

AMENDMENT No. 1

TO

INTERGOVERNMENTAL AGREEMENT IGA FCD 2024A005

between

THE CITY OF MESA

and the

FLOOD CONTROL DISTRICT OF MARICOPA COUNTY

DESIGN, RIGHTS-OF-WAY ACQUISITION, AND UTILITY RELOCATIONS

of the

Pecos Road Basins and Storm Drain Improvements

IGA FCD 2024A005A

Agenda Item _____

This Amendment No.1, also known as IGA 2024A005A (AMENDMENT No. 1), to IGA 2024A005, is entered into by and between the City of Mesa, a municipal corporation, acting by and through its City Council, hereinafter called the CITY, and the Flood Control District of Maricopa County, a political subdivision of the State of Arizona, acting by and through its Board of Directors, hereinafter called the DISTRICT. The DISTRICT and the CITY may hereinafter individually be called a PROJECT PARTNER or collectively called the PROJECT PARTNERS.

This AMENDMENT No.1 shall become effective as of the date it has been executed by all PROJECT PARTNERS.

STATUTORY AUTHORIZATION

1. The DISTRICT is empowered by Arizona Revised Statutes (A.R.S.) Section 48-3603 to enter into this amendment and has authorized the undersigned to execute this amendment on behalf of the DISTRICT.
2. The CITY is empowered by A.R.S. § 48-572 and Section 103 of the Mesa City Charter to enter into this amendment and has by resolution authorized the undersigned to execute this amendment on behalf of the CITY.

PURPOSE OF THE AMENDMENT

3. To clarify the process of the acquisition of rights-of-way by the CITY and the basis of payment for said acquired rights-of-way by the DISTRICT.

TERMS OF AMENDMENT

4. Paragraphs 14.8.1 and 14.8.2 of IGA 2024A005 are deleted in their entirety and replaced with the following:
 - 14.8.1 Obtain fee simple estate rights-of-way and/or easements required for the PROJECT. The CITY shall provide drafts of the fee simple estate rights-of-way and/or easements it will use for the DISTRICT's approval prior to recording such documents. So long as the drafts of the documents provided by the CITY are commercially reasonable and consistent with DISTRICT policy, the DISTRICT shall not deny or unreasonably delay its approval of such documents. If it is mutually agreed between the PROJECT PARTNERS that, the project property is no longer needed for flood control purposes and therefore available for sale, the CITY may sell the property under the stipulation that the DISTRICT shall be paid the DISTRICT's cost share percentage of the original acquisition cost, along with its pro-rata share of any appreciation in land value from the original acquisition price of the property for the PROJECT to the final disposition price at the time that the CITY disposes of the property.
 - 14.8.2 Invoice the DISTRICT for the DISTRICT's share of the PROJECT DESIGN COST, for fee simple estate right-of-way and/or easement acquisition as it is incurred and upon availability of DISTRICT funding, no more frequently than quarterly, and no less frequently than annually. The CITY shall be deemed to incur PROJECT DESIGN COSTS for fee simple estate right-of-way and/or easement acquisition when, a) the CITY provides documentation of the amount it expended to acquire the property, or b) the CITY provides an appraisal of the property to the DISTRICT, the DISTRICT approves the appraisal in writing, and the CITY then provides the DISTRICT with a copy of the recorded instrument conveying the right-of-way and/or easement to the CITY. So long as the appraisal of the property provided by the CITY is commercially reasonable and consistent with DISTRICT policy, the DISTRICT shall not deny or unreasonably delay its approval of such appraisal. The PROJECT DESIGN COST for acquisition of an easement allocated to the PROJECT PARTNERS pursuant to paragraphs 14.3 and 15.1 shall not exceed 95% of the full market value of the property underlying the easement.
 - 14.8.2.1 The Drainage Easement Mesa acquired and recorded on April 28, 2025, for APN 304-34-015E from Amazon Data Services, Inc., for the purposes of the PROJECT shall be considered a PROJECT DESIGN COST notwithstanding pre-acquisition approvals required from the DISTRICT in paragraphs 14.8.1 and 14.8.2.
5. Except as expressly amended, all other terms and conditions of IGA FCD 2024A005 shall remain in full force and effect.

[Signatures on next page]

FLOOD CONTROL DISTRICT OF MARICOPA COUNTY
A Political Subdivision of the State of Arizona

Recommended by:

Paul Baughman, P.E., CFM
Chief Engineer & General Manager

Date

Approved and Accepted:

By: _____
Chairman, Board of Directors Date

Attest:

By: _____
Clerk of the Board Date

Approved as to form and within the powers and authority granted to the Flood Control District of Maricopa County under the laws of the State of Arizona.

Flood Control District General Counsel Date

CITY OF MESA
A Municipal Corporation

Approved and Accepted By:

By: _____
Scott Butler, City Manager Date

Attest:

By: _____
Holly Moseley, City Clerk Date

Approved as to form and within the power and authority granted to the City of Mesa under the laws of the State of Arizona.

City Attorney Date