



NOTICE OF PUBLIC MEETING AND EXECUTIVE SESSION  
PINAL COUNTY FLOOD CONTROL DISTRICT  
BOARD OF DIRECTORS  
AGENDA  
Wednesday, October 28, 2020

9:30 AM - CALL TO ORDER

PINAL COUNTY ADMINISTRATIVE COMPLEX  
BOARD OF SUPERVISORS HEARING ROOM  
135 N. PINAL STREET  
FLORENCE, AZ 85132

---

**BUSINESS BEFORE THE BOARD**

(Consideration/Approval/Disapproval of the following:)

**(1) CONSENT ITEMS:**

All items indicated by an asterisk (\*) will be handled by a single vote as part of the consent agenda, unless a Board Member, County Manager, or member of the public objects at the time the agenda item is called.

- \* A. Discussion/approval/disapproval of Minutes from August 26, 2020, Board of Directors Flood Control District Meeting. (Natasha Kennedy)
- \* B. Discussion/approval/disapproval of the authorization for the Chairman of the Pinal County Flood Control District Board of Directors to sign an Intergovernmental Agreement with the Magma Flood Control District and Pinal County for the planning and design of the Middle Magma Regional Flood Control Project. The project proposes several improvements to the Middle Magma Channel which originates approximately 1 mile downstream of the primary spillway of Magma Dam at Arizona Farms Road and terminates 500 upstream of Hunt Highway approximately 0.5 miles west of Attaway Road. This agreement commits up to \$250,000 of Pinal County Flood Control District Funds to the Magma Flood Control District in support of the project. Supervisor District #1 and Supervisor District #2. (FL20-002) (Christopher Wannamaker/Andrew Smith)
- \* C. Discussion/approval/disapproval of the authorization of the Chairman of the Pinal County Flood Control District Board of Directors to sign the community acknowledgment section of the Letter of Map Revision (LOMR) application for the Queen Creek 4140 Parcel within the Town of Queen Creek. The LOMR submittal requests that a portion of the EFFECTIVE Zone A boundaries be revised based on a more detailed floodplain analysis to include new topographic mapping, updated hydrology, and updated hydraulics. The 4140 parcel is State Trust Land generally located at the northeast corner of Germann Road and Meridian Roads within Pinal County. This land was recently annexed into the Town of Queen Creek. The area affected by the proposed map changes is located within Sections 31, 32, 33, & 34 of Township 1 South, Range 8 East and Sections 3, 4, 5, 6, 7, and 10 of Township 2 South, Range 8 East, Gila and Salt River Base and Meridian, Pinal County, Arizona. The FEMA Effective FIRM Panels for the site are Pinal County Map Numbers 04021C0200E with an effective date of December 4, 2007. Supervisor District #2.(FL20-005) (Christopher

- \* D. Discussion/approval/disapproval of Notice of grant and agreement award with USDA in the amount \$500,000 to fund a development of a watershed plan environmental assessment for the Guild Wash drainage area to ascertain the preferred alternative to address flooding issues. This is a Federal Funds Reimbursement grant and receipt of \$500,000 in reimbursements from USDA. Supervisor District #4. (FL20-003) (Christopher Wannamaker/Andrew Smith)
- \* E. Discussion/approval/disapproval of Notice of grant and agreement award with USDA in the amount of \$620,000 to fund a development of a watershed plan environmental assessment for the Greene Wash drainage to ascertain the preferred alternative to address flooding issues. This is a Federal Funds Reimbursement grant and receipt of \$620,000 in reimbursements from USDA. Supervisor District #4. (FL20-004) (Christopher Wanamaker/Andrew Smith)

## ADJOURNMENT

**(SUPPORTING DOCUMENTS ARE AVAILABLE AT THE CLERK OF THE BOARD OF SUPERVISORS' OFFICE AND AT <https://pinal.novusagenda.com/AgendaPublic/>)**

NOTE: One or more members of the Board may participate in this meeting by telephonic conference call.

The Board may go into Executive Session for the purpose of obtaining legal advice from the County's Attorney(s) on any of the above agenda items pursuant to A.R.S. 38-431.03(A)(3).

In accordance with the requirement of Title II of the Americans with Disabilities Act (ADA), the Pinal County Board of Supervisors and Pinal County Board of Directors do not discriminate against qualified individuals with disabilities admission to public meetings. If you need accommodation for a meeting, please contact the Clerk of the Board Office at (520) 866-6068, at least (3) three business days prior to the meeting (not including weekends or holidays) so that your request may be accommodated.



AGENDA ITEM

October 28, 2020 ADMINISTRATION BUILDING A  
FLORENCE, ARIZONA

---

**REQUESTED BY:**

**Funds #:**

**Dept. #:**

**Dept. Name:** Clerk of the Board

**Director:** Natasha Kennedy

---

**BRIEF DESCRIPTION OF AGENDA ITEM AND REQUESTED BOARD ACTION:**

Discussion/approval/disapproval of Minutes from August 26, 2020, Board of Directors Flood Control District Meeting.  
(Natasha Kennedy)

---

**BRIEF DESCRIPTION OF THE FISCAL CONSIDERATIONS AND/OR EXPECTED FISCAL IMPACT OF THIS AGENDA ITEM:**

---

**BRIEF DESCRIPTION OF THE EXPECTED PERFORMANCE IMPACT OF THIS AGENDA ITEM:**

---

**MOTION:**

Approve as presented.

---

History		
Time	Who	Approval
6/18/2020 10:43 AM	Clerk of the Board	Yes

---

**ATTACHMENTS:**

Click to download

☐ [Minutes FCD](#)



# **PINAL COUNTY**

WIDE OPEN OPPORTUNITY

## **PINAL COUNTY FLOOD CONTROL DISTRICT BOARD OF DIRECTORS MINUTES**

**Wednesday, August 26, 2020  
10:02 AM**

### **BOARD OF DIRECTORS**

**Chairman Anthony Smith**

Director, District 4

**Vice-Chairman Pete Rios**

Director, District 1

**Mike Goodman**

Director, District 2

**Stephen Q. Miller**

Director, District 3

**Todd House**

Director, District 5

PINAL COUNTY ADMINISTRATIVE COMPLEX  
BOARD OF SUPERVISORS HEARING ROOM  
135 N. PINAL STREET  
FLORENCE, AZ 85132

**All Presentations are attached to the Agenda at:**

<https://pinal.novusagenda.com/AgendaPublic/MeetingView.aspx?MeetingID=1356&MinutesMeetingID=550&doctype=Agenda>

**and a Video Recording of this meeting can be viewed at:**

<https://pinalcountyaz.swagit.com/play/08262020-728>

The Pinal County Flood Control District Board of Directors convened at 10:02 a.m. this date. The meeting was called to order by Vice-Chairman Pete Rios, Presiding as Chairman.

**Members Present:** Vice-Chairman Pete Rios, Presiding as Chairman; Director Mike Goodman; Director Stephen Q. Miller; Director Todd House

**Members Absent:** Chairman Anthony Smith

**Staff Present:** County Manager, Louis Andersen; Chief Civil Deputy County Attorney, Chris Keller; Clerk of the Board, Natasha Kennedy and Deputy Clerk of the Board, Kelsey Pickard

**(1) CONSENT ITEMS:**

All items indicated by an asterisk (\*) will be handled by a single vote as part of the consent agenda, unless a Board Member, County Manager, or member of the public objects at the time the agenda item is called.

Presiding as Chairman, Pete Rios, asked if there were any requests from a Board Member, staff or the audience to remove any consent agenda items for discussion. There being none.

**Item Action: Approved Consent Agenda Items A and B.**

Motion Made By: Supervisor House

Seconded By: Supervisor Miller

To approve Consent Agenda Items A and B.

Motion Passed

Ayes: Goodman, House, Miller, Rios (4)

Absent: Smith (1)

- \* A. Discussion/approval/disapproval of Minutes from July 1, 2020, Board of Directors Flood Control District meeting. (Natasha Kennedy)
- \* B. Discussion/approval/disapproval of the authorization for the Chairman of the Pinal County Flood Control District Board of Directors to sign the community acknowledgment section of the Letter of Map Revision based on Fill (LOMR-F) application for the home located at 10941 W Bee Bee Lane, Casa Grande AZ 85193. The LOMR-F submittal requests that the building be removed from the Effective Zone AE floodplain based on the placement of fill material used to raise a portion of the property out of the floodplain. The property is further located within Section 13 of Township 7 South, Range 6 East, Gila and Salt River Base and Meridian, Pinal County, Arizona. The FEMA Effective FIRM Panel for the site is the Pinal County Panel 1570F, Map Number 04021C01570F, effective date May 16, 2019. Supervisor District #4. (FL20-001) (Chris Wanamaker and Scott Bender)

**10:03 a.m.** – Presiding as Chairman, Pete Rios, adjourned the August 26, 2020, Pinal County Flood Control District Board of Directors Meeting and convened the Pinal County Public Health Services District Board of Directors Meeting.

**PINAL COUNTY  
FLOOD CONTROL DISTRICT  
BOARD OF DIRECTORS**

---

Pete Rios, Presiding as Chairman  
Vice-Chairman

**ATTEST:**

---

Natasha Kennedy, Clerk of the Board

Minutes Prepared By: Kelsey Pickard, Deputy Clerk of the Board

Approval of Minutes: October 28, 2020



## AGENDA ITEM

October 28, 2020 ADMINISTRATION BUILDING A  
FLORENCE, ARIZONA

---

### REQUESTED BY:

**Funds #:** 68

**Dept. #:** 311

**Dept. Name:** Public Works

**Director:** Andrew Smith

---

### BRIEF DESCRIPTION OF AGENDA ITEM AND REQUESTED BOARD ACTION:

Discussion/approval/disapproval of the authorization for the Chairman of the Pinal County Flood Control District Board of Directors to sign an Intergovernmental Agreement with the Magma Flood Control District and Pinal County for the planning and design of the Middle Magma Regional Flood Control Project. The project proposes several improvements to the Middle Magma Channel which originates approximately 1 mile downstream of the primary spillway of Magma Dam at Arizona Farms Road and terminates 500 upstream of Hunt Highway approximately 0.5 miles west of Attaway Road. This agreement commits up to \$250,000 of Pinal County Flood Control District Funds to the Magma Flood Control District in support of the project. Supervisor District #1 and Supervisor District #2. (FL20-002) (Christopher Wannamaker/Andrew Smith)

---

### BRIEF DESCRIPTION OF THE FISCAL CONSIDERATIONS AND/OR EXPECTED FISCAL IMPACT OF THIS AGENDA ITEM:

This agreement commits up to \$250,000 in funds from the Pinal County Flood Control District to the Magma Flood Control District in support of the project.

---

### BRIEF DESCRIPTION OF THE EXPECTED PERFORMANCE IMPACT OF THIS AGENDA ITEM:

The proposed project described in the intergovernmental agreement will have a regional benefit to more than 20,000 acres of land in both Unincorporated Pinal County and within the Town of Florence.

---

### MOTION:

Approve as presented

---

History	Who	Approval
Time		
10/16/2020 2:45 PM	Public Works	Yes
10/16/2020 2:50 PM	County Attorney	Yes
10/16/2020 3:39 PM	County Manager	Yes
10/19/2020 2:06 PM	Clerk of the Board	Yes

**ATTACHMENTS:**

Click to download

☐ [Agreement](#)



When Recorded Return to:  
Magma Flood Control District  
C/O Stephen Cooper, District Counsel  
221 North Florence St.  
Casa Grande, AZ 85122-4420

**INTERGOVERNMENTAL AGREEMENT**

Among

**PINAL COUNTY, PINAL COUNTY FLOOD CONTROL DISTRICT**

and the

**MAGMA FLOOD CONTROL DISTRICT**

for the

**PLANNING AND DESIGN (PHASE 1)**

of the

**MIDDLE MAGMA REGIONAL FLOOD CONTROL PROJECT**

**IGA MFCD 2020-01**

**Agenda Item \_\_\_\_\_**

This Intergovernmental Agreement (Agreement) is entered into by and among Pinal County, a political subdivision, acting by and through its Board of Supervisors hereinafter called the COUNTY, Pinal County Flood Control District a municipal corporation and political subdivision, acting by and through its Board of Directors hereinafter called PCFCD, and the Magma Flood Control District, a political subdivision, acting by and through its Board of Directors, hereinafter called MFCD. MFCD, the COUNTY and PCFCD are hereinafter collectively called the PROJECT PARTNERS.

This Agreement shall become effective as of the date it has been executed by all parties and may be recorded by the Pinal County Recorder.

**STATUTORY AUTHORIZATION**

1. MFCD is empowered by Arizona Revised Statutes (A.R.S.) Section 48-2811, as revised, to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of MFCD.
2. A.R.S. Section 48-2667 authorizes the MFCD to acquire land for public purposes.
3. The PCFCD is empowered by Arizona Revised Statutes (A.R.S.) Section 48-3603, as revised, to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the PCFCD.

**BACKGROUND**

4. In late 1950's the original Magma Watershed Work Plan was created with assistance from the federal government. The plan covered an area consisting of 70,064 acres in north-central Pinal County. The plan identified four components to the Magma system that were needed to mitigate existing and future drainage and flooding problems within the watershed. In the early 1960's the MFCD was formed to receive funding and assistance from the federal agency currently known as the Natural Resource

Conservation Service (NRCS) which ultimately constructed 3 of the 4 Magma system components (the Magma Dam, and both the Upper and Lower Magma Channels). Within the last 4 years, NRCS has funded and assisted MFCD with the rehabilitation of the 3 existing Magma system components in order to bring the flood control facilities up to current engineering and safety standards. However, federal funding for the 4th component of the Magma system [the Middle Magma Channel (MMC)] did not materialize and subsequently was never designed or constructed. Over time, with no flood control infrastructure in place, and no existing regional planning and/or detailed studies to serve as a guide for the middle magma area, mistakes were made in the design and construction of piece meal flood control infrastructure and residential dwellings constructed within or near the MMC alignment that have resulted in the creation of well-known Legacy Flooding Areas which have constrained the entirety of the Magma system for decades and prevented the system from functioning as originally envisioned in the watershed work plan.

5. The issues surrounding the well-known Legacy Flooding Areas have for years created challenging problems for each of the local governments which have a stake holder interest in the Middle Magma area. Informal discussions between local governmental entities on what could be done to collectively address the Legacy Flooding Areas have previously been unsuccessful because the cost of a regional solution was beyond the collective budget the entities could reasonably put together and no federal funding could be identified to assist with the problem.
6. In 2018, the U.S. Congress passed the current farm bill which included funding for the Watershed and Flood Prevention Operations Program (the Program) administered by the NRCS. In the summer of 2018, upon learning that the Program could provide federal funding for approximately 75% of a regional flood control solution for the Middle Magma area, local governmental entities began working together, applied to receive a grant for the Middle Magma Regional Flood Control Project (hereinafter referred to as the PROJECT), and conceptually agreed to split the required local share of project costs (approximately 25%) if the federal grant was approved. The 2018 grant application was not approved. Local governmental entities again worked together, reaffirmed their conceptual agreement to split remaining local share of the project costs, and revised and strengthened the details of the PROJECT before resubmitting a grant application to the Program in the summer of 2019. In January of 2020, the NRCS indicated that the PROJECT had been selected for approval and will be funding \$400,000 for planning. A second grant application will need to be approved by NRCS upon completion of the planning and design phases in order to receive funding for the construction phase. Because the initial grant application was selected for approval, the PROJECT now has a priority right to obtain construction funding over any new projects that may concurrently apply to the Program for funding. A minimum annual budget of \$50 million (which can be increased to as much as \$200 million/year) has been allocated by congress to the Program for each year of the 5-years of the current farm bill. Project Partners are cautiously optimistic that all \$5.8 million of federal grant funding being applied for will be awarded to the PROJECT.
7. This Agreement is for all of the planning and design of the PROJECT and shall hereafter be referred to as “Phase 1 of the Project”. The anticipated elements of Phase 1 of the Project include 1) creation of a regional drainage plan identifying how to maximize and supplement the existing flood control infrastructure to serve the entire region, as well as to safely guide pockets of development (both wherever and whenever it may occur in the region) by mapping out drainage corridors (which will be recorded in County Recorder’s Office as a means of establishing ongoing public notice) and creating design standards (including quantified design conveyance flows) that will be adopted by Project Partners and other local governments to ensure the preservation of consistent and cohesive flood mitigation infrastructure throughout the Magma watershed; and 2) design solutions to the three existing “Legacy Flooding Areas” (the location of each are identified in the map attached as Exhibit A). Legacy Flooding Area #1 is the residential communities of Crestfield Manor and Wild Horse Estate which have certain under-designed drainage facilities that become quickly overwhelmed with floodwaters, causing damage to residential

properties and area infrastructure. Legacy Flooding Area #2 is located upstream of the CAP Canal overchute, where historical breeching of the training dike causes water to breach the CAP Canal and flood adjacent agricultural lands. Legacy Flooding Area #3 is between Wild Horse Estates and East Franklin Road where historic breaching of an earthen dike has routinely flooded adjacent lands. It is anticipated that a future agreement(s) will be entered into by the Project Partners (and other local governments having a stake holder interest in the area) to address “Phase 2 of the PROJECT” which is anticipated to include rights-of-way acquisition, utility relocation, construction, construction management, and operation and maintenance.

8. Phase 1 of the PROJECT will be based upon planning and designing 100-year flood protection to the surrounding area and will:
  - Result in construction plans for the infrastructure needed to solve problems with the three existing Legacy Flooding Areas and establish an unimpeded regional flood control and drainage backbone infrastructure which will include the capacity for the connection of all future drainage and flood control infrastructure improvements within the area.
  - Establish an inter-governmental long-range regional drainage master plan which includes a detailed flood control infrastructure build out plan enabling all future development activity to appropriately pay for and build out their respective share of the final full capacity flood control infrastructure that will be integrated into the entirety of the Magma system.
  - The design intent will be to safely convey flood flows from the entire Magma watershed through the Magma system to its outlet into the Gila River.
  - The goal of planning and design will be to reduce flooding hazards to existing upstream and downstream residents, structures, improvements, roads and utilities.
9. On July 14, 2020, NRCS officially signed and approved the \$400,000 grant for planning efforts included within Phase 1 of the PROJECT.

### **PURPOSE OF THE AGREEMENT**

10. This Agreement identifies and defines the responsibilities of MFCD, the COUNTY, and the PCFCD for Phase 1 of the PROJECT activities related to planning and design.

### **TERMS OF AGREEMENT**

11. The PROJECT, as referenced herein, is defined by paragraph 6 of this Agreement. Phase 1 of the PROJECT, as referenced herein, and Phase 2 of the PROJECT, as referenced herein, are both defined by paragraph 7 of this Agreement.
12. The PHASE 1 PROJECT COST, as referenced herein, solely encompasses the following costs directly associated with Phase 1 of the PROJECT and is inclusive of any direct costs incurred after the NRCS indicated the PROJECT had been selected for approval:
  - 12.1 All costs associated with the planning and designs needed to accomplish the goals of the PROJECT (inclusive of those outlined in paragraph 8 of this Agreement).
  - 12.2 All costs associated with identifying and valuing the rights-of-way to be acquired in the subsequent Phase 2 of the PROJECT.

- 12.3 Costs of obtaining United States Army Corps of Engineers Section 404 Environmental Permits for the PROJECT, and costs associated with the mitigation efforts required by this permit process.
- 12.4 Each PROJECT PARTNER will pay for, and not seek reimbursement for, its own personnel and internal administrative costs associated with this PROJECT, including costs associated with the issue of PROJECT permits, unless specifically identified otherwise in this Agreement.
13. The total PHASE 1 PROJECT COST associated with this Agreement is estimated to be \$900,000 (See Table 1 below). It is anticipated that NRCS will reimburse \$400,000 of the planning cost and that the remaining \$500,000 of design costs will be considered an in-kind contribution by NRCS towards the future construction (Phase 2 of the PROJECT). In other words, the PROJECT PARTNERS would receive a \$500,000 credit which will reduce the required local funding share of costs in Phase 2 of the PROJECT.
- 13.1 The total PHASE 1 PROJECT COST is estimated based on the best information available at the time of this Agreement and is subject to change without amendment to this Agreement. Upon recognition of anticipated cost increases above this estimated PHASE 1 PROJECT COST, PROJECT PARTNERS shall communicate these anticipated increases.
- 13.2 As described in paragraph 6 above, federal funding of the future construction phase of the PROJECT will require approval of a 2<sup>nd</sup> grant application submitted to NRCS upon the completion of Phase 1 of the PROJECT. It is anticipated that a future agreement(s) will be entered into by the PROJECT PARTNERS (and other local governments having a stake holder interest in the area) to address Phase 2 of the PROJECT which is anticipated to include rights-of-way acquisition, utility relocation, construction, construction management, and operation and maintenance.
- 13.3 In the event that only the current PROJECT PARTNERS participate in the future Phase 2 of the PROJECT (and for some reason other local governments elect not to participate), the grand total of all PROJECT costs (the total PHASE 1 PROJECT COST plus the estimated cost of Phase 2 of the PROJECT) as well as the related timing of the expenditures are outlined within Table 1 below:

TABLE 1:					Local Cost Share (Allocation 50/50)		Anticipated Funding Schedule
	Description	Budget	NRCS Cost	Local Cost Share	Total	PCFCD 50%	
Phase 1	Planning, Environmental Assessment & Design	900,000	400,000	500,000	900,000	250,000	June 2020 to Oct. 2021
Phase 2	Acquisition of Land Rights & Construction	6,700,000	5,400,000	1,300,000	6,700,000	650,000	Nov. 2021 to June 2023 (Requires an additional IGA)
		7,600,000	5,800,000	1,800,000	7,600,000	900,000	

14. MFCD funding for this Agreement shall be from its secondary flood control tax levy revenue and is contingent upon funding availability.
15. PCFCD funding for this Agreement shall be from its secondary flood control tax levy revenue and is contingent upon funding availability.
16. The target date for completion of Phase 1 of the PROJECT is September 30, 2021. The PROJECT PARTNER assigned lead agency responsibility shall inform the non-lead agency PROJECT PARTNER of delays impacting this target completion date.
17. The PROJECT PARTNERS obligation to provide funds for the PROJECT are contingent on the availability of funds during any fiscal year the terms of the Agreement are in effect. In the event that only the current PROJECT PARTNERS participate in the future Phase 2 of the PROJECT (and for some reason other local governments elect not to participate), the PROJECT PARTNERS shall include the

PROJECT COSTS in their respective annual and 5-year planning budgets and make a good faith effort to prioritize funding the PROJECT COSTS from within the tax levy revenue each receives during any fiscal year while the PROJECT is ongoing.

18. MFCD shall:

- 18.1 Fund fifty percent (50%) of the PHASE 1 PROJECT COST, making MFCD's estimated share \$250,000.
- 18.2 Within thirty (30) calendar days of receipt, pending funding availability, pay all invoices related to PHASE 1 of the PROJECT in accordance with the terms of this Agreement.
- 18.3 Invoice the PCFCD for its share of the PHASE 1 PROJECT COST as it is incurred, no more frequently than monthly, and no less frequently than quarterly.
- 18.4 Prepare and submit the required documentation to NRCS in order to be reimbursed from the grant funding for the planning costs incurred during PHASE 1 of the PROJECT.
  - 18.4.1 PROJECT PARTNERS agree that reimbursements received from NRCS shall NOT be immediately distributed back out to the PROJECT PARTNERS, but rather, when received be the first funds used to cashflow the next month's invoiced costs, thereby deferring (as much as possible) the funding needed from PROJECT PARTNERS to later portions of PHASE 1 of the PROJECT.
- 18.5 Serve as the lead agency for PHASE 1 of the PROJECT.
- 18.6 Provide to the COUNTY and PCFCD interim PROJECT submittals and allow three (3) weeks for review and comment. Incorporate the COUNTY and PCFCD comments into the PROJECT as appropriate.
- 18.7 Serve as the lead agency for obtaining United States Army Corps of Engineers Section 404 Environmental Permits, and for completing mitigation efforts required by this permit process.
- 18.8 Upon completion of Phase 1 of the PROJECT, prepare a final accounting including change orders and costs not previously paid, and invoice the PCFCD for the remainder of its share of all PROJECT COST incurred to date.

19. The COUNTY shall:

- 19.1 Provide to MFCD the files, plans, data and other previously prepared information within its possession that is salient to the planning and design of the PROJECT.
- 19.2 Grant the MFCD permits at no cost for PROJECT investigations within COUNTY right-of-way or easements.
- 19.3 Within three (3) weeks of receipt of interim PROJECT submittals, provide review comments to MFCD.
- 19.4 Provide all COUNTY owned and controlled rights-of-way or easements necessary for the PROJECT, and not specifically purchased for this PROJECT, at no cost to the PROJECT.

20. PCFCD shall:

- 20.1 Fund fifty percent (50%) of the PHASE 1 PROJECT COST, making PCFCD's estimated share \$250,000. PROJECT cost contributions from PCFCD are not to exceed \$250,000 without written approval from the Pinal County Flood Control District Board of Directors.
  - 20.2 Within thirty (30) calendar days of receipt, pay all invoices issued by MFCD in accordance with the terms of this Agreement.
  - 20.3 Be the joint lead in all PROJECT public involvement activities with MFCD.
  - 20.4 Provide all PCFCD owned and controlled rights-of-way or easements necessary for the PROJECT, and not specifically purchased for this PROJECT, at no cost to the PROJECT.
  - 20.5 Within three (3) weeks of receipt of interim project submittals, provide review comments to MFCD.
21. Each PROJECT PARTNER, and the PROJECT PARTNERS collectively, shall:
- 21.1 Comply with A.R.S. Sections 41-4401 and 23-214, subsection A.
    - 21.1.1 Each party to this Agreement retains the legal right to inspect the records of the other parties' and any contractors' or subcontractors' employees performing work under this Agreement to verify compliance with A.R.S. Sections 41-4401 and 23-214, subsection A.
    - 21.1.2 Failure by any party to this Agreement to comply with A.R.S. Sections 41-4401 and 23-214, subsection A shall be deemed a breach of this Agreement and is subject to penalties up to and including termination of the Agreement.
  - 21.2 Require that any contractor selected for the PROJECT:
    - 21.2.1 Warrant its compliance with all federal immigration laws and regulations that relate to its employees and their compliance with A.R.S. section 23-214(A);
    - 21.2.2 Agree that a breach of the warranty under paragraph 21.2.1 shall be deemed a material breach of contract and is subject to penalties up to and including termination of the contract;
    - 21.2.3 Agree that the other parties to this Agreement retains the legal right to inspect the papers of the contractor or subcontractor employee(s) who work(s) on this Agreement to ensure that contractor or subcontractor is complying with the warranty under paragraph 21.2.1;
    - 21.2.4 Certify that it does not have a scrutinized business operation, as defined in A.R.S. sections 35-391 and 35-393, in either Sudan or Iran.
  - 21.3 Have the right, following mutual written agreement of all PROJECT PARTNERS, to delegate its responsibilities under this Agreement to another party. Any delegation, however, shall not relieve the delegating PROJECT PARTNER of its original responsibilities as defined herein.
  - 21.4 In the case of any dispute over any items in this Agreement, agree to use their best efforts and enter into good faith negotiations to resolve the disputed matters. However, this shall not limit the rights of the PROJECT PARTNERS to seek any remedies provided by law.

- 21.5 Agree to equally share the cost of a PROJECT compliance and cost audit to be initiated within 60 days of PROJECT completion, if requested by any PROJECT PARTNER. An independent auditing firm agreed to by the PROJECT PARTNERS will perform the audit. Any payments or reimbursements necessary to bring the PROJECT into compliance with the audit findings shall be made within 45 days of acceptance by the PROJECT PARTNERS.
22. The PROJECT may be phased for design and/or construction due to funding or other coordination issues. Responsibilities of MFCD, PCFCD and the COUNTY shall be phased accordingly, including, but not limited to, invoicing, reimbursements, transfer of land rights and accepting of operation and maintenance.
23. If mutually acceptable to the PROJECT PARTNERS, PROJECT invoicing may be conducted periodically based on actual PROJECT COST incurred, no more frequently than monthly, in lieu of invoicing timelines otherwise established in this Agreement.
24. Each party to this Agreement (indemnitor) shall, to the extent permissible by law, indemnify, defend and hold harmless the others (indemnitees) including agents, officers, directors, governors and employees thereof, from and against any loss or expense incurred as a result of any claim or suit of any nature whatsoever, which arises out of indemnitor's negligent or wrongful acts or omissions pursuant to this Agreement. Such indemnification obligation shall encompass any personal injury, death or property damages resulting from the indemnitor's negligent or wrongful acts or omissions, as well as reasonable attorney's fees, court costs, and other expenses relating to the defense against claims or litigation, incurred by the indemnitee. Indemnitee shall be liable for its own negligence or wrongful acts as provided by law.
25. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:
- Magma Flood Control District  
C/O Stephen Cooper, Attorney for MFCD  
221 North Florence St.  
Casa Grande, AZ 85122-4420
- With a copy to:  
Magma Flood Control District  
C/O Kent Pace, General Manager  
3850 E. Baseline Rd. Suite #114  
Mesa, AZ 85206  
Pinal County  
County Manager  
140 N. Florence St.  
Florence, AZ 85132
- Pinal County  
Public Works-Flood Control District  
Public Works Director  
31 N. Pinal St.  
Florence, AZ 85132
26. This Agreement shall expire ten (10) years from the date of recording with the Pinal County Recorder or upon completion of the PROJECT and after all funding obligations and reimbursements have been satisfied in accordance with this Agreement, whichever is the first to occur. However, by mutual written

agreement of all parties, this Agreement may be amended or terminated. The indemnification provisions of this Agreement shall survive the expiration of this Agreement

27. This Agreement is subject to cancellation by any party pursuant to the provisions of Arizona Revised Statutes Section 38-511.
28. Attached to this Agreement or contained herein are the written determinations by the appropriate attorneys for the parties to this Agreement, that these agencies are authorized under the laws of the State of Arizona to enter into this Agreement and that it is in proper form.
29. PCFCD and COUNTY specifically acknowledge that they have been advised of and are aware that the Pinal County Attorney's Office represents both Pinal County and the Pinal County Flood Control District and have been advised to seek outside counsel. The COUNTY and PCFCD expressly and mutually waive any adverse interest that may exist and also waive any allegations of conflict of interest by the Pinal County Attorney's Office and expressly approve the Pinal County Attorney's Office dual representation.
30. If legislation is enacted after the effective date of this Agreement that changes the relationship or structure of one or more parties to this Agreement, the parties agree that this Agreement shall be renegotiated at the written request of any party.



**MAGMA FLOOD CONTROL DISTRICT**

A Political Subdivision Approved and Accepted:

By: \_\_\_\_\_  
Chairman, Board of Directors      Date

Attest:

By: \_\_\_\_\_  
Secretary of the Board      Date

The foregoing Intergovernmental Agreement MFCD 2020-01 has been reviewed pursuant to Arizona Revised Statutes 48-2811, as amended, by the undersigned General Counsel, who has determined that it is in proper form and within the powers and authority granted to the Magma Flood Control District of Pinal County under the laws of the State of Arizona.

\_\_\_\_\_  
Counsel for MFCD      Date

**COUNTY OF PINAL**  
**A Political Subdivision,**

By: \_\_\_\_\_  
Anthony Smith, Chairman of the Board of Supervisors      Date

Attest:

By: \_\_\_\_\_  
Clerk of the Board of Supervisors      Date

The foregoing Intergovernmental Agreement IGA MFCD 2020-01 has been reviewed pursuant to Arizona Revised Statutes 11-952, as amended, by the undersigned attorney who has determined that it is in proper form and within the power and authority granted to the County of Pinal under the laws of the State of Arizona.

By: \_\_\_\_\_  
County Attorney      Date

**PINAL COUNTY FLOOD CONTROL DISTRICT**  
**A Municipal Corporation,**

By: \_\_\_\_\_  
Anthony Smith, Chairman of the Board of Directors Date

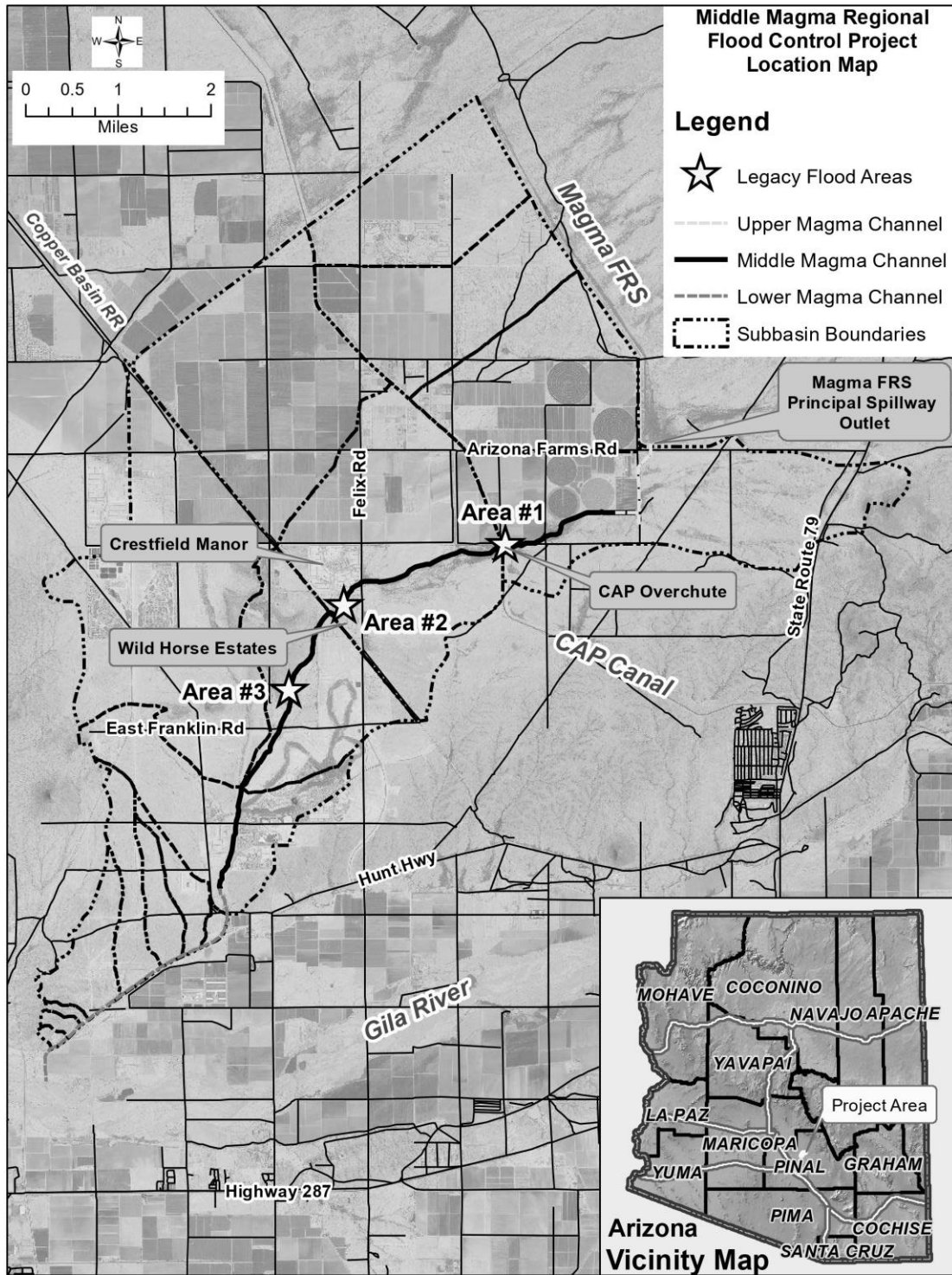
Attest:

By: \_\_\_\_\_  
Clerk of the Board of Directors Date

The foregoing Intergovernmental Agreement IGA MFCD 2020-01 has been reviewed pursuant to Arizona Revised Statutes 48-3603 as amended, by the undersigned attorney who has determined that it is in proper form and within the power and authority granted to the County of Pinal under the laws of the State of Arizona.

By: \_\_\_\_\_  
Counsel for the Pinal County FCD Date

IGA MFCD 2020-01  
EXHIBIT "A"





## AGENDA ITEM

October 28, 2020 ADMINISTRATION BUILDING A  
FLORENCE, ARIZONA

---

### REQUESTED BY:

**Funds #:** 68

**Dept. #:** 311

**Dept. Name:** Flood Control District

**Director:** Andrew Smith

---

### BRIEF DESCRIPTION OF AGENDA ITEM AND REQUESTED BOARD ACTION:

Discussion/approval/disapproval of the authorization of the Chairman of the Pinal County Flood Control District Board of Directors to sign the community acknowledgment section of the Letter of Map Revision (LOMR) application for the Queen Creek 4140 Parcel within the Town of Queen Creek. The LOMR submittal requests that a portion of the EFFECTIVE Zone A boundaries be revised based on a more detailed floodplain analysis to include new topographic mapping, updated hydrology, and updated hydraulics. The 4140 parcel is State Trust Land generally located at the northeast corner of Germann Road and Meridian Roads within Pinal County. This land was recently annexed into the Town of Queen Creek. The area affected by the proposed map changes is located within Sections 31, 32, 33, & 34 of Township 1 South, Range 8 East and Sections 3, 4, 5, 6, 7, and 10 of Township 2 South, Range 8 East, Gila and Salt River Base and Meridian, Pinal County, Arizona. The FEMA Effective FIRM Panels for the site are Pinal County Map Numbers 04021C0200E with an effective date of December 4, 2007. Supervisor District #2.(FL20-005) (Christopher Wanamaker/Andrew Smith)

---

### BRIEF DESCRIPTION OF THE FISCAL CONSIDERATIONS AND/OR EXPECTED FISCAL IMPACT OF THIS AGENDA ITEM:

There will be no fiscal impact to Pinal County due to the approval of this LOMR.

---

### BRIEF DESCRIPTION OF THE EXPECTED PERFORMANCE IMPACT OF THIS AGENDA ITEM:

This action will serve to approve a floodplain map change based on a more detailed floodplain analysis. Review of Letters of Map Revision (LOMR) is required by Pinal County's participation in the National Flood Insurance Program.

---

### MOTION:

Approve as presented.

---

History

Time

Who

Approval

10/16/2020 2:46 PM

Public Works

Yes

10/16/2020 2:51 PM

County Attorney

Yes

10/16/2020 3:40 PM

County Manager

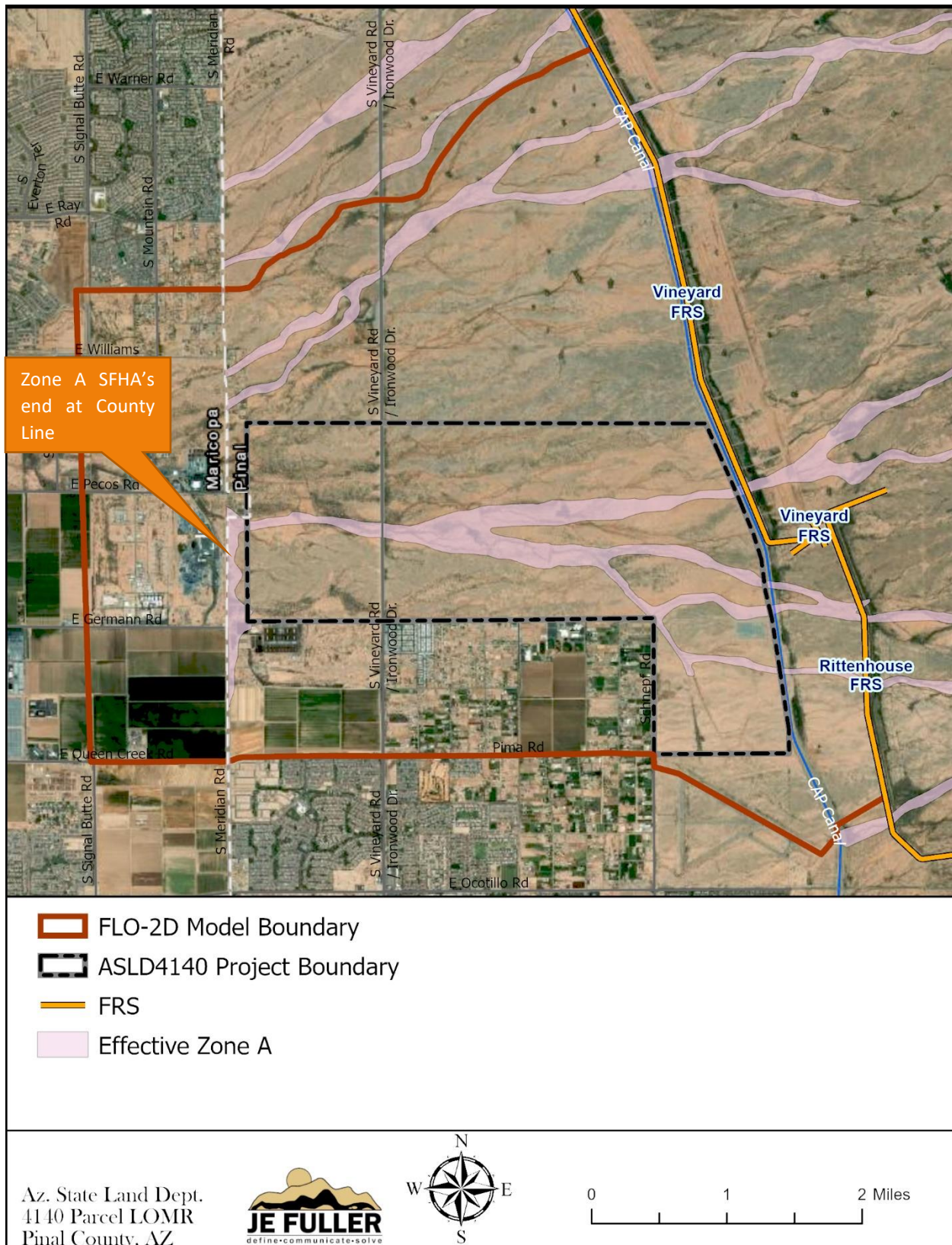
Yes

**ATTACHMENTS:**

Click to download

☐ [Letter of Map Revision](#)

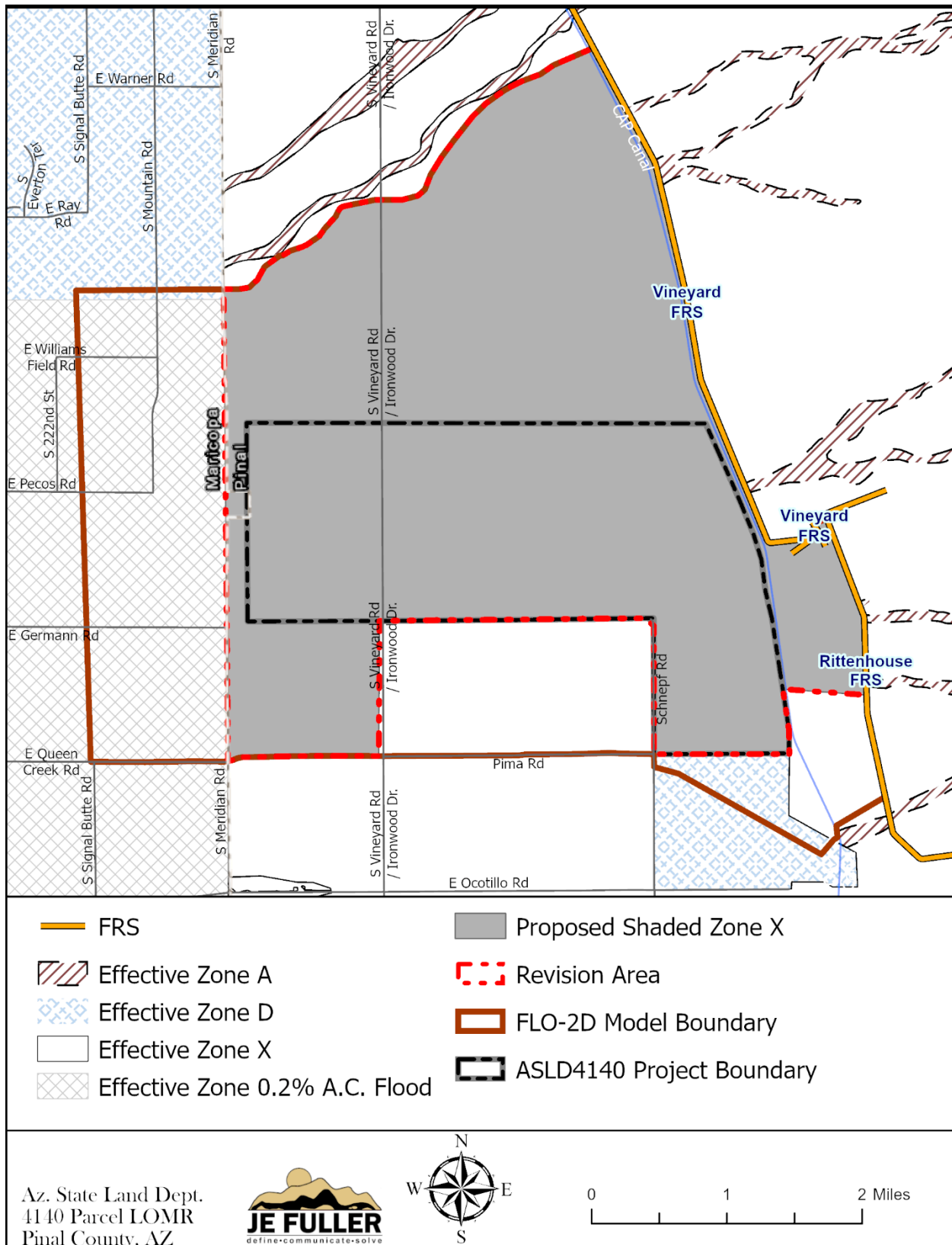
## Queen Creek Parcel 4140 Letter of Map Revision



**Figure 1-2. Aerial Map**



# Queen Creek Parcel 4140 Letter of Map Revision



**Figure 1-4. Proposed flood zone designation map**



U.S. DEPARTMENT OF HOMELAND SECURITY  
FEDERAL EMERGENCY MANAGEMENT AGENCY  
**OVERVIEW & CONCURRENCE FORM**

*O.M.B No. 1660-0016*  
*Expires February 28, 2014*

**PAPERWORK BURDEN DISCLOSURE NOTICE**

Public reporting burden for this form is estimated to average 1 hours per response. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing, reviewing, and submitting the form. You are not required to respond to this collection of information unless it displays a valid OMB control number. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing this burden to: Information Collections Management, Department of Homeland Security, Federal Emergency Management Agency, 1800 South Bell Street, Arlington, VA 20958-3005, Paperwork Reduction Project (1660-0016). Submission of the form is required to obtain or retain benefits under the National Flood Insurance Program. **Please do not send your completed survey to the above address.**

**PRIVACY ACT STATEMENT**

**AUTHORITY:** The National Flood Insurance Act of 1968, Public Law 90-448, as amended by the Flood Disaster Protection Act of 1973, Public Law 93-234.

**PRINCIPAL PURPOSE(S):** This information is being collected for the purpose of determining an applicant's eligibility to request changes to National Flood Insurance Program (NFIP) Flood Insurance Rate Maps (FIRM).

**ROUTINE USE(S):** The information on this form may be disclosed as generally permitted under 5 U.S.C § 552a(b) of the Privacy Act of 1974, as amended. This includes using this information as necessary and authorized by the routine uses published in DHS/FEMA/NFIP/LOMA-1 National Flood Insurance Program (NFIP); Letter of Map Amendment (LOMA) February 15, 2006, 71 FR 7990.

**DISCLOSURE:** The disclosure of information on this form is voluntary; however, failure to provide the information requested may delay or prevent FEMA from processing a determination regarding a requested change to a (NFIP) Flood Insurance Rate Maps (FIRM).

**A. REQUESTED RESPONSE FROM DHS-FEMA**

This request is for a (check one):

- ☐ CLOMR: A letter from DHS-FEMA commenting on whether a proposed project, if built as proposed, would justify a map revision, or proposed hydrology changes (See 44 CFR Ch. 1, Parts 60, 65 & 72).
- ☒ LOMR: A letter from DHS-FEMA officially revising the current NFIP map to show the changes to floodplains, regulatory floodway or flood elevations. (See 44 CFR Ch. 1, Parts 60, 65 & 72)

**B. OVERVIEW**

1. The NFIP map panel(s) affected for all impacted communities is (are):

Community No.	Community Name	State	Map No.	Panel No.	Effective Date
Example: 480301	City of Katy	TX	48473C	0005D	02/08/83
480287	Harris County	TX	48201C	0220G	09/28/90
040132	Town of Queen Creek	AZ	04021C	0200E	12/04/07
040077	Pinal County	AZ	04021C	0200E	12/04/07

2. a. Flooding Source: Unnamed Watercourse

- b. Types of Flooding: ☒ Riverine ☐ Coastal ☐ Shallow Flooding (e.g., Zones AO and AH)
- ☐ Alluvial fan ☐ Lakes ☐ Other (Attach Description)

3. Project Name/Identifier: Queen Creek 4140 Parcel LOMR

4. FEMA zone designations affected: A, X (choices: A, AH, AO, A1-A30, A99, AE, AR, V, V1-V30, VE, B, C, D, X)

5. Basis for Request and Type of Revision:

a. The basis for this revision request is (check all that apply)

- ☐ Physical Change ☒ Improved Methodology/Data ☐ Regulatory Floodway Revision ☐ Base Map Changes
- ☐ Coastal Analysis ☐ Hydraulic Analysis ☐ Hydrologic Analysis ☒ Corrections
- ☐ Weir-Dam Changes ☐ Levee Certification ☐ Alluvial Fan Analysis ☐ Natural Changes
- ☐ New Topographic Data ☐ Other (Attach Description)

Note: A photograph and narrative description of the area of concern is not required, but is very helpful during review.

b. The area of revision encompasses the following structures (check all that apply)

Structures:

☐ Channelization

☐ Levee/Floodwall

☐ Bridge/Culvert

☐ Dam

☐ Fill

☐ Other (Attach Description)

6. ☐ Documentation of ESA compliance is submitted (required to initiate CLOMR review). Please refer to the instructions for more information.

### C. REVIEW FEE

Has the review fee for the appropriate request category been included?

☐ Yes

Fee amount: \$\_\_\_\_\_

☒ No, Attach Explanation

Please see the DHS-FEMA Web site at [http://www.fema.gov/plan/prevent/fhm/fm\\_fees.shtm](http://www.fema.gov/plan/prevent/fhm/fm_fees.shtm) for Fee Amounts and Exemptions.

### D. SIGNATURE

All documents submitted in support of this request are correct to the best of my knowledge. I understand that any false statement may be punishable by fine or imprisonment under Title 18 of the United States Code, Section 1001.

Name: Ian Sharp, PE

Company: JE Fuller/Hydrology & Geomorphology, Inc


Mailing Address:

3111 N. Caden Court, Ste 180  
Flagstaff, AZ 86004

Daytime Telephone No.: 928-214-0887

Fax No.: n/a

E-Mail Address: [ian@jefuller.com](mailto:ian@jefuller.com)

Signature of Requester (required): 

Date: 9/10/2020

As the community official responsible for floodplain management, I hereby acknowledge that we have received and reviewed this Letter of Map Revision (LOMR) or conditional LOMR request. Based upon the community's review, we find the completed or proposed project meets or is designed to meet all of the community floodplain management requirements, including the requirements for when fill is placed in the regulatory floodway, and that all necessary Federal, State, and local permits have been, or in the case of a conditional LOMR, will be obtained. For Conditional LOMR requests, the applicant has documented Endangered Species Act (ESA) compliance to FEMA prior to FEMA's review of the Conditional LOMR application. For LOMR requests, I acknowledge that compliance with Sections 9 and 10 of the ESA has been achieved independently of FEMA's process. For actions authorized, funded, or being carried out by Federal or State agencies, documentation from the agency showing its compliance with Section 7(a)(2) of the ESA will be submitted. In addition, we have determined that the land and any existing or proposed structures to be removed from the SFHA are or will be reasonably safe from flooding as defined in 44CFR 65.2(c), and that we have available upon request by FEMA, all analyses and documentation used to make this determination.

Community Official's Name and Title: Anthony Smith, Chairman of the Flood Control Board of Directors

Community Name: Pinal County

Mailing Address:

PO Box 827  
Florence, AZ 85132

Daytime Telephone No.: 520-509-3555

Fax No.: 520-866-6511

E-Mail Address: [Anthony.Smith@pinal.gov](mailto:Anthony.Smith@pinal.gov)

Community Official's Signature (required):

Date:

### CERTIFICATION BY REGISTERED PROFESSIONAL ENGINEER AND/OR LAND SURVEYOR

This certification is to be signed and sealed by a licensed land surveyor, registered professional engineer, or architect authorized by law to certify elevation information data, hydrologic and hydraulic analysis, and any other supporting information as per NFIP regulations paragraph 65.2(b) and as described in the MT-2 Forms Instructions. All documents submitted in support of this request are correct to the best of my knowledge. I understand that any false statement may be punishable by fine or imprisonment under Title 18 of the United States Code, Section 1001.

Certifier's Name: Ian Sharp

License No.: 43845

Expiration Date: 3/31/2021

Company Name: JE Fuller/Hydrology & Geomorphology, Inc

Telephone No.: 928-214-0887

Fax No.: n/a

Signature: 

Date: 9/10/2020

E-Mail Address: [ian@jefuller.com](mailto:ian@jefuller.com)



AGENDA ITEM

October 28, 2020 ADMINISTRATION BUILDING A  
FLORENCE, ARIZONA

---

**REQUESTED BY:**

**Funds #:** 68

**Dept. #:** 311

**Dept. Name:** Flood Control District

**Director:** Andrew Smith

---

**BRIEF DESCRIPTION OF AGENDA ITEM AND REQUESTED BOARD ACTION:**

Discussion/approval/disapproval of Notice of grant and agreement award with USDA in the amount \$500,000 to fund a development of a watershed plan environmental assessment for the Guild Wash drainage area to ascertain the preferred alternative to address flooding issues. This is a Federal Funds Reimbursement grant and receipt of \$500,000 in reimbursements from USDA. Supervisor District #4. (FL20-003) (Christopher Wannamaker/Andrew Smith)

---

**BRIEF DESCRIPTION OF THE FISCAL CONSIDERATIONS AND/OR EXPECTED FISCAL IMPACT OF THIS AGENDA ITEM:**

There aren't any expected fiscal considerations or impacts to General Fund associated with this agenda item.

---

**BRIEF DESCRIPTION OF THE EXPECTED PERFORMANCE IMPACT OF THIS AGENDA ITEM:**

There aren't any expected performance impacts associated with this agenda item.

---

**MOTION:**

Approve as presented.

---

History		
Time	Who	Approval
10/21/2020 1:41 PM	County Attorney	Yes
10/21/2020 3:28 PM	Grants/Hearings	Yes
10/22/2020 10:57 AM	Budget Office	Yes
10/22/2020 11:03 AM	County Manager	Yes
10/22/2020 11:12 AM	Clerk of the Board	Yes

---

**ATTACHMENTS:**

Click to download

☐ [Supporting document](#)





**PINAL COUNTY**  
WIDE OPEN OPPORTUNITY

**Board of Supervisors Grant Request**

Board of Supervisors meeting date: 10/28/2020

Department seeking grant: Public Works / Flood Control District

Name of Granting Agency: USDA

Name of Grant Program: USDA Natural Resources Conservation Service

Project Name: Guilde Wash

Amount being requested: 500,000

Match/budget amendment required: 25% Match / No BA

Application due date: \_\_\_\_\_

Anticipated award date: 10/08/2020

Addresses a strategic priority/goal? If so, identify: \_\_\_\_\_

Applicable Supervisor District: #4

Brief description of project:

Notice of grant and agreement award with USDA in the amount \$500,000.00 to fund a development of a watershed plan environmental assessment for the Guilde Wash.

Appropriate approvals received as required under Policy 8.20:



Board of Supervisor Request (check all that apply):

Discussion/Approve/Disapproval consent item

New item requiring discussion/action

Request to submit the application

Retroactive approval to submit

Public Hearing required

Resolution required

Request to accept the award

Request to approve/sign an agreement

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>





NOTICE OF GRANT AND AGREEMENT AWARD

1. Award Identifying Number NR209457XXXXC007	2. Amendment Number	3. Award /Project Period Date of final signature- 02/01/2022	4. Type of award instrument: Cooperative Agreement
5. Agency (Name and Address)  Natural Resources Conservation Service 230 North First Avenue, Suite 509 Phoenix, AZ 85003		6. Recipient Organization (Name and Address)  PINAL, COUNTY OF POB 1348 FLORENCE AZ 85132-3027  DUNS: 074447095      EIN:	
7. NRCS Program Contact  Name: David Beyman Phone: (602) 285-6351 Email: david.beyman@az.usda.gov	8. NRCS Administrative Contact  Name: CASSANDRA HAYES Phone: 816-823-5608 Email: cassandra.hayes@usda.gov	9. Recipient Program Contact  Name: Christopher Wanamaker Phone: 520-866-6511 Email: christopher.wanamaker@pinal.gov	10. Recipient Administrative Contact  Name: Courtney Prock Phone: 520-866-6479 Email: courtney.prock@pinal.gov
11. CFDA 10.904	12. Authority 16 U.S.C. 1001-1009	13. Type of Action New Agreement	14. Program Director  Name: Christopher Wanamaker Phone: 520-866-6511 Email: christopher.wanamaker@pinal.gov
15. Project Title/ Description: Preparation of watershed plan environmental assessment for Guide Wash in Pinal County Arizona. Agreement: 6000014692			
16. Entity Type: B = County Government			
17. Select Funding Type			
Select funding type:	<input checked="" type="checkbox"/> Federal	<input type="checkbox"/> Non-Federal	
Original funds total	\$500,000.00	\$0.00	
Additional funds total	\$0.00	\$0.00	
Grand total	\$500,000.00	\$0.00	
18. Approved Budget			



Personnel	\$0.00	Fringe Benefits	\$0.00
Travel	\$0.00	Equipment	\$0.00
Supplies	\$0.00	Contractual	\$0.00
Construction	\$0.00	Other	\$500,000.00
Total Direct Cost	\$500,000.00	Total Indirect Cost	\$0.00
		Total Non-Federal Funds	\$0.00
		Total Federal Funds Awarded	\$500,000.00
		Total Approved Budget	\$500,000.00

This agreement is subject to applicable USDA NRCS statutory provisions and Financial Assistance Regulations. In accepting this award or amendment and any payments made pursuant thereto, the undersigned represents that he or she is duly authorized to act on behalf of the awardee organization, agrees that the award is subject to the applicable provisions of this agreement (and all attachments), and agrees that acceptance of any payments constitutes an agreement by the payee that the amounts, if any, found by NRCS to have been overpaid, will be refunded or credited in full to NRCS.

Name and Title of Authorized Government Representative  Keisha Tatem State Conservationist	Signature 	Date  09/04/2020
Name and Title of Authorized Recipient Representative  Scott Bender Public Works Director	Signature 	Date 8/26/2020

#### NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

#### PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 552a).

## Statement of Work

### Purpose

The purpose of this agreement is for the United States Department of Agriculture, Natural Resources Conservation Service, hereinafter referred to as the "NRCS", to provide assistance Pinal County, hereinafter referred to as the "Sponsor", for the Guild Wash Watershed Plan, Pinal County, Arizona, under the Watershed Protection and Flood Prevention Act.

### Objectives

Preparation of a watershed plan environmental assessment for the Guild Wash area in Pinal County, Arizona.

This agreement includes funding for the planning phase of this effort. If additional funds become available to totally complete the project through construction, an amendment will be proposed with the Sponsor. If agreed by the parties this agreement will be amended accordingly. This agreement includes clauses for other phases that may or may not be funded.

### Budget Narrative

The official budget (including cost category itemization as identified on the SF-424A) described in this Budget Narrative will be considered the "the total budget as last approved by the Federal awarding agency" for this award.

1. NRCS shall pay 100 percent of the planning costs. There is no Sponsor cost-share required.
2. Budget includes the following estimated costs:
  - a. Contractual \$500,000 for developing a watershed plan and environmental assessment.
  - b. Planning and Environmental Assessment development costs are expenses incurred for surveys and investigations, environmental studies, evaluation of alternatives, and preparation of the plan prior to the authorization of the plan and assistance for the installation of works of improvement.

### Responsibilities of the Parties:

If inconsistencies arise between the language in this Statement of Work (SOW) and the General Terms and Conditions attached to the agreement, the language in this SOW takes precedence.

#### A. Sponsor will—

1. Planning must follow the policy set forth in the NRCS Title 390, National Watershed Program Manual (NWPM), Part 505, which is incorporated by reference. Sponsor may obtain a full copy of the above referenced manual at <http://directives.sc.egov.usda.gov/> or from the NRCS Arizona State Office.
2. The contracts for services described in this Agreement shall not be awarded to the Sponsor or to any firm in which any Sponsor's official or any member of such official's immediate family has direct or indirect interest in the pecuniary profits or contracts of such firms. Reference 2 CFR § 200.318 regarding standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts.
3. Accept all financial and other responsibility for any excess costs resulting from its failure to obtain, or delay in obtaining adequate land and water rights; natural resource rights; or Federal, State, and local permits and licenses needed for the work described in this agreement.
4. Take reasonable and necessary action of all contractual and administrative issues arising out of contracts awarded under this agreement.
5. Be responsible for all ineligible project costs. Ineligible costs are costs not referenced in this agreement. The Sponsor is also responsible for all costs in excess of the federal cost-share in this agreement.
6. Comply with the applicable requirements in the attached General Terms and Conditions of this agreement.
7. Ensure that requirements for compliance with environmental and cultural resource laws are incorporated into the plan/EA contract for the works of improvement described in



this agreement.

8. Ensure the information in the System for Award Management (SAM) is current and accurate until the final financial report (SF 425) under this award or final payment is received, whichever is later.
9. Take reasonable and necessary actions to dispose of all contractual and administrative issues arising out of the contract awarded under this agreement. This includes, but is not limited to disputes, claims, protests of award, source evaluation, and litigation that may result from the project. Such actions will be at the expense of the Sponsor, including any legal expenses. The Sponsor will advise, consult with, and obtain prior written concurrence of NRCS on any litigation matters in which NRCS could have a financial interest.
10. Sponsor must indemnify and hold NRCS harmless to the extent permitted by State law for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the Sponsor in connection with its acquisition and management of the Watershed Flood Prevention Operations Program pursuant to this project agreement. Further, the Sponsor agrees that NRCS will have no responsibility for acts and omissions of the Sponsor, its agents, successors, assigns, employees, contractors, or lessees in connection with the acquisition and management of the Watershed Flood Prevention Operations Program pursuant to this project agreement that result in violation of any laws and regulations that are now or that may in the future become applicable.
11. Be liable to the NRCS for damages sustained by the NRCS as a result of the contractor failing to complete the work within the specified time. The damages will be based upon the additional costs incurred by the NRCS resulting from the contractor not completing the work within the allowable performance period. These costs include but are not limited to personnel costs, travel, etc. The NRCS will have the right to withhold such amount out of any monies that may be then due or that may become due and payable to the Sponsor. This liability is not applicable to the extent that the contract performance time is extended by court judgment unless such judgment results from actions of the Sponsor not concurred in by NRCS.
12. The Sponsor must secure at its own expense all Federal, State, and local permits and licenses necessary for completion of the work described in this agreement as well as any necessary natural resource rights and provide copies of all permits and licenses obtained to NRCS.
13. Submit performance reports on an annual basis to ezFedGrants or to the Farm Production and Conservation (FPAC) Grants and Agreements Division staff via email to: [FPAC.BC.GAD@usda.gov](mailto:FPAC.BC.GAD@usda.gov). Reports are due 30 calendar days after the reporting period and are based on the agreement period of performance start date.
14. Submit SF-425 Financial Reports on a semi-annual basis to ezFedGrants or to the Farm Production and Conservation (FPAC) Grants and Agreements Division via email to: [FPAC.BC.GAD@usda.gov](mailto:FPAC.BC.GAD@usda.gov). Reports are due 30 calendar days after the reporting period on July 31 and January 31. Please note that financial reporting is based on the calendar year.
15. Submit payment requests to ezFedGrants or to the Farm Production and Conservation (FPAC) Grants and Agreements Division via email to: [FPAC.BC.GAD@usda.gov](mailto:FPAC.BC.GAD@usda.gov) on a monthly or quarterly basis. Refer to the General Terms and Conditions for more information regarding payment requests.

**B. NRCS will—**

1. Review and concur with watershed plan, and environmental assessment, and all other contract documents developed for or by the Sponsor.
2. Provide authorized assistance such as, but not limited to, estimates of contract costs, length of contract period, results of tests and studies as available, site investigations, design and layout, and drawings and specifications, as requested by the Sponsor, and as its resources permit.
3. Make payment to the Sponsor covering the NRCS's share of the cost upon receipt and approval of SF-270, withholding the amount of damages sustained by NRCS as provided for in this agreement.

**C. SPECIAL PROVISIONS**

1. The furnishing of financial, administrative, and/or technical assistance above the original funding amount by NRCS is contingent on there being sufficient unobligated and uncommitted funding in the Watershed Flood Prevention Operations Program that is available for obligation in the year in which the assistance will be provided. NRCS may not make commitments in excess of funds authorized by law or made administratively available. Congress may impose obligational limits on program funding that constrains NRCS's ability to provide such assistance.

2. NRCS, at its sole discretion, may refuse to cost share should the Sponsor, in administering the contract, elect to proceed without obtaining concurrences described in this agreement.

### **Expected Accomplishments and Deliverables**

Sponsor will—

1. Prepare a watershed plan/EA and prepare preliminary designs if needed, that comply with NRCS programmatic requirements. The Sponsor must ensure each description of the work described in this agreement is reviewed, concurred, and approved by NRCS. Sponsor must not move to the next project work described in this agreement until the prior work is concurred and approved by NRCS.
2. Develop a quality assurance plan (QAP) for the project and submit it for NRCS review and concurrence.
3. The sponsor must provide NRCS with documentation of the actual cost incurred for the services acquired.
4. Provide copies of site maps to appropriate Federal and State agencies for environmental review. Notify NRCS of environmental clearance, or any unresolved concerns prior to plan authorization.

### **Resources Required**

No other resources required other than funding.

### **Milestones**

Estimated Time Frame: 18 months

- Preliminary Plan/EA – 1st Submittal
  - o Review by NRCS Arizona State Office (AZ SO), 2 - 4 weeks
  - o Schedule comment resolution meeting, if needed
  - o Comments responses to be finalized by Contractor
  - o NRCS AZ SO to review comment responses, 1 – 2 weeks
- Preliminary Plan/EA – 2nd Submittal
  - o Review by NRCS National Watershed Management Center (NWMC), 4 weeks
  - o Teleconference with NWMC to clarify comments, if needed
  - o Comments to be addressed by Contractor
  - o NRCS AZ SO to review comment responses, 1 -2 weeks
- Draft Plan/EA – 1st Submittal
  - o Cursory review by NRCS National Headquarters (NHQ), 2 – 4 weeks
  - o Comments, if any provided, to be addressed by Contractor
  - o NRCS AZ SO to review comments responses, if any, 1-2 weeks
- Draft Plan/EA – 2nd Submittal
  - o Review by Public and Agencies – 4 Weeks (concurrent review by NRCS AZ SO)
  - o Comments to be addressed by Contractor
  - o NRCS AZ SO to review comment responses. 1 – 2 weeks
- Final Plan/EA – 1st Submittal (No signatures)
  - o NRCS NHQ Review – 4 Weeks (concurrent review by NRCS AZ SO)
  - o Comments to be addressed by Contractor
  - o NRCS AZ SO to review comment responses, 1 – 2 weeks
- Final Plan/EA – 2nd Submittal
  - o To be sent out for signatures.
  - o

NOTE: Submittals to NRCS NWMC and NHQ will be done through the NRCS AZ SO.

## GENERAL TERMS AND CONDITIONS

Please reference the below link(s) for the General Terms and Conditions pertaining to this award:

### U.S. DEPARTMENT OF AGRICULTURE FARM PRODUCTION AND CONSERVATION

#### GENERAL TERMS AND CONDITIONS GRANTS AND COOPERATIVE AGREEMENTS

The Farm Production and Conservation (FPAC) mission area encompasses the following USDA agencies: Natural Resources Conservation Service (NRCS), Farm Service Agency (FSA), Risk Management Agency (RMA), the Commodity Credit Corporation (CCC), and the FPAC Business Center.

#### I. APPLICABLE REGULATIONS

a. As a condition of this award, the recipient assures and certifies that it has and/or will comply and require subrecipients to comply with the requirements contained in the following statutes and regulations, as applicable. The full text of Code of Federal Regulations references may be found at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR> and <http://www.ecfr.gov/>.

(1) 2 CFR Part 25, "Universal Identifier and System of Award Management" (2) 2 CFR Part 170, "Reporting Subaward and Executive Compensation Information" (3) 2 CFR Part 175, "Award Term for Trafficking in Persons" (4) 2 CFR Part 180, "OMB Guidelines to Agencies On Governmentwide Debarment And Suspension (Nonprocurement)" (5) 2 CFR Part 182, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)" (6) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (7) 2 CFR Part 400, "Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards" (8) 2 CFR Part 417, "Nonprocurement Debarment and Suspension" (9) 2 CFR Part 418, "New Restrictions on Lobbying" (10) 2 CFR Part 421, "Requirements for Drug-Free Workplace (Financial Assistance)" (11) 2 CFR Part 422, "Research Institutions Conducting USDA-Funded Extramural Research; Research Misconduct"

b. Allowable project costs will be determined in accordance with the authorizing statute, the purpose of the award, and, to the extent applicable, to the type of organizations receiving the award, regardless of tier. The following portions of the Code of Federal Regulations are hereby incorporated by reference. The full text of Code of Federal Regulations references may be found at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR> and <http://www.ecfr.gov/>.

(1) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles And Audit Requirements For Federal Awards" (2) 48 CFR Part 31, "Contract Cost Principles and Procedures" c. For corporate recipients, by accepting this award the recipient acknowledges: (1) that it does not have a Federal tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) that it has not been convicted of a felony criminal violation under any Federal law within 24 months preceding the award, unless a suspending and debarring official of the USDA has considered suspension or debarment of the recipient corporation based on these convictions and/or tax delinquencies and determined that suspension or debarment is not necessary to protect the interests of the Government. If the recipient fails to comply with these provisions, the agency will annul this agreement and may recover any funds the recipient has expended in violation of the above cited statutory provisions.

#### II. UNALLOWABLE COSTS

The following costs are not allowed:

a. Costs above the amount authorized for the project. b. Costs incurred after the award period of performance end date. c. Costs not identified in the approved budget or approved budget revisions. d. Profit resulting from Federal financial assistance. Recipients may not earn and keep income resulting from an award. e. Costs of promotional items and memorabilia, including models, gifts, and souvenirs. f. Compensation for injuries to persons or damage to property arising from project activities.

This list is not exhaustive. For general information about the allowability of particular items of costs, please see 2 CFR Part 200, "Subpart E - Cost Principles", or direct specific inquiries to the administrative contact identified in the award.

The allowability of some items of costs may be difficult to determine. To avoid disallowance or dispute of such costs, the recipient may seek prior approval before incurring them. See 2 CFR 200.407. III. PRIOR APPROVAL REQUIREMENTS

Certain items of cost and award revisions require the prior written approval of the awarding agency. The following are the most common situations requiring prior approval. However, this list is not exhaustive, and the recipient is also bound by any other prior approval requirements identified in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

a. Pre-award costs.—To receive reimbursement for costs incurred prior to the award date, recipients must request written approval before incurring the costs. This restriction also applies to costs intended to meet cost-share requirements. FPAC agencies will not approve expenses incurred more than 90 calendar days before the period of performance start date. All costs incurred before the period of performance start date, even if approved, are at the recipient's risk (i.e., the Federal awarding agency is under no obligation to reimburse such costs if for any reason the recipient does not receive a Federal award or if the Federal award is less than anticipated and inadequate to cover such costs). b. Revisions to scope, objective, or deliverables.—When it is necessary to modify the scope, objective, or deliverables of an award, the recipient authorized signatory must submit a written request and justification for the change along with the revised scope, objective, or deliverables of the award to the administrative contact. The request should contain the following information: 1. Grant or agreement number 2. Narrative explaining the requested modification to the project scope, objectives, or deliverables 3. A description of the revised scope, objectives, or deliverables

c. Additions or changes to subawards and contracts.—The subawarding, transferring, or contracting out of any work under a Federal award not identified in the original award budget or any changes to subaward or contracts requires prior written approval. The recipient must submit a justification for the proposed subaward/contract, a statement of work to be performed, and a detailed budget for the subaward/contract to the administrative contact. This provision does not apply to the acquisition of supplies, material, equipment, or general support services. d. Change in a key person specified in the application or award.—When there is a change in key personnel, the recipient must request prior written approval for the substitution or change. The request must identify the replacement personnel and provide his or her qualifications.

e. Absence or change in project leadership.—If the approved project director or principal investigator disengages from the project for more than three months or reduces time devoted to the project by 25 percent or more, the recipient must notify the administrative contact in writing, identifying who will be in charge during the project director's absence. The notification must include the qualifications of the replacement.

f. Budget revisions.—Recipients must request prior written approval for deviations from the approved budget in the instances described below. For all budget revisions, the recipient must submit a new SF 424A or 424C and budget narrative to support the request. 1. The inclusion of costs that require prior approval in accordance with Subpart E—Cost Principles of this part or 45 CFR part 75 Appendix IX, "Principles for Determining Costs Applicable to Research and Development under Awards and Contracts with Hospitals," or 48 CFR part 31, "Contract Cost Principles and Procedures," as applicable. 2. Where the cumulative amount of transfers of funds among direct cost categories or programs, functions, and activities exceeds or is expected to exceed 10 percent of the total budget as last approved by the Federal awarding agency, and where the Federal share of the project exceeds the simplified acquisition threshold. 3. The transfer of funds budgeted for participant support costs to other categories of expense requires prior written approval. Participant support costs means direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences or training projects. 4. Changes in the approved cost-sharing or matching provided by the recipient. 5. Additional Federal funds needed to complete the project. 6. Changes to negotiated indirect cost rates during the award period of performance. 7. Equipment purchases not specifically identified in the approved budget.

g. No-Cost Extensions of Time.—When a no-cost extension of time is required, the recipient authorized signatory must submit a written request to the FPAC administrative contact. Except in very limited circumstances, a no-cost extension of time cannot exceed 12 months. FPAC cannot approve requests for no-cost extensions received after the expiration of the award. In addition, time may not allow extension requests submitted less than 30 calendar days before the period of performance end date to be processed, so recipients are encouraged to submit requests as soon as possible. FPAC agencies cannot approve no-cost extensions requested merely to expend remaining funds. The request must contain the following: 1. Amount of additional time requested 2. Explanation for the need for the extension 3. A summary of progress to date and revised milestones

#### IV. PAYMENTS

a. Recipients must request reimbursement or advances using a properly completed and executed SF-270, submitted with supporting documentation to either the ezFedGrants system or to the e-mail address specified in the statement of work. FPAC agencies will make payment to the recipient on a reimbursable or advance basis in accordance with the frequency specified in the statement of work.

b. Recipients requesting advances should request payments in amounts necessary to meet their current needs pursuant

to procedures contained in the Federal administrative provisions and 31 CFR Part 205. At the end of each advance period, the recipient must provide a justification (i.e., documentation) showing the amount of advanced funds spent.

c. The method of payment between the recipient and its contractors will be in accordance with the policies and procedures established by the recipient except that the contractors may not use the USDA Office of Financial Management/National Finance Center method to request payments. If the recipient makes advance payments to contractors, the recipient must ensure that the timing of such payments is designed to minimize elapsed time between the advance payment and the disbursement of funds. Recipients must not submit requests from their contractors for review or approval.

d. Accounting records for all costs incurred under this award must be supported by source documentation. Such documentation includes, but is not limited to, canceled checks, paid bills, payroll records, and subaward documents. Labor cost charges to this award must be based upon salaries actually earned and the time actually worked on this award. All project costs must be incurred within the approved project period of this award, including any approved no-cost extension of time. Costs that cannot be supported by source documentation or that are incurred outside of the approved project period and budget may be disallowed and may result in award funds being returned to the Federal Government by the recipient. The level of detail and documentation required to be provided to support any individual payment request is at the discretion of the Government.

e. Recipients must pay all costs incurred (i.e., liquidate obligations) under the award not later than 90 calendar days after the period of performance end date.

## V. FINANCIAL REPORTING

a. Recipients must submit a Federal Financial Report (FFR), SF 425 in accordance with the schedule included in the award statement of work. Recipients must submit reports to either the ezFedGrants system or to the email address specified in the statement of work. Failure to submit reports as required may result in suspension or termination of award.

b. The recipient must submit a final financial report no later than 90 days after the period of performance end date. c. The FPAC awarding agency will withhold payments under this award if the recipient is delinquent in submitting required reports.

## VI. PERFORMANCE MONITORING AND REPORTING

a. The recipient is responsible for monitoring day-to-day performance and for reporting to FPAC. If the project involves subaward/contractual arrangements, the recipient is also responsible for monitoring the performance of project activities under those arrangements to ensure that approved goals and schedules are met.

b. The recipient must submit a written progress report at the frequency specified in the statement of work to either the ezFedGrants system or to the email address specified in the statement of work. Each report must cover— 1. A comparison of actual accomplishments with the goals and objectives established for the reporting period and, where project output can be quantified, a computation of the costs per unit of output.

2. The reasons why goals and objectives were not met, if appropriate.

3. Additional pertinent information including, where appropriate, analysis and explanation of cost overruns or high unit costs.

c. The recipient must submit a final performance report within 90 calendar days of the period of performance end date. d. The FPAC awarding agency will withhold payments under this award if the recipient is delinquent in submitting required reports.

## VII. AUDIT REQUIREMENTS

The recipient is responsible for complying with audit requirements in accordance with 2 CFR 200, Subpart F. A recipient entity that expends \$750,000 or more during the recipient's fiscal year in Federal awards must have a single or program-

specific audit conducted for that year.

## VIII. SPECIAL PROVISIONS

a. The recipient assures and certifies that it will comply with the minimum-wage and maximum-hour provisions of the Federal Fair Labor Standards Act.

b. Employees of FPAC agencies will participate in efforts under this agreement solely as representatives of the United States. They may not participate as directors, officers, employees, or otherwise serve or hold themselves out as representatives of the recipient. They also may not assist the recipient with efforts to lobby Congress or to raise money through fundraising efforts. Further, FPAC employees must report to their immediate supervisor any negotiations with the recipient concerning future employment and must refrain from participation in projects or agreements with such recipients.

c. Employees of the recipient will not be considered Federal employees or agents of the United States for any purposes under this agreement. d. Except in very limited circumstances (e.g., construction agreements), no agreement period of performance can exceed a total of five years, including extensions. e. Recipients who engage or assist in scientific related activities on behalf of USDA must uphold the principles of scientific integrity established by Departmental Regulations 1074-001, Scientific Integrity. Covered activities include engaging in, supervising, managing, and reporting scientific work; analyzing and publicly communicating information resulting from scientific work; and utilizing information derived from scientific work in policy and decision making. f. Recipients of awards under covered programs (as defined in Executive Order 13858, January 31, 2019) are hereby notified that they are encouraged to use, to the greatest extent practicable, iron and aluminum as well as steel, cement, and other manufactured products produced in the United States in every contract, subcontract, purchase order, or subaward that is chargeable under the award. "Covered program" means a program that provides financial assistance for the alteration, construction, conversion, demolition, extension, improvement, maintenance, construction, rehabilitation, or repair of an infrastructure project in the United States. However, it does not include programs for which a domestic preference is inconsistent with law or programs providing financial assistance that are subject to comparable domestic preferences. g. The recipient and its employees are prohibited from promoting, recommending, or discussing the availability of specific commercial products or services with FPAC agency clients in the course of carrying out activities under this agreement, including any products or services offered by the recipient, except as may be specifically allowed in the agreement.

## IX. PATENTS, INVENTIONS, COPYRIGHTS, AND ACKNOWLEDGMENT OF SUPPORT AND DISCLAIMER

a. Allocation of rights of patents, inventions, and copyrights must be in accordance with 2 CFR Part 200.315. This regulation provides that small businesses normally may retain the principal worldwide patent rights to any invention developed with USDA support.

b. In accordance with 37 CFR Section 401.14, each subject invention must be disclosed to the Federal agency within 2 months after the inventor discloses it in writing to contractor personnel responsible for patent matters. Invention disclosure statements pursuant to 37 CFR Section 401.14(c) must be made in writing to:

Farm Production and Conservation Business Center Grants and Acquisitions Division 1400 Independence Avenue, SW.  
Room 6819 South Building Washington, DC 20250

c. USDA receives a royalty-free license for Federal Government use, reserves the right to require the patentee to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must manufacture it domestically.

d. The following acknowledgment of USDA support must appear in the publication of any material, whether copyrighted or not, and any products in electronic formats (World Wide Web pages, computer programs, etc.) that is substantially based upon or developed under this award:

"This material is based upon work supported by the U.S. Department of Agriculture, under agreement number [recipient should enter the applicable award number here]."

In addition, all publications and other materials, except scientific articles or papers published in scientific journals, must include the following statement:

"Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Agriculture. In addition, any reference to specific brands or types of products or services does not constitute or imply an endorsement by the U.S. Department of Agriculture for those products or services."



AGENDA ITEM

October 28, 2020 ADMINISTRATION BUILDING A  
FLORENCE, ARIZONA

---

**REQUESTED BY:**

**Funds #:** 68

**Dept. #:** 311

**Dept. Name:** Flood Control District

**Director:** Andrew Smith

---

**BRIEF DESCRIPTION OF AGENDA ITEM AND REQUESTED BOARD ACTION:**

Discussion/approval/disapproval of Notice of grant and agreement award with USDA in the amount of \$620,000 to fund a development of a watershed plan environmental assessment for the Greene Wash drainage to ascertain the preferred alternative to address flooding issues. This is a Federal Funds Reimbursement grant and receipt of \$620,000 in reimbursements from USDA. Supervisor District #4. (FL20-004) (Christopher Wanamaker/Andrew Smith)

---

**BRIEF DESCRIPTION OF THE FISCAL CONSIDERATIONS AND/OR EXPECTED FISCAL IMPACT OF THIS AGENDA ITEM:**

There aren't any expected discal considerations or impacts to General Fund associated with this agenda item.

---

**BRIEF DESCRIPTION OF THE EXPECTED PERFORMANCE IMPACT OF THIS AGENDA ITEM:**

There aren't any expected performance impacts associated with this agenda item.

---

**MOTION:**

Approve as presented.

---

History		
Time	Who	Approval
10/21/2020 1:42 PM	County Attorney	Yes
10/21/2020 3:29 PM	Grants/Hearings	Yes
10/22/2020 10:57 AM	Budget Office	Yes
10/22/2020 11:06 AM	County Manager	Yes
10/22/2020 11:12 AM	Clerk of the Board	Yes

---

**ATTACHMENTS:**

Click to download

☐ [Supporting document](#)







**PINAL COUNTY**  
WIDE OPEN OPPORTUNITY

**Board of Supervisors Grant Request**

Board of Supervisors meeting date: 10/28/2020

Department seeking grant: Public Works / Flood Control District

Name of Granting Agency: USDA

Name of Grant Program: USDA Natural Resources Conservation Service

Project Name: Greene Wash

Amount being requested: 620,000

Match/budget amendment required: 25% Match / No BA

Application due date: \_\_\_\_\_

Anticipated award date: 10/08/2020

Addresses a strategic priority/goal? If so, identify: \_\_\_\_\_

Applicable Supervisor District: #4

**Brief description of project:**

Notice of grant and agreement award with USDA in the amount \$620,000.00 to fund a development of a watershed plan environmental assessment for the Greene Wash.

Appropriate approvals received as required under Policy 8.20:



Board of Supervisor Request (check all that apply):

Discussion/Approve/Disapproval consent item

New item requiring discussion/action

Request to submit the application

Retroactive approval to submit

Public Hearing required

Resolution required

Request to accept the award

Request to approve/sign an agreement

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>



NOTICE OF GRANT AND AGREEMENT AWARD



1. Award Identifying Number NR209457XXXXC008	2. Amendment Number	3. Award /Project Period Date of final signature- 02/01/2022	4. Type of award instrument: Cooperative Agreement
5. Agency (Name and Address)  Natural Resources Conservation Service 230 North First Avenue, Suite 509 Phoenix, AZ 85003		6. Recipient Organization (Name and Address)  PINAL, COUNTY OF POB 1348 FLORENCE AZ 85132-3027  DUNS: 074447095      EIN:	
7. NRCS Program Contact  Name: David Beyman Phone: (602) 285-6351 Email: david.beyman@az.usda.gov	8. NRCS Administrative Contact  Name: CASSANDRA HAYES Phone: 816-823-5608 Email: cassandra.hayes@usda.gov	9. Recipient Program Contact  Name: Christopher Wanamaker Phone: 520-866-6511 Email: christopher.wanamaker@pinal.gov	10. Recipient Administrative Contact  Name: Courtney Prock Phone: 520-866-6479 Email: courtney.prock@pinal.gov
11. CFDA  10.904	12. Authority  16 U.S.C. 1001-1009 33 U.S.C. 701b-1 68 Stat. 666, as amended Public Law 83-566 Public Law 84-1018, 70 Stat. 1088 Public Law 85-865, 72 Stat. 1605 Public Law 86-468, 74 Stat. 131, 132 Public Law 86-545, 74 Stat. 254 Public Law 87-703, 76 Stat. 608 Public Law 90-361, 82 Stat. 250	13. Type of Action  New Agreement	14. Program Director  Name: Christopher Wanamaker Phone: 520-866-6511 Email: christopher.wanamaker@pinal.gov
15. Project Title/ Description: Development of a watershed plan environmental assessment for the Greene Wash drainage area to ascertain the preferred alternative to address flooding issues.6000014586			
16. Entity Type: B = County Government			
17. Select Funding Type			
Select funding type:	<input checked="" type="checkbox"/> Federal		<input type="checkbox"/> Non-Federal
Original funds total	\$620,000.00	\$0.00	
Additional funds total	\$0.00	\$0.00	

Grand total	\$620,000.00	\$0.00
-------------	--------------	--------

#### 18. Approved Budget

Personnel	\$0.00	Fringe Benefits	\$0.00
Travel	\$0.00	Equipment	\$0.00
Supplies	\$0.00	Contractual	\$0.00
Construction	\$0.00	Other	\$620,000.00
Total Direct Cost	\$620,000.00	Total Indirect Cost	\$0.00
		Total Non-Federal Funds	\$0.00
		Total Federal Funds Awarded	\$620,000.00
		Total Approved Budget	\$620,000.00

This agreement is subject to applicable USDA NRCS statutory provisions and Financial Assistance Regulations. In accepting this award or amendment and any payments made pursuant thereto, the undersigned represents that he or she is duly authorized to act on behalf of the awardee organization, agrees that the award is subject to the applicable provisions of this agreement (and all attachments), and agrees that acceptance of any payments constitutes an agreement by the payee that the amounts, if any, found by NRCS to have been overpaid, will be refunded or credited in full to NRCS.

Name and Title of Authorized Government Representative Keisha Tatem State Conservationist	Signature 	Date 09/04/2020
Name and Title of Authorized Recipient Representative Scott Bender Public Works Director	Signature 	Date 8/26/2020

#### NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

#### PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 552a).

## Statement of Work

### Purpose

The purpose of this agreement is for the United States Department of Agriculture, Natural Resources Conservation Service, hereinafter referred to as the "NRCS", to provide assistance Pinal County, hereinafter referred to as the "Sponsor", for the Greene Wash Watershed Plan, Pinal County, Arizona, under the Watershed Protection and Flood Prevention Act.

### Objectives

Preparation of a watershed plan environmental assessment for the Greene Wash area in Pinal County, Arizona.

This agreement includes funding for the planning phase of this effort. If additional funds become available to totally complete the project through construction, an amendment will be proposed with the Sponsor. If agreed by the parties this agreement will be amended accordingly. This agreement includes clauses for other phases that may or may not be funded.

### Budget Narrative

The official budget (including cost category itemization as identified on the SF-424A) described in this Budget Narrative will be considered the "the total budget as last approved by the Federal awarding agency" for this award.

1. NRCS shall pay 100 percent of the planning costs. There is no Sponsor cost-share required.
2. Budget includes the following estimated costs:
  - a. Contractual \$620,000 for developing a watershed plan and environmental assessment.
  - b. Planning and Environmental Assessment development costs are expenses incurred for surveys and investigations, environmental studies, evaluation of alternatives, and preparation of the plan prior to the authorization of the plan and assistance for the installation of works of improvement.

### Responsibilities of the Parties:

If inconsistencies arise between the language in this Statement of Work (SOW) and the General Terms and Conditions attached to the agreement, the language in this SOW takes precedence.

#### A. Sponsor will—

1. Planning must follow the policy set forth in the NRCS Title 390, National Watershed Program Manual (NWPM), Part 505, which is incorporated by reference. Sponsor may obtain a full copy of the above referenced manual at <http://directives.sc.egov.usda.gov/> or from the NRCS Arizona State Office.
2. The contracts for services described in this Agreement shall not be awarded to the Sponsor or to any firm in which any Sponsor's official or any member of such official's immediate family has direct or indirect interest in the pecuniary profits or contracts of such firms. Reference 2 CFR § 200.318 regarding standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts.
3. Accept all financial and other responsibility for any excess costs resulting from its failure to obtain, or delay in obtaining adequate land and water rights; natural resource rights; or Federal, State, and local permits and licenses needed for the work described in this agreement.
4. Take reasonable and necessary action of all contractual and administrative issues arising out of contracts awarded under this agreement.
5. Be responsible for all ineligible project costs. Ineligible costs are costs not referenced in this agreement. The Sponsor is also responsible for all costs in excess of the federal cost-share in this agreement.
6. Comply with the applicable requirements in the attached General Terms and Conditions of this agreement.

7. Ensure that requirements for compliance with environmental and cultural resource laws are incorporated into the plan/EA contract for the works of improvement described in this agreement.

8. Ensure the information in the System for Award Management (SAM) is current and accurate until the final financial report (SF 425) under this award or final payment is received, whichever is later.

9. Take reasonable and necessary actions to dispose of all contractual and administrative issues arising out of the contract awarded under this agreement. This includes, but is not limited to disputes, claims, protests of award, source evaluation, and litigation that may result from the project. Such actions will be at the expense of the Sponsor, including any legal expenses. The Sponsor will advise, consult with, and obtain prior written concurrence of NRCS on any litigation matters in which NRCS could have a financial interest.

10. Sponsor must indemnify and hold NRCS harmless to the extent permitted by State law for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the Sponsor in connection with its acquisition and management of the Watershed Flood Prevention Operations Program pursuant to this project agreement. Further, the Sponsor agrees that NRCS will have no responsibility for acts and omissions of the Sponsor, its agents, successors, assigns, employees, contractors, or lessees in connection with the acquisition and management of the Watershed Flood Prevention Operations Program pursuant to this project agreement that result in violation of any laws and regulations that are now or that may in the future become applicable.

11. Be liable to the NRCS for damages sustained by the NRCS as a result of the contractor failing to complete the work within the specified time. The damages will be based upon the additional costs incurred by the NRCS resulting from the contractor not completing the work within the allowable performance period. These costs include but are not limited to personnel costs, travel, etc. The NRCS will have the right to withhold such amount out of any monies that may be then due or that may become due and payable to the Sponsor. This liability is not applicable to the extent that the contract performance time is extended by court judgment unless such judgment results from actions of the Sponsor not concurred in by NRCS.

12. The Sponsor must secure at its own expense all Federal, State, and local permits and licenses necessary for completion of the work described in this agreement as well as any necessary natural resource rights and provide copies of all permits and licenses obtained to NRCS.

13. Submit performance reports on an annual basis to ezFedGrants or to the Farm Production and Conservation (FPAC) Grants and Agreements Division staff via email to: [FPAC.BC.GAD@usda.gov](mailto:FPAC.BC.GAD@usda.gov). Reports are due 30 calendar days after the reporting period and are based on the agreement period of performance start date.

14. Submit SF-425 Financial Reports on a semi-annual basis to ezFedGrants or to the Farm Production and Conservation (FPAC) Grants and Agreements Division via email to: [FPAC.BC.GAD@usda.gov](mailto:FPAC.BC.GAD@usda.gov). Reports are due 30 calendar days after the reporting period on July 31 and January 31. Please note that financial reporting is based on the calendar year.

15. Submit payment requests to ezFedGrants or to the Farm Production and Conservation (FPAC) Grants and Agreements Division via email to: [FPAC.BC.GAD@usda.gov](mailto:FPAC.BC.GAD@usda.gov) on a monthly or quarterly basis. Refer to the General Terms and Conditions for more information regarding payment requests.

#### B. NRCS will—

1. Review and concur with watershed plan, and environmental assessment, and all other contract documents developed for or by the Sponsor.

2. Provide authorized assistance such as, but not limited to, estimates of contract costs, length of contract period, results of tests and studies as available, site investigations, design and layout, and drawings and specifications, as requested by the Sponsor, and as its resources permit.

3. Make payment to the Sponsor covering the NRCS's share of the cost upon receipt and approval of SF-270, withholding the amount of damages sustained by NRCS as provided for in this agreement.

#### C. SPECIAL PROVISIONS

1. The furnishing of financial, administrative, and/or technical assistance above the original funding amount by NRCS is contingent on there being sufficient unobligated and uncommitted funding in the Watershed Flood Prevention Operations Program that is available for obligation in the year in which the assistance will be provided. NRCS may not make commitments in excess of funds authorized by law or made administratively available. Congress may impose obligational limits on program funding that constrains NRCS's ability to provide such assistance.

2. NRCS, at its sole discretion, may refuse to cost share should the Sponsor, in administering the contract, elect to proceed without obtaining concurrences described in this agreement.

### **Expected Accomplishments and Deliverables**

Sponsor will—

1. Prepare a watershed plan/EA and prepare preliminary designs if needed, that comply with NRCS programmatic requirements. The Sponsor must ensure each description of the work described in this agreement is reviewed, concurred, and approved by NRCS. Sponsor must not move to the next project work described in this agreement until the prior work is concurred and approved by NRCS.
2. Develop a quality assurance plan (QAP) for the project and submit it for NRCS review and concurrence.
3. The sponsor must provide NRCS with documentation of the actual cost incurred for the services acquired.
4. Provide copies of site maps to appropriate Federal and State agencies for environmental review. Notify NRCS of environmental clearance, or any unresolved concerns prior to plan authorization.

### **Resources Required**

No other resources required other than funding.

### **Milestones**

Estimated Time Frame: 18 months

- Preliminary Plan/EA – 1st Submittal  
Review by NRCS Arizona State Office (AZ SO), 2 - 4 weeks  
Schedule comment resolution meeting, if needed  
Comments responses to be finalized by Contractor  
NRCS AZ SO to review comment responses, 1 – 2 weeks
- Preliminary Plan/EA – 2nd Submittal  
Review by NRCS National Watershed Management Center (NWMC), 4 weeks  
Teleconference with NWMC to clarify comments, if needed  
Comments to be addressed by Contractor  
NRCS AZ SO to review comment responses, 1 -2 weeks
- Draft Plan/EA – 1st Submittal  
Cursory review by NRCS National Headquarters (NHQ), 2 – 4 weeks  
Comments, if any provided, to be addressed by Contractor  
NRCS AZ SO to review comments responses, if any, 1-2 weeks
- Draft Plan/EA – 2nd Submittal  
Review by Public and Agencies – 4 Weeks (concurrent review by NRCS AZ SO)  
Comments to be addressed by Contractor  
NRCS AZ SO to review comment responses. 1 – 2 weeks
- Final Plan/EA – 1st Submittal (No signatures)  
NRCS NHQ Review – 4 Weeks (concurrent review by NRCS AZ SO)  
Comments to be addressed by Contractor  
NRCS AZ SO to review comment responses, 1 – 2 weeks
- Final Plan/EA – 2nd Submittal  
To be sent out for signatures.

NOTE: Submittals to NRCS NWMC and NHQ will be done through the NRCS AZ SO.

## GENERAL TERMS AND CONDITIONS

Please reference the below link(s) for the General Terms and Conditions pertaining to this award:

### U.S. DEPARTMENT OF AGRICULTURE FARM PRODUCTION AND CONSERVATION

#### GENERAL TERMS AND CONDITIONS GRANTS AND COOPERATIVE AGREEMENTS

The Farm Production and Conservation (FPAC) mission area encompasses the following USDA agencies: Natural Resources Conservation Service (NRCS), Farm Service Agency (FSA), Risk Management Agency (RMA), the Commodity Credit Corporation (CCC), and the FPAC Business Center.

##### I. APPLICABLE REGULATIONS

a. As a condition of this award, the recipient assures and certifies that it has and/or will comply and require subrecipients to comply with the requirements contained in the following statutes and regulations, as applicable. The full text of Code of Federal Regulations references may be found at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR> and <http://www.ecfr.gov/>.

(1) 2 CFR Part 25, "Universal Identifier and System of Award Management" (2) 2 CFR Part 170, "Reporting Subaward and Executive Compensation Information" (3) 2 CFR Part 175, "Award Term for Trafficking in Persons" (4) 2 CFR Part 180, "OMB Guidelines to Agencies On Governmentwide Debarment And Suspension (Nonprocurement)" (5) 2 CFR Part 182, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)" (6) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (7) 2 CFR Part 400, "Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards" (8) 2 CFR Part 417, "Nonprocurement Debarment and Suspension" (9) 2 CFR Part 418, "New Restrictions on Lobbying" (10) 2 CFR Part 421, "Requirements for Drug-Free Workplace (Financial Assistance)" (11) 2 CFR Part 422, "Research Institutions Conducting USDA-Funded Extramural Research; Research Misconduct"

b. Allowable project costs will be determined in accordance with the authorizing statute, the purpose of the award, and, to the extent applicable, to the type of organizations receiving the award, regardless of tier. The following portions of the Code of Federal Regulations are hereby incorporated by reference. The full text of Code of Federal Regulations references may be found at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR> and <http://www.ecfr.gov/>.

(1) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles And Audit Requirements For Federal Awards" (2) 48 CFR Part 31, "Contract Cost Principles and Procedures" c. For corporate recipients, by accepting this award the recipient acknowledges: (1) that it does not have a Federal tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) that it has not been convicted of a felony criminal violation under any Federal law within 24 months preceding the award, unless a suspending and debarring official of the USDA has considered suspension or debarment of the recipient corporation based on these convictions and/or tax delinquencies and determined that suspension or debarment is not necessary to protect the interests of the Government. If the recipient fails to comply with these provisions, the agency will annul this agreement and may recover any funds the recipient has expended in violation of the above cited statutory provisions.

##### II. UNALLOWABLE COSTS

The following costs are not allowed:

a. Costs above the amount authorized for the project. b. Costs incurred after the award period of performance end date. c. Costs not identified in the approved budget or approved budget revisions. d. Profit resulting from Federal financial assistance. Recipients may not earn and keep income resulting from an award. e. Costs of promotional items and memorabilia, including models, gifts, and souvenirs. f. Compensation for injuries to persons or damage to property arising from project activities.

This list is not exhaustive. For general information about the allowability of particular items of costs, please see 2 CFR Part 200, "Subpart E - Cost Principles", or direct specific inquiries to the administrative contact identified in the award.



The allowability of some items of costs may be difficult to determine. To avoid disallowance or dispute of such costs, the recipient may seek prior approval before incurring them. See 2 CFR 200.407. III. PRIOR APPROVAL REQUIREMENTS

Certain items of cost and award revisions require the prior written approval of the awarding agency. The following are the most common situations requiring prior approval. However, this list is not exhaustive, and the recipient is also bound by any other prior approval requirements identified in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

a. Pre-award costs.—To receive reimbursement for costs incurred prior to the award date, recipients must request written approval before incurring the costs. This restriction also applies to costs intended to meet cost-share requirements. FPAC agencies will not approve expenses incurred more than 90 calendar days before the period of performance start date. All costs incurred before the period of performance start date, even if approved, are at the recipient's risk (i.e., the Federal awarding agency is under no obligation to reimburse such costs if for any reason the recipient does not receive a Federal award or if the Federal award is less than anticipated and inadequate to cover such costs). b. Revisions to scope, objective, or deliverables.—When it is necessary to modify the scope, objective, or deliverables of an award, the recipient authorized signatory must submit a written request and justification for the change along with the revised scope, objective, or deliverables of the award to the administrative contact. The request should contain the following information: 1. Grant or agreement number 2. Narrative explaining the requested modification to the project scope, objectives, or deliverables 3. A description of the revised scope, objectives, or deliverables

c. Additions or changes to subawards and contracts.—The subawarding, transferring, or contracting out of any work under a Federal award not identified in the original award budget or any changes to subaward or contracts requires prior written approval. The recipient must submit a justification for the proposed subaward/contract, a statement of work to be performed, and a detailed budget for the subaward/contract to the administrative contact. This provision does not apply to the acquisition of supplies, material, equipment, or general support services. d. Change in a key person specified in the application or award.—When there is a change in key personnel, the recipient must request prior written approval for the substitution or change. The request must identify the replacement personnel and provide his or her qualifications.

e. Absence or change in project leadership.—If the approved project director or principal investigator disengages from the project for more than three months or reduces time devoted to the project by 25 percent or more, the recipient must notify the administrative contact in writing, identifying who will be in charge during the project director's absence. The notification must include the qualifications of the replacement.

f. Budget revisions.—Recipients must request prior written approval for deviations from the approved budget in the instances described below. For all budget revisions, the recipient must submit a new SF 424A or 424C and budget narrative to support the request. 1. The inclusion of costs that require prior approval in accordance with Subpart E—Cost Principles of this part or 45 CFR part 75 Appendix IX, "Principles for Determining Costs Applicable to Research and Development under Awards and Contracts with Hospitals," or 48 CFR part 31, "Contract Cost Principles and Procedures," as applicable. 2. Where the cumulative amount of transfers of funds among direct cost categories or programs, functions, and activities exceeds or is expected to exceed 10 percent of the total budget as last approved by the Federal awarding agency, and where the Federal share of the project exceeds the simplified acquisition threshold. 3. The transfer of funds budgeted for participant support costs to other categories of expense requires prior written approval. Participant support costs means direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences or training projects. 4. Changes in the approved cost-sharing or matching provided by the recipient. 5. Additional Federal funds needed to complete the project. 6. Changes to negotiated indirect cost rates during the award period of performance. 7. Equipment purchases not specifically identified in the approved budget.

g. No-Cost Extensions of Time.—When a no-cost extension of time is required, the recipient authorized signatory must submit a written request to the FAPC administrative contact. Except in very limited circumstances, a no-cost extension of time cannot exceed 12 months. FPAC cannot approve requests for no-cost extensions received after the expiration of the award. In addition, time may not allow extension requests submitted less than 30 calendar days before the period of performance end date to be processed, so recipients are encouraged to submit requests as soon as possible. FPAC agencies cannot approve no-cost extensions requested merely to expend remaining funds. The request must contain the following: 1. Amount of additional time requested 2. Explanation for the need for the extension 3. A summary of progress to date and revised milestones

#### IV. PAYMENTS

a. Recipients must request reimbursement or advances using a properly completed and executed SF-270, submitted with supporting documentation to either the ezFedGrants system or to the e-mail address specified in the statement of work. FPAC agencies will make payment to the recipient on a reimbursable or advance basis in accordance with the frequency specified in the statement of work.

b. Recipients requesting advances should request payments in amounts necessary to meet their current needs pursuant



to procedures contained in the Federal administrative provisions and 31 CFR Part 205. At the end of each advance period, the recipient must provide a justification (i.e., documentation) showing the amount of advanced funds spent.

c. The method of payment between the recipient and its contractors will be in accordance with the policies and procedures established by the recipient except that the contractors may not use the USDA Office of Financial Management/National Finance Center method to request payments. If the recipient makes advance payments to contractors, the recipient must ensure that the timing of such payments is designed to minimize elapsed time between the advance payment and the disbursement of funds. Recipients must not submit requests from their contractors for review or approval.

d. Accounting records for all costs incurred under this award must be supported by source documentation. Such documentation includes, but is not limited to, canceled checks, paid bills, payroll records, and subaward documents. Labor cost charges to this award must be based upon salaries actually earned and the time actually worked on this award. All project costs must be incurred within the approved project period of this award, including any approved no-cost extension of time. Costs that cannot be supported by source documentation or that are incurred outside of the approved project period and budget may be disallowed and may result in award funds being returned to the Federal Government by the recipient. The level of detail and documentation required to be provided to support any individual payment request is at the discretion of the Government.

e. Recipients must pay all costs incurred (i.e., liquidate obligations) under the award not later than 90 calendar days after the period of performance end date.

## V. FINANCIAL REPORTING

a. Recipients must submit a Federal Financial Report (FFR), SF 425 in accordance with the schedule included in the award statement of work. Recipients must submit reports to either the ezFedGrants system or to the email address specified in the statement of work. Failure to submit reports as required may result in suspension or termination of award.

b. The recipient must submit a final financial report no later than 90 days after the period of performance end date. c. The FPAC awarding agency will withhold payments under this award if the recipient is delinquent in submitting required reports.

## VI. PERFORMANCE MONITORING AND REPORTING

a. The recipient is responsible for monitoring day-to-day performance and for reporting to FPAC. If the project involves subaward/contractual arrangements, the recipient is also responsible for monitoring the performance of project activities under those arrangements to ensure that approved goals and schedules are met.

b. The recipient must submit a written progress report at the frequency specified in the statement of work to either the ezFedGrants system or to the email address specified in the statement of work. Each report must cover— 1. A comparison of actual accomplishments with the goals and objectives established for the reporting period and, where project output can be quantified, a computation of the costs per unit of output.

2. The reasons why goals and objectives were not met, if appropriate.

3. Additional pertinent information including, where appropriate, analysis and explanation of cost overruns or high unit costs.

c. The recipient must submit a final performance report within 90 calendar days of the period of performance end date. d. The FPAC awarding agency will withhold payments under this award if the recipient is delinquent in submitting required reports.

## VII. AUDIT REQUIREMENTS

The recipient is responsible for complying with audit requirements in accordance with 2 CFR 200, Subpart F. A recipient entity that expends \$750,000 or more during the recipient's fiscal year in Federal awards must have a single or program-

specific audit conducted for that year.

## VIII. SPECIAL PROVISIONS

- a. The recipient assures and certifies that it will comply with the minimum-wage and maximum-hour provisions of the Federal Fair Labor Standards Act.
- b. Employees of FPAC agencies will participate in efforts under this agreement solely as representatives of the United States. They may not participate as directors, officers, employees, or otherwise serve or hold themselves out as representatives of the recipient. They also may not assist the recipient with efforts to lobby Congress or to raise money through fundraising efforts. Further, FPAC employees must report to their immediate supervisor any negotiations with the recipient concerning future employment and must refrain from participation in projects or agreements with such recipients.
- c. Employees of the recipient will not be considered Federal employees or agents of the United States for any purposes under this agreement. d. Except in very limited circumstances (e.g., construction agreements), no agreement period of performance can exceed a total of five years, including extensions. e. Recipients who engage or assist in scientific related activities on behalf of USDA must uphold the principles of scientific integrity established by Departmental Regulations 1074-001, Scientific Integrity. Covered activities include engaging in, supervising, managing, and reporting scientific work; analyzing and publicly communicating information resulting from scientific work; and utilizing information derived from scientific work in policy and decision making. f. Recipients of awards under covered programs (as defined in Executive Order 13858, January 31, 2019) are hereby notified that they are encouraged to use, to the greatest extent practicable, iron and aluminum as well as steel, cement, and other manufactured products produced in the United States in every contract, subcontract, purchase order, or subaward that is chargeable under the award. "Covered program" means a program that provides financial assistance for the alteration, construction, conversion, demolition, extension, improvement, maintenance, construction, rehabilitation, or repair of an infrastructure project in the United States. However, it does not include programs for which a domestic preference is inconsistent with law or programs providing financial assistance that are subject to comparable domestic preferences. g. The recipient and its employees are prohibited from promoting, recommending, or discussing the availability of specific commercial products or services with FPAC agency clients in the course of carrying out activities under this agreement, including any products or services offered by the recipient, except as may be specifically allowed in the agreement.

## IX. PATENTS, INVENTIONS, COPYRIGHTS, AND ACKNOWLEDGMENT OF SUPPORT AND DISCLAIMER

- a. Allocation of rights of patents, inventions, and copyrights must be in accordance with 2 CFR Part 200.315. This regulation provides that small businesses normally may retain the principal worldwide patent rights to any invention developed with USDA support.
- b. In accordance with 37 CFR Section 401.14, each subject invention must be disclosed to the Federal agency within 2 months after the inventor discloses it in writing to contractor personnel responsible for patent matters. Invention disclosure statements pursuant to 37 CFR Section 401.14(c) must be made in writing to:
- Farm Production and Conservation Business Center Grants and Acquisitions Division 1400 Independence Avenue, SW.  
Room 6819 South Building Washington, DC 20250
- c. USDA receives a royalty-free license for Federal Government use, reserves the right to require the patentee to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must manufacture it domestically.
- d. The following acknowledgment of USDA support must appear in the publication of any material, whether copyrighted or not, and any products in electronic formats (World Wide Web pages, computer programs, etc.) that is substantially based upon or developed under this award:

"This material is based upon work supported by the U.S. Department of Agriculture, under agreement number [recipient should enter the applicable award number here]."

In addition, all publications and other materials, except scientific articles or papers published in scientific journals, must include the following statement:

"Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Agriculture. In addition, any reference to specific brands or types of products or services does not constitute or imply an endorsement by the U.S. Department of Agriculture for those products or services."

e. All publications printed with Federal Government funds will include the most current USDA nondiscrimination statement, available from the Public Affairs Division, Civil Rights Division, or on the USDA home page. If the material is too small to permit the full nondiscrimination statement to be included, the material must, at a minimum, include the statement:

"USDA is an equal opportunity provider and employer."

The recipient is responsible for ensuring that an acknowledgment of USDA is made during news media interviews, including popular media such as radio, television, and news magazines, that discuss work funded by this award in a substantial way.

## X. COST-SHARING REQUIREMENTS

a. If the award has specific cost-sharing requirements, the cost-sharing participation in other projects may not be counted toward meeting the specific cost-share requirement of this award and must come from non-Federal sources unless otherwise stated in the applicable program authorizing statute. b. Cost share must be documented on each SF 425 and SF 270 and in source documentation as it is provided by the recipient or third party. The required cost-share or matching ratio must be met by the end of the agreement period of performance; however, it does not have to be maintained for every payment request.

c. Should the recipient become aware that it may be unable to provide the cost-sharing amount identified in this award, it must— 1. Immediately notify the FPAC administrative contact of the situation. 2. Specify the steps it plans to take to secure replacement cost sharing. 3. Indicate the plans to either continue or phase out the project in the absence of cost sharing. If the recipient's plans are not acceptable to FPAC, the award may be subject to termination. FPAC modifications to proposed cost sharing revisions are made on a case-by-case basis. Failure by the recipient to notify FPAC in accordance with this section may result in the disallowance of some or all the costs charged to the award, the subsequent recovery by FPAC of some of the FPAC funds provided under the award, and possible termination of the award. It may constitute a violation of the terms and conditions of the award so serious as to provide grounds for subsequent suspension or debarment.

d. The recipient must maintain records of all project costs that are claimed by the recipient as cost sharing as well as records of costs to be paid by FPAC. If the recipient's cost participation includes in-kind contributions, the basis for determining the valuation for volunteer services and donated property must be documented.

e. Recipients must provide notification to the agency administrative contact when adding or replacing sources of cost-share contributions.

## XI. PROGRAM INCOME

Program income is the gross revenue generated by a Federally funded activity earned during the performance period of the award. Program income may be earned by recipients from fees charged for conference or workshop attendance, from rental fees earned from real property or equipment acquired with Federal funds, or from the sale of commodities or items developed under the grant or cooperative agreement. It must fall within the guidelines at 2 CFR 200.307. Unless identified and addressed in the award, the recipient must provide notification to the administrative contact and request the manner it would like to treat the income (i.e., deductive or additive). Program income may be used to meet recipient cost-share requirements with the approval of the Government. All program income must be reported on the applicable SF 270 and SF 425.

## XII. NONEXPENDABLE EQUIPMENT

Recipients purchasing equipment or products with funds provided under this award are encouraged to purchase only American-made equipment and products. Title to nonexpendable equipment purchased with award funds will vest in the recipient upon completion of the award project and acceptance by FPAC of required final reports. When equipment is no longer needed by the recipient and the per-unit fair market value is less than \$5,000, the recipient may retain, sell, or dispose of the equipment with no further obligation to FPAC. However, if the per-unit fair market value is \$5,000 or more, the recipient must submit a written request to the FPAC administrative contact for disposition instructions.

## XIII. LIMIT OF FEDERAL LIABILITY

The maximum financial obligation of FPAC to the recipient is the amount of funds indicated in the award as obligated by FPAC. However, if an erroneous amount is stated on the approved budget, or any supporting document relating to the award, FPAC will have the unilateral right to make the correction and to make an appropriate adjustment in the FPAC share of the award to align with the Federal amount authorized.

#### XIV. MODIFICATIONS AND TERMINATIONS

The parties may amend this award through an exchange of correspondence between the authorized signatory of each or via formal amendment document. The award is subject to termination if FPAC determines that the recipient has failed to comply with the terms and conditions of the award. If the award is terminated, the guidelines at 2 CFR 200.339-42 will govern the obligations of the parties.

#### XV. PRIVACY ACT AND PROHIBITION AGAINST CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS

a. Activities performed under this award may involve access to confidential and potentially sensitive information about governmental and landowner issues. The term "confidential information" means proprietary information or data of a personal nature about an individual, or information or data submitted by or pertaining to an organization. This information must not be disclosed without the prior written consent of FPAC.

b. The recipient's personnel will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. Section 552a, and implementing regulations and policies with respect to systems of records determined to be subject to the Privacy Act. The recipient's personnel must also comply with privacy of personal information relating to natural resources conservation programs in accordance with section 1244 of Title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171).

c. The recipient agrees to comply with the "Prohibition Against Certain Internal Confidentiality Agreements:"

1. You may not require your employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. 2. You must notify your employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (1) of this award provision are no longer in effect. 3. The prohibition in paragraph (1) of this award provision does not contravene requirements applicable to any other form issued by a Federal department or agency governing the nondisclosure of classified information. 4. If FPAC determines that you are not in compliance with this award provision, FPAC: i. Will prohibit your use of funds under this award, in accordance with sections 743 and 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law; ii. May pursue other remedies available for your material failure to comply with award terms and conditions. XVI. ACKNOWLEDGMENT OF SECTION 1619 COMPLIANCE

The recipient agrees to comply with FPAC guidelines and requirements regarding the disclosure of information protected under Section 1619 of the Food, Conservation, and Energy Act of 2008 (PL 110-246), 7 U.S.C. 8791 as described below.

a. Responsibilities. 1. Acceptance of this award indicates acknowledgment and understanding that the recipient is legally bound by Federal statute to comply with the provisions of Section 1619 and that the recipient will not subsequently disclose information protected by section 1619 to any individual or organization that is not directly covered by this award. Any such subsequent disclosure of the protected information (except as permitted under Section 1619) will be considered a violation of Section 1619. The recipient will be held responsible should disclosure of the protected information occur.

2. Acceptance of this award legally binds every owner, manager, supervisor, employee, contractor, agent, and representative of the recipient to comply with the provisions in Section 1619. The recipient must consult with FPAC prior to providing protected information to an entity or individual outside of the recipient and as necessary to implement the program to ensure that such release is permissible.

3. The recipient will use the protected information only to perform work that is directly connected to this award. Use of the protected information to perform work that is not directly connected to this award is expressly prohibited.

4. The recipient must internally restrict access to the protected information to only those individuals who have a demonstrated need to know the protected information to perform work under this award.

5. The provisions in Section 1619 are continuing obligations. Even when the recipient is no longer a recipient, or when individuals currently affiliated with the recipient become no longer so affiliated, every person having been provided access to the protected information will continue to be legally bound to comply with these provisions.

6. The recipient must notify all managers, supervisors, employees, contractors, agents, and representatives about this provision and the requirements of Section 1619. Notifications about the existence of this provision must be made to those individuals who are new to the organization and periodic notifications must be sent throughout the organization (as well as to all contractors and agents) to remind all about the ongoing and continuing requirements.

7. When the recipient is unsure whether particular information is covered or protected by Section 1619, the recipient must consult with FPAC to determine whether the information must be withheld.

8. Use of the protected information for any purpose is expressly prohibited after the period of performance end date of this award. Upon the award end date, any protected information provided under this award must be immediately destroyed or returned to FPAC. The recipient must provide to FPAC written certification that the protected information (paper copy, electronic copy, or both) has been properly destroyed, removed from any electronic storage media, or both.

9. Any State's "sunshine law," "open records act" or other version of the Freedom of Information Act is superseded by section 1619 under the Supremacy Clause of the U.S. Constitution. Accordingly, information protected from disclosure by section 1619 must not be released under such State laws.

b. Protected Information.

1. Examples of the types of information prohibited by disclosure under Section 1619 include, but are not limited to, the following:

i. State identification and county number (where reported and where located). ii. Producer or landowner name, business full address, phone number, Social Security Number, and similar personal identifying information. iii. Farm, tract, field, and contract numbers. iv. Production shares and share of acres for each Farm Serial Number (FSN) field. v. Acreage information, including crop codes. vi. All attributes for Common Land Units (CLUs) in USDA's Geospatial Information System. vii. Any photographic, map, or geospatial data that, when combined with other maps, can be used to identify a landowner. viii. Location of conservation practices.

2. Section 1619 allows disclosure of "payment information (including payment information and the names and addresses of recipients of payments) under any Department program that is otherwise authorized by law" (emphasis added). The names and payment information of producers generally may be provided to the public; however, the recipient shall consult with FPAC if there is any uncertainty as to the provision of such information.

3. Section 1619 also allows disclosure of otherwise protected information if "the information has been transformed into a statistical or aggregate form without naming any—(i) individual owner, operator, or producer; or (ii) specific data gathering cite." The recipient must consult with FPAC as to whether specific information falls within this exception prior to relying on this exception.

c. Violations. The recipient will be held responsible for violations of this provision and Section 1619. A violation of this provision by the recipient may result in action by FPAC, including termination of the underlying Federal award.

d. Effective Period. The requirements of this provision is effective on the date of the final signature and will continue until FPAC notifies the recipient that it is no longer required based on changes in applicable Federal law.

## XVII. AWARD CLOSEOUT

a. Award closeout is the process by which FPAC determines that all required project activities have been performed satisfactorily and all necessary administrative actions have been completed. b. The recipient must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the agreement, including documentation showing that match or cost-share requirements have been met. The awarding agency may approve extensions when requested by the recipient. c. Unless the awarding agency authorizes an extension, the recipient must liquidate all obligations incurred under the agreement not later than 90 calendar days after the end date of the period of performance. d. Recipients must submit all requests for reimbursements no later than 90 calendar days after the end date of the period of performance. e. The recipient must promptly refund any balances of unobligated cash that the awarding agency paid in advance or paid and that are not authorized to be retained by the recipient for use in other projects. See OMB Circular A-129 and see §200.345 Collection of amounts due, for requirements regarding unreturned amounts that become delinquent debts. f. Recipients must retain all records pertaining to the agreement in accordance with 2 CFR 200.333-337 and any additional requirements included in the agreement statement of work. g. Recipients must follow disposition requirements for property acquired with award funds in accordance with 2 CFR 200.310-316.