



## BOARD OF SUPERVISORS AGENDA ITEM REPORT

### CONTRACTS / AWARDS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: November 17, 2020

\* = Mandatory, information must be provided

or Procurement Director Award ☐

**\*Contractor/Vendor Name/Grantor (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.

**\*Procurement Method:**

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

**\*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

NOV 06 2020 PM 05:16 PCD CLK/HB

To: COB- 11-4-20  
Ver. - 17  
pgs - 6

Procure Dept 11/05/20 PM 01:22

**Contract / Award Information**

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Contract Number (i.e.,15-123): \_\_\_\_\_  
Commencement Date: \_\_\_\_\_ Termination Date: \_\_\_\_\_ Prior Contract Number (Synergen/CMS): \_\_\_\_\_  
☐ Expense Amount: \$\* \_\_\_\_\_ ☐ Revenue Amount: \$ \_\_\_\_\_

**\*Funding Source(s) required:**

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

Amendment No.: 02 AMS Version No.: 17

Commencement Date: 01/01/2021 New Termination Date: 12/31/2024

Prior Contract No. (Synergen/CMS): \_\_\_\_\_

☒ Expense or ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ 251,928

Is there revenue included? ☐ Yes ☒ No If Yes \$ \_\_\_\_\_

\*Funding Source(s) required: Flood Control Tax Levyt

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: Suzanne Shields (Martha Guzman-inquires/document routing)

Department: Regional Flood Control District Telephone: (520) 724-4680

Department Director Signature/Date: Suzanne Shields 10/26/2020

Deputy County Administrator Signature/Date: C. Dutelberry 11/4/2020

County Administrator Signature/Date: C. Dutelberry 11/5/2020  
(Required for Board Agenda/Addendum Items)



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
LOS ANGELES DISTRICT  
915 WILSHIRE BOULEVARD, SUITE 930  
LOS ANGELES, CALIFORNIA 90017-3489

**SECOND 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: Second 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 Second Amendment to Memorandum of Agreement ("SECOND 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, and a First Amendment to the MOA effective December 21, 2016, 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, 2020; 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 Assistant Secretary of the Army (Civil Works) by memorandum dated January 19, 2018, has authorized the District and Division Engineers of the Corps

Contract No: CT-FC-12-1947 Amendment No: 02

This number must appear on all correspondence and documents pertaining to this contract

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, 2024; and

WHEREAS, the amount of funds available to the Corps in the account established in accordance with Article II.C of the MOA, as of October 1, 2020 is \$251,928; 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, 2024.

NOW, THEREFORE, the Parties agree as follows:

## SECOND AMENDMENT

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

“A. The DISTRICT and RTA will provide adequate resources to fund existing or additional Corps Regulatory personnel for the purpose of expediting review of designated priority projects and other identified activities. To facilitate the Corps’ review and activities, the DISTRICT and RTA will:

1. Provide adequate information regarding designated priority projects, scheduling requirements, and other specific activities to initiate permit evaluation. Information required for the Corps to deem a permit application complete thereby allowing initiation of the permit review process can be found in Corps regulations at 33 C.F.R. §§ 325.1(d), 325.3(a), and in General Condition 32 of the Nationwide Permit Program. Upon request, the DISTRICT and RTA shall provide supplemental information necessary to complete the permit application. Additional information [33 C.F.R. § 325.1(e)] required to complete the permit evaluation process may exceed what is needed to initiate the process. On a case-by-case basis, if requested by the Corps, the DISTRICT and RTA shall provide such additional information so as to ensure the Corps can effectively accomplish the required review.”

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

“A. When funds available to the Corps in the account referenced in Article II.C of the MOA reaches \$45,000, the Corps will provide the DISTRICT and RTA with an anticipated cost invoice (“Invoice”); 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

- B. 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 in the total amount specified in the Corps' Invoice(s) or revised budget estimate(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

or by electronic funds transfer in accordance with Standard Operating Procedure UFC 08 (**Appendix C**).

- C. 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 or (ii) agreeing to a reduced level of service.
- D. 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 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, 2024 or 2) the MOA is terminated pursuant to Article IX.B.”

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

[Signatures follow on next two pages]

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

PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT  
BOARD OF SUPERVISORS

\_\_\_\_\_  
Chairman

Date: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Deputy County Attorney

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

BALTEN.JULIE.AN NE.1098296626

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BALTEN.JULIE.ANNE.109829662  
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JULIE A. BALTEN  
Colonel, U.S. Army  
Commanding

Date: 10/24/2020