



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: April 20, 2021

* = Mandatory, information must be provided

or Procurement Director Award ☐

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

Town of Sahuarita

***Project Title/Description:**

Intergovernmental Agreement (IGA) regarding the The Town of Sahuarita's (Town) participation in the Regional Flood Control District's (District) ALERT flood warning system.

***Purpose:**

To memorialize an agreement with the Town to contribute funds to enhance the District's flood warning in the Town, which will allow the Town to obtain better real-time rainfall and flood information in order to make more informed decisions regarding road closures, particularly the future Quail Crossing Boulevard across the Santa Cruz River.

***Procurement Method:**

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

***Program Goals/Predicted Outcomes:**

To enhance the District's ALERT Flood Warning system in the Town, whereby the Town would purchase the equipment and the District would install, operate, and maintain the equipment.

***Public Benefit:**

Enhance public safety to the traveling public since the new gages would provide Town staff with real-time information regarding rainfall and flooding in order to make road closure decisions.

***Metrics Available to Measure Performance:**

Purchase and install two stream gages and two rain gages.

***Retroactive:**

No.

TO: COB 4-2-21 (2)
Vers.: 1
pgs.: 8

Procure Dept 04/02/21 PM09:07

Contract / Award Information

Document Type: CT Department Code: FC Contract Number (i.e., 15-123): 21*366
Commencement Date: 04/20/2021 Termination Date: 04/19/2046 Prior Contract Number (Synergen/CMS): _____
☒ Expense Amount: \$* 0.00 ☐ 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 or ☐ 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: Eric Shepp (Martha Guzman 4-4611 for P/U)

Department: Regional Flood Control District Telephone: 724-4610

Department Director Signature/Date: 

Deputy County Administrator Signature/Date:  4/1/2021

County Administrator Signature/Date:  4/1/21

(Required for Board Agenda/Addendum Items)

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

**Intergovernmental Agreement
between
Pima County Flood Control District and Town of Sahuarita
for
Participation in District's ALERT Flood Warning System**

This Intergovernmental Agreement (IGA) is entered into by and between Pima County Flood Control District ("District"), a political taxing subdivision of the State of Arizona, and the Town of Sahuarita ("Town") pursuant to A.R.S. § 11-952. The District and the Town are sometimes referred to herein collectively as the "Parties" or individual as a "Party."

Recitals

- A. District and Town 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 is authorized by A.R.S. § 48-3603(C) to acquire and maintain flood control and drainage facilities and to implement flood control enhancement solutions.
- C. Town is authorized by A.R.S. § 48-3610 and Sahuarita Town Code § 14.05.010 to control the floodplain management within its area of jurisdiction.
- D. The District operates and maintains the Automated Local Evaluation in Real Time (ALERT) flood threat recognition and flood warning system. The ALERT System is regional network of precipitation and stream gages that use radio telemetry to report results in real time. The system is used by the District, the National Weather Service, and local emergency managers to monitor rainfall activity and evaluate the threat of flooding and flood damage.
- E. The Town is proposing to build an extension of Quail Crossing Boulevard to enhance traffic circulation and connectivity to Interstate 19. The Quail Crossing Boulevard extension requires crossing the Santa Cruz River. The construction of a bridge that is elevated to the Base Flood (100-year flood) is cost prohibitive. The Town proposes to construct a bridge that is elevated to a smaller flood event and will secondarily rely on rainfall and stream flow monitoring to make determinations regarding closing the road. The primary determination for closing the road will be based on physical observation by Town staff and Town law enforcement.
- F. The ALERT System is the ideal platform for performing the necessary monitoring of precipitation and stream flow, and is a valuable tool to make such operating decisions. The ALERT system consists of over 100 precipitation and stream gages, but the current network is insufficient to meet the monitoring needs for this project.
- G. The District and Town wish to enter into an agreement whereby the Town agrees to purchase additional stream and precipitation gages that will be incorporated in the ALERT system and the District agrees to install and maintain the equipment, and incorporate them into the ALERT system.

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 augment the ALERT flood warning system by installing two new stream gages, two new precipitation gages and a camera for purpose of providing real time information to the Town to assist in safe operation of the Quail Crossing Boulevard bridge over the Santa Cruz River.

- 2. Scope.**

- A. The Town's Responsibilities:**

1. The Town agrees to purchase monitoring equipment consisting of two stream gages, one at the Quail Crossing Bridge and one near the confluence of Sawmill Canyon Wash and the Santa Cruz River, a camera at the Continental Road Bridge, and two rain gages in upstream tributaries (location TBD) to enhance flood threat recognition and flood warning potential. The Town agrees to purchase the equipment specified by the District and transfer the assets to the District.
2. The Town agrees to use its best efforts to acquire or provide the appropriate property right that allows the District to install, operate, and maintain the ALERT monitoring equipment on property not under the control of the District. District shall not charge the Town any fee for the installation and maintenance of ALERT monitoring equipment installed on property under the control of the District. The Parties shall cooperate to determine the installation location of the ALERT monitoring equipment.
3. The Town acknowledges that District makes no warranty, expressed nor implied, regarding the function of the gages or the accuracy of the monitoring data, that the ALERT system provides supplemental information only, and that the Town will verify that information as reasonably necessary when responding to a flood event.
4. The Town agrees to hold the District harmless in the event the ALERT system or the individual gages cease operation before or during a flood or if the telemetry or other means of transmitting alert notification malfunctions. Further, the Town agrees to hold the District harmless for any interpretation of the data and decision the Town may make regarding closing Quail Crossing Boulevard as result of receipt of the information.

- B. The District's Responsibilities:**

1. The District agrees to provide details and specification of the monitoring equipment the Town will purchase.
2. The District agrees to install, operate, and maintain and incorporate into the ALERT system the monitoring equipment purchased by the Town.

3. The District agrees to publish the monitoring data to the ALERT website and provide automatic notifications to the Town based on monitoring thresholds provided by the Town.
3. **Financing.** The Town agrees to provide all necessary funding to purchase the equipment and any relevant property right to install the equipment. The District agrees to fund the installation, operation and maintenance of the equipment.
4. **Term.** This IGA will be effective on the date it is fully executed by both Parties and will continue for a period of 25 years, and shall automatically be renewed for successive five year terms thereafter unless either Party terminates this IGA by notice, in writing, no later than sixty calendar days prior to the expiration of the term then in effect.
5. **Disposal of Property.** Upon installation of the monitoring equipment, the property involved will be owned by the District. Termination will not relieve any Party from liabilities or costs already incurred under this IGA, nor affect any ownership of property pursuant to this IGA.
6. **Indemnification.** To the fullest extent permitted by law, each Party (as “indemnitor”) shall defend, indemnify and hold harmless the other Party (as “indemnitees”), its officers, officials, employees, agents, volunteers, successors, and assigns (“Indemnified Group”) for claims, damages, losses, liabilities and expenses of any nature whatsoever (including but not limited to reasonable attorneys’ fees, court costs, the costs of appellate proceedings, and all claim adjusting and handling expense) relating to, arising out of, resulting from or alleged to have resulted from the indemnitor’s acts, errors, mistakes or omissions relating to any action or inaction of this IGA (collectively, “Claims”) including but not limited to work, services, acts, errors, mistakes, or omissions in the performance of this IGA by anyone directly or indirectly employed by or contracting with the indemnitor, or any person for whose acts and liabilities are the obligation of the indemnitor. Insurance provisions set forth in this IGA are separate and independent from the indemnity provisions of this IGA, and neither the insurance provisions nor the indemnity provisions shall be construed in any way to limit the scope, magnitude, or enforcement of the other provisions. The indemnity provisions of this IGA shall survive the termination of this IGA.
7. **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.

- 8. **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.
- 9. **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.
- 10. **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.
- 11. **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.
- 12. **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.
- 13. **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 Town Council of Sahuarita 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.
- 14. **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.

15. **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.
16. **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.
17. **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.
18. **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:

Suzanne Shields, P.E.
Director
201 N. Stone Ave 9th Fl
Tucson AZ 85701

Town:

Beth Abramovitz, P.E.
Public Works Director
375 W. Sahuarita Center Way
Sahuarita, AZ 85629

With copies to:

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

Clerk of the Board
130 West Congress, 5th Floor
Tucson, Arizona 85701

With copies to:

Town Manager
375 W. Sahuarita Center Way
Sahuarita, AZ 85629


Town Clerk
375 W. Sahuarita Center Way
Sahuarita, AZ 85629

19. **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.

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 Town has caused this Intergovernmental Agreement to be executed by the Mayor upon resolution of the Sahuarita Town Council and attested to by the Town Clerk.

Town of Sahuarita:

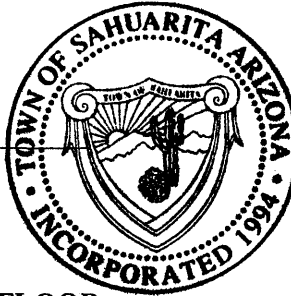


Tom Murphy, Mayor

ATTEST:



Lisa Cole MMC, Town Clerk



**PIMA COUNTY REGIONAL FLOOD
CONTROL DISTRICT:**

Chair, Board of Directors

ATTEST:

Clerk of the Board

APPROVED AS TO CONTENT:



Suzanne Shields, P.E.

Intergovernmental Agreement Determination

The foregoing Intergovernmental Agreement between Pima County Flood Control District and the Town of Sahuarita 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:**



Deputy County Attorney

TOWN OF SAHUARITA:



Town Attorney