
Amount: \$174,817.07
Account/Receiver Name: USACE Finance Center
ROV Number: 1090
EROC: L1
Transfer Type: EFT
Receiving Bank: Federal Reserve Bank, New York
Advance Account Number: 568

Vendor ID Number: W7BH6L
Funded Work Item: H1295H

Payment by Check:

If you provide funds by check, please prepare it as follows. Send the check to the following address:

USACE Finance Center
5722 Integrity Drive
Millington, TN 38054

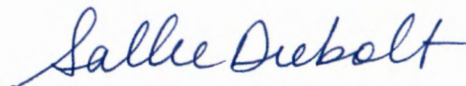
Make your check payable to "USAED Los Angeles, FAO" in the amount requested and include the following information:

CWIS number: 0WDLOC
ROV Number: 1090
EROC: L1
Advance Account Number: 568
Vendor ID Number: W7BH6L

Please also include the point of contact name, address and telephone number.

Should you have any questions or concerns, please do not hesitate to contact me at 602-230-6950 or via e-mail at Sallie.Diebolt@usace.army.mil.

Sincerely,



Sallie Diebolt
Chief, Arizona Branch
Regulatory Division