

**BOARD OF SUPERVISORS AGENDA ITEM SUMMARY**

Requested Board Meeting Date: \_\_\_\_\_

**ITEM SUMMARY, JUSTIFICATION and/or SPECIAL CONSIDERATIONS:**

Direct Select Award of Contract No. CT-FC-1300000000000000576 for Wildlife and Habitat Conservation (Predator-Resistant Wildlife Fencing, Salvage, Temporary Holding, Re-establishment, and Monitoring) for the Paseo de las Iglesias Phase I project about to begin construction. The District is contracting with Arizona Board of Regents, on behalf of the University of Arizona, on a direct select basis, under the authority of Board of Supervisors Policy D29.1(C) and (D), and A.R.S. § 34-103.D.1, for the services of Phil Rosen, Ph.D., uniquely qualified and experienced in ecological monitoring science to perform the services required. The contract shall be for a 60-month period in an amount not to exceed \$283,891.00. The contract may be extended as required for project completion. Funding Source: Flood Control Tax Levy. Administering Department: Regional Flood Control District.

Contract Officer:

Mark Koskiniemi, Ph: 724-3723  
Procurement Department

CLERK OF BOARD USE ONLY: BOS MTG. \_\_\_\_\_

ITEM NO. \_\_\_\_\_

Contract Number: CT-FC-13\*576  
Effective Date: 2-18-18  
Term Date: 2-17-18  
Cost: \$283,891.-  
Revenue: \_\_\_\_\_  
Total: \_\_\_\_\_ NTE: \_\_\_\_\_  
Action:  
Renewal By: \_\_\_\_\_  
Term: \_\_\_\_\_  
Reviewed by: [Signature] 2-17-18

To: COB- 3-20-13  
Agenda 4-2-13  
(2)



as required by the Pima County Procurement Code, before the work under the amendment commences.

### **ARTICLE III – COMPENSATION AND PAYMENT**

In consideration of the services specified in this Contract, the DISTRICT agrees to pay CONSULTANT Not To Exceed Two Hundred Eighty-Three Thousand, Eight Hundred Ninety-One Dollars (\$283,891.00). CONSULTANT'S fees shall be as stated in **EXHIBIT "B": CONSULTANT FEE SCHEDULE** (1 page), an attachment to this Contract. Hourly rates and all other rates included under this Contract shall remain fixed throughout the term of the contract. The DISTRICT may consider adjustments to rates in connection with any extensions of the contract term.

CONSULTANT shall cite the Contract (CT) number, CT-FC-1300000000000000576, on all invoices. CONSULTANT shall provide detailed documentation in support of requested payment.

Unless otherwise agreed, CONSULTANT shall submit invoices monthly. All invoices shall be accompanied by a narrative description of the work performed during the period covered by the invoice, time accounting information, and an allocation of all direct costs, including reimbursable costs and subconsultant charges, to the tasks identified in the Scope of Work for which those costs were incurred. The time accounting information should be sufficient to show the worker and hours worked by day for the period covered by the invoice. Subconsultant charges shall be supported by appropriate documentation with each separate invoice submitted.

For the period of record retention required under Article XXI, DISTRICT reserves the right to question any payment made under this article and to require reimbursement therefor by setoff or otherwise for payments determined to be improper or contrary to the contract or law.

CONSULTANT shall not perform work in excess of the Contract Amount without prior authorization by an amendment executed by DISTRICT. Work performed in excess of the Contract Amount without prior authorization by amendment shall be at CONSULTANT'S own risk.

### **ARTICLE IV - INSURANCE**

The parties recognize that the CONSULTANT participates in the Arizona State Risk Management Program and is self-insured per A.R.S. §41-621.

### **ARTICLE V - INDEMNIFICATION**

Each party, (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee'), from and against all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims'), arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officer, officials, agents, employees, or volunteers. This obligation shall survive termination or expiration of this Contract.

### **ARTICLE VI – COMPLIANCE WITH LAWS**

CONSULTANT shall comply with all applicable federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Contract. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Contract, and any disputes hereunder. Any action relating to this Contract shall be brought in Superior Court in Pima County. Any changes in the governing laws, rules, and regulations during the term of this Contract shall apply, but do not require an amendment.

### **ARTICLE VII – STATUS OF CONSULTANT**

The status of the CONSULTANT shall be that of an independent contractor and CONSULTANT shall not be considered an employee of Pima County and shall not be entitled to receive any of the fringe benefits associated with regular employment, and will not be subject to the provisions of the merit system. CONSULTANT will be responsible for payment of all Federal, State and Local taxes associated with the compensation received by CONSULTANT from DISTRICT. CONSULTANT shall be responsible for program development and operation without supervision by DISTRICT.

### **ARTICLE VIII – CONSULTANT'S PERFORMANCE**

CONSULTANT shall perform the work in accordance with the terms of the contract and with the degree of care and skill required of any similarly situated Arizona consultant. CONSULTANT shall employ suitably trained and skilled professional personnel to perform all required services under this Contract. Prior to changing any key personnel, especially those key personnel DISTRICT relied upon in making this contract, CONSULTANT shall obtain the approval of DISTRICT. For this contract, the key personnel shall be: Phil Rosen, Ph.D.

CONSULTANT shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all its effort and other services furnished by CONSULTANT under this Agreement. Without additional compensation, CONSULTANT shall correct or revise any errors, omission, or other deficiencies in all products of its efforts and other services provided. This shall include resolving any deficiencies arising out of the acts or omissions of CONSULTANT found during or after the course of the services performed by or for CONSULTANT under this Agreement, regardless of DISTRICT having knowledge of or condoning/accepting the products or the services. Correction of such deficiencies shall be at no cost to DISTRICT.

### **ARTICLE IX – NON-WAIVER**

The failure of DISTRICT to insist in any one or more instance upon full and complete compliance with any of the terms and provisions of this Contract or to take any action permitted as a result thereof shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time shall not be construed as an accord and satisfaction.

### **ARTICLE X – SUBCONSULTANT**

CONSULTANT will be fully responsible for all acts and omissions of its SUBCONSULTANT and of persons directly or indirectly employed by SUBCONSULTANT and of persons for whose acts any of them may be liable to the same extent that CONSULTANT is responsible for the acts and omissions of persons directly employed by it. Nothing in this Contract shall create any obligation on the part of DISTRICT to pay or see to the payment of any money due any SUBCONSULTANT, except as may be required by law.

### **ARTICLE XI – NON-ASSIGNMENT**

CONSULTANT shall not assign its rights to this Contract in whole or in part, without prior written approval of the DISTRICT. Assignment may be withheld at the sole discretion of the DISTRICT, provided that such approval shall not be unreasonably withheld.

### **ARTICLE XII – NON-DISCRIMINATION**

CONSULTANT agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 including flow down of all provisions and requirements to any subconsultants. Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 and may be viewed and downloaded at the Governor of the State of Arizona's website [http://www.azgovernor.gov/dms/upload/EO\\_2009\\_09.pdf](http://www.azgovernor.gov/dms/upload/EO_2009_09.pdf) which is hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, CONTRACTOR shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

### **ARTICLE XIII – AMERICANS WITH DISABILITIES ACT**

CONSULTANT shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. If CONSULTANT is carrying out government programs or services on behalf of DISTRICT, then CONSULTANT shall maintain accessibility to the program to the same extent and degree that would be required of the DISTRICT under 28 CFR Sections 35.130, 35.133, 35.149 through 35.151, 35.160, 35.161 and 35.163. Failure to do so could result in the termination of this Agreement.

#### **ARTICLE XIV – CANCELLATION FOR CONFLICT OF INTEREST**

This Contract is subject to the provisions of A.R.S. §38-511 which provides in pertinent part:

"The state, its political subdivisions or any department of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time, while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a CONSULTANT to any other party to the contract with respect to the subject matter of the contract."

#### **ARTICLE XV – TERMINATION OF CONTRACT FOR DEFAULT**

A. Upon a failure by CONSULTANT to cure a default under this Contract within 10 days of receipt of notice from DISTRICT of the default, COUNTY may, in its sole discretion, terminate this Contract for default by written notice to CONSULTANT. In this event, DISTRICT may take over the work and complete it by contract or otherwise. In such event, CONSULTANT shall be liable for any damage to the DISTRICT resulting from CONSULTANT's default, including any increased costs incurred by DISTRICT in completing the work.

B. The occurrence of any of the following, without limitation to the named events, shall constitute an event of default:

1. Abandonment of or failure by CONSULTANT to observe, perform or comply with any material term, covenant, agreement or condition of this Contract, or to prosecute the work or any separable part thereof with the diligence that will insure completion within the time specified in this contract, including any extension, or a failure to complete the work (or the separable part of the work) within the specified time;
2. Persistent or repeated refusal or failure to supply adequate staff, resources or direction to perform the work on schedule or at an acceptable level of quality;
3. Refusal or failure to remedy defective or deficient work within a reasonable time;
4. Loss of professional registration or business or other required license or authority, or any curtailment or cessation for any reason of business or business operations that would substantially impair or preclude CONSULTANT's performance of this Contract;
5. Disregard of laws, ordinances, or the instructions of DISTRICT or its representatives, or any otherwise substantial violation of any provision of the contract;
6. Performance of work hereunder by personnel that are not qualified or permitted under state law or local law to perform such services;
7. Commission of any act of fraud, misrepresentation, willful misconduct, or intentional breach of any provision of this Contract; or
8. If a voluntary or involuntary action for bankruptcy is commenced with respect to CONSULTANT, or CONSULTANT becomes insolvent, makes a general assignment for the benefit of creditors, or has a receiver or liquidator appointed in respect of its assets.

C. In the event of a termination for default:

1. All finished and unfinished drawings, specifications, documents, data, studies, surveys, drawings, photographs, reports and other information in whatever form, including electronic, acquired or prepared by CONSULTANT for this project shall become COUNTY's property and shall be delivered to DISTRICT not later than five (5) business days after the effective date of the termination;
2. DISTRICT may withhold payments to CONSULTANT arising under this or any other Contract for the purpose of set-off until such time as the exact amount of damage due DISTRICT from CONSULTANT is determined; and
3. Subject to the immediately preceding subparagraph (2), DISTRICT's liability to CONSULTANT shall not exceed the Contract value of work satisfactorily performed prior to the date of termination for which payment has not been previously made.

D. The Contract will not be terminated for default nor the CONSULTANT charged with damages under this Article, if—

(1) Excepting item (8) in paragraph B above, the event of default or delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of CONSULTANT. Examples of such causes include—

- (i) Acts of God or of the public enemy,

- (ii) Acts of the DISTRICT in either its sovereign or contractual capacity,
- (iii) Acts of another Contractor in the performance of a contract with the COUNTY,
- (iv) Fires,
- (v) Floods,
- (vi) Epidemics,
- (vii) Quarantine restrictions,
- (viii) Strikes,
- (ix) Freight embargoes,
- (x) Unusually severe weather, or
- (xi) Delays of subcontractors at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both CONSULTANT and the subcontractor(s); and

(2) The CONSULTANT, within seven (7) days from the beginning of any event of default or delay (unless extended by DISTRICT), notifies the DISTRICT in writing of the cause(s) therefor. In this circumstance, the DISTRICT shall ascertain the facts and the extent of the resulting delay. If, in the reasonable judgment of DISTRICT, the findings warrant such action, the time for completing the work may be extended.

E. For the purposes of paragraph A above, "receipt of notice" shall include receipt by hand by CONSULTANT's project manager, by facsimile transmission with notice of receipt, or under the Notices clause of this Contract.

F. If, after termination of the Contract for default, it is determined that the CONSULTANT was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the DISTRICT.

G. The rights and remedies of DISTRICT in this Article are cumulative and in addition to any other rights and remedies provided by law or under this contract.

**ARTICLE XVI – TERMINATION FOR CONVENIENCE OF DISTRICT**

DISTRICT may terminate this Contract at any time by giving written notice to CONSULTANT of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials shall, at the option of the DISTRICT, become its property. If the Contract is terminated by DISTRICT as provided herein, CONSULTANT shall be paid an amount based on the time and expenses incurred by CONSULTANT prior to the termination date, however, no payment shall be allowed for anticipated profit on unperformed services.

**ARTICLE XVII – NON-APPROPRIATION OF FUNDS**

Notwithstanding any other provision in this Contract, this Contract may be terminated if for any reason the DISTRICT does not appropriate sufficient monies for the purpose of maintaining this Contract. In the event of such termination, DISTRICT shall have no further obligation to CONSULTANT, other than for services rendered prior to termination.

**ARTICLE XVIII – NOTICES**

Any notice required or permitted to be given under this Contract shall be in writing and shall be served by delivery or by certified mail upon the other party as follows:

DISTRICT:

Suzanne Shields, District Chief Engineer /  
 Director  
 Pima County Regional Flood Control District  
 97 E. Congress St., 3<sup>rd</sup> Floor  
 Tucson, AZ 85701  
 Phone: 520-243-1800  
 Fax: 520-243-1821

CONSULTANT:

For technical/scope questions  
 Phil Rosen, c/o Lee Anne T. Peters  
 University of Arizona  
 PO Box 210158  
 Tucson, AZ 85721  
 Phone: 520 626 4589  
 Fax: 520 626 4520

For Contractor/Admin:  
 Sherry Esham, Director  
 Sponsored Projects Svcs  
 PO Box 210158  
 Tucson, AZ 85721-0158  
 Phone: 520-626-6000  
 Fax: 520-626-4137

**ARTICLE XIX REMEDIES**

Either party may pursue any remedies provided by law for the breach of this Contract, provided, however, that the procedures in ARTICLE XXIII are first exhausted. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.

**ARTICLE XX – SEVERABILITY**

Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

**ARTICLE XXI – BOOKS AND RECORDS**

CONSULTANT shall keep and maintain proper and complete books, records and accounts, which shall be open at all reasonable times for inspection and audit by duly authorized representatives of DISTRICT.

CONSULTANT shall retain all records relating to this contract at least five (5) years after its termination or cancellation or until any related pending proceeding or litigation has been closed, if later. Alternatively, CONSULTANT may, at its option, deliver such records to DISTRICT for retention.

**ARTICLE XXII – DELAYS**

Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party.

**ARTICLE XXIII – DISPUTES**

In the event of a dispute between DISTRICT and CONSULTANT regarding any part of this Contract or the Parties' obligations or performance hereunder, either Party may request a special meeting between their respective representatives to resolve the dispute. If the dispute remains unresolved, then either party may request escalation of the issue to a meeting between the Director of the Pima County Department administering this Contract and CONSULTANT's counterpart official, such meeting to held within one week of the request, unless otherwise agreed. If the dispute is still not resolved after that meeting, then either Party may pursue such remedy or remedies as may be available to them under the laws of the State of Arizona.

The Parties shall continue performance of their respective obligations under this Contract notwithstanding the existence of any dispute.

**ARTICLE XXIV – OWNERSHIP OF DOCUMENTS**

All <sup>deliverable</sup> original drawings, field data, estimates, field notes, plans, specifications, documents, reports, calculations, and other information developed by CONSULTANT under this contract shall vest in and become the property of the DISTRICT and shall be delivered to DISTRICT upon completion or termination of the services, but CONSULTANT may retain and use copies thereof. The DISTRICT agrees that the material will not be used for any project other than the project for which it was designed without the expressed permission of the CONSULTANT.

LTP

**ARTICLE XXV – PUBLIC INFORMATION**

Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all information submitted by CONSULTANT in any way related to this contract, including, but not limited to, pricing, product specifications, work plans, and any supporting data becomes public information and upon request, is subject to release and/or review by the general public including competitors.

Any records submitted related to this Contract that respondent reasonably believes constitutes proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as CONFIDENTIAL prior to the close of the solicitation.

Notwithstanding the above provisions, in the event records marked CONFIDENTIAL are requested for public release pursuant to A.R.S. § 39-121 et seq., DISTRICT shall release records marked CONFIDENTIAL ten (10) business days after the date of notice to the respondent of the request for release, unless respondent has, within the ten day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the records. For the purposes of this paragraph, the day of the request for release shall not be counted in the time calculation. CONSULTANT shall be notified of any request for such release on the same day of the request for public release or as soon thereafter as practicable.

DISTRICT shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked CONFIDENTIAL, nor shall DISTRICT be in any way financially responsible for any costs associated with securing such an order.

#### **ARTICLE XXVI – LEGAL ARIZONA WORKERS ACT COMPLIANCE**

CONSULTANT hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to CONSULTANT'S employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). CONSULTANT shall further ensure that each subconsultant who performs any work for CONSULTANT under this contract likewise complies with the State and Federal Immigration Laws.

DISTRICT shall have the right at any time to inspect the books and records of CONSULTANT and any subconsultant in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of CONSULTANT'S or any subconsultant's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting CONSULTANT to penalties up to and including suspension or termination of this Contract. If the breach is by a subconsultant, and the subcontract is suspended or terminated as a result, CONSULTANT shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subconsultant, (subject to DISTRICT approval if SBE or MWBE preferences apply) as soon as possible so as not to delay project completion.

CONSULTANT shall advise each subconsultant of DISTRICT'S rights, and the subconsultant's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"SUBCONSULTANT hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to SUBCONSULTANT's employees, and with the requirements of A.R.S. § 23-214 (A). SUBCONSULTANT further agrees that DISTRICT may inspect the SUBCONSULTANT's books and records to insure that SUBCONSULTANT is in compliance with these requirements. Any breach of this paragraph by SUBCONSULTANT will be deemed to be a material breach of this contract subjecting SUBCONSULTANT to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of CONSULTANT. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of CONSULTANT's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which CONSULTANT shall be entitled to an extension of time, but not costs.

#### **ARTICLE XXVII – SCRUTINIZED BUSINESS OPERATIONS**

Pursuant to A.R.S. §§ 35-391.06 and 393.06, CONSULTANT hereby certifies that it does not have scrutinized business operations in Iran or Sudan. The submission of a false certification by CONSULTANT may result in action up to and including termination of this contract.

#### **ARTICLE XXVIII – ENTIRE AGREEMENT**

This document constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This contract may be modified, amended, altered or extended only by a written Amendment signed by the parties.

IN WITNESS WHEREOF, the parties have affixed their signatures to this Contract on the dates written below.

APPROVED:

CONSULTANT:  
ARIZONA BOARD OF REGENTS  
UNIVERSITY OF ARIZONA

N/A  
Procurement Director

Lee Anne T. Peters WTP  
Signature  
Lee Anne T. Peters  
Contract Officer

Date

Name and Title (Please Print)  
3/11/13  
Date

APPROVED AS TO FORM:

Hal Gilbreath  
Deputy County Attorney

Make Checks Payable to:  
University of Arizona FRS # **4206910**  
Sponsored Projects Services  
PO Box 3520  
Tucson, AZ 85722-3520

**HAL GILBREATH**

Name (Please Print)

1-31-2013  
Date

PIMA COUNTY  
BOARD OF SUPERVISORS  
[Signature]  
Chairman

**APR 02 2013**

**ATTEST:**

Robin Brigode  
Clerk of the Board

## EXHIBIT "A": SCOPE OF WORK

### **Paseo de las Iglesias Phase I –Wildlife and Habitat Conservation: Predator-Resistant Wildlife Fencing, Salvage, Temporary Holding, Re-establishment, and Monitoring**

#### **Project Need**

Tucson's urban and suburban biodiversity is regionally significant in abundance of unique species, but existing habitat functions are threatened by heavy machinery during construction for restoration. Additionally, restored ecologies may be threatened by heavy vehicular traffic on nearby streets in certain areas.

However:

- 1) river restoration and park improvements often involve intensive and extensive work by heavy machinery, requiring mitigation, and
- 2) the linear nature of river park environments often exposes resident and restored species to elevated risks of road mortality, which can be minimized by carefully designed fencing.

Both of these issues are particularly significant for Paseo de las Iglesias Phase I (PDLI-P1), which may soon hold the largest natural open space and highest biodiversity in the urban Tucson river park system. These issues establish the need for targeted species salvage, protection of salvaged individuals during construction, and targeted wildlife fencing to prevent excessive road mortality of restored animal species populations. Careful fence design is essential to prevent mortality, chiefly by predation along the fence itself.

Additionally:

- 3) the major surface work and great ecological improvements in this project indicate a need for repatriation and re-establishment efforts for salvaged species.

Pre-construction species translocation and salvage is planned to protect the regal horned lizards and other readily salvageable and uncommon reptiles and toad species. Post-construction monitoring is needed to incorporate (A) post-construction back-translocation and re-establishment of species populations with (B) medium-term ecological recovery in ecological restoration area, and (C) effectiveness of population restoration and fencing conservation measures.

#### **Scope of Work**

Element 1A scope. Cottonwood Lane enclosure fence and road mortality fence construction:

- Construction of predator-resistant enclosure(s) (up to 1,800 ft of fence; see design in Appendix A) for salvaged horned lizards, in on-site, preserve-in-place habitat, completed prior to April 2013
- Use existing fence materials from horned lizard enclosure to construct 1,100 ft long predator-resistant fence (see design in Appendix A) along Cottonwood Lane north to the southern-most garden driveway post PDLI-P1 construction activities.
- Fence design elements will include:

- High durability (24 gage) fine mesh (1/8") galvanized hardware cloth, 15" tall and 12" deep in ground with 9" long bent-inward (east-facing) eaves
- T-posts (6') at 2.4 m (8') intervals to support 3-strand barbless wire (drift fence materials attached to lower barbless wire strand; upper barbless strand at 48")
- coarse galvanized mesh, welded wire, or chain-link (3" X 3" or 2" X 3" mesh) predator exclusion mesh as "roof" over both sides of 15" fence:
  - coarse mesh will allow lizards to pass over fence
  - coarse mesh will extend to 6" from ground to force amphibians to go under and be prevented from accessing Cottonwood Lane
  - coarse mesh structure will go over fine mesh and be supported at top by same barbless wire at 15", and at bottom by short metal stakes
- fence to post attachments will be using bendable wire for fencing and cattle fence attachments for barbless wire.
- top of stakes will be colored yellow, if needed, to minimize hazard to pedestrians or vehicles, depending on the final design in relation to other fences (i.e., post-and-cable, etc.) that may be constructed along the Cottonwood Lane right-of-way.
- branches will be placed over fence at approximately 25-yard intervals in strategic locations to facilitate free movement of climbing lizards and other small animals
- all predator-resistant fence monitoring, and non-major repairs or large-scale through life of the enclosure and transfer or ownership of road fence to Pima County Regional Flood Control District (RFCD). Major repairs and replacement are covered under item "Element 1D scope", below).

Construction of enclosure(s) will occur prior to mid-April 2013. Final alignment of enclosure(s) is pending RFCD final review and approval, considering cultural resources, final construction plans and preserve-in-place vegetation boundaries. Access to the site for enclosure fence maintenance will be required throughout the construction phase (anticipated to be 18-months). Access to the enclosure site for fence and lizard monitoring will also require access, but can be accomplished primarily on weekends.

Replacement and/or reconstruction activities will be completed promptly. Construction of predator-resistant fence along Cottonwood Lane would occur at the end of the major construction phase in this part of the project area and vegetation establishment has occurred, with re-use of fencing materials from the horned lizard protective enclosure. Note that necessary negotiations and permissions from parcel 11810019E lease holders, currently Community Food Bank, and new materials acquisition for use there are not covered under this Scope of Work.

Commence work upon notice-to-proceed.

Deliverables:

- ❖ Communicate with staff for timing, siting, and coordination with project and any other on-site construction activities, and attend meetings and provide education materials review as requested.
- ❖ Prepare, and revise upon District review, manual on fence construction, monitoring, and maintenance

Element 1B scope. Lizard Salvage and Holding:

- Renew AZ Game & Fish Dept. permit for salvage and marking of targeted species.

- Pre-construction salvage and storage of regal horned lizards in the on-site enclosure
- Salvage of other lizards encountered and readily captured during horned lizard salvage, particularly side-blotched and zebra-tailed lizards, and other reptiles incidentally encountered. Lizards will be toe-clipped and snakes will be scale-clipped for individual identification.
- Translocation of these other salvaged reptiles to suitable habitat at West Branch
- Monitoring of fence integrity and lizards in the on-site enclosure.

Commence work upon notice-to-proceed. Daytime access to the site during April-July 2013 will be required. Work will be maximally concentrated, as possible, on weekend days and after 1700 hr.

Deliverables:

- ❖ Communicate progress during project work and attend meetings and provide education materials review as requested.
- ❖ Prepare, and revise upon District review, progress reports and a final summary report:
  - Data and tabular, graphic, and quantitatively summarized results
  - Discussion salvage effectiveness and holding / translocation outcomes
  - Recommendations for:
    - back-translocation
    - project site repopulation with targeted species
- ❖ Remove or re-purpose enclosure fence (see item...)

Element 1C scope. Amphibian Salvage:

- Renew Arizona Game & Fish Dept. permit for salvage of targeted species.
- Salvage Great Plains toads and tadpoles, as feasible, during breeding at Mesquite Circle Pond. Adult amphibians that are translocated will be toe-clipped for recognition (mark regrowth is too rapid in tadpoles and juveniles, and feasible methods for marking are not available)
- Collect other species of aquatic animals incidentally found during toad salvage at Mesquite Circle Pond
- Translocate collected animals, for release at West Branch or other breeding sites.

Commence work upon notice-to-proceed. Access to the site during July-September of 2013 and 2014 (if construction ongoing) will be required, during daytime for tadpole salvage and at night for adult amphibian salvage. Daytime visits will be coordinated with District Engineer to assure safety of salvage staff, and coordination of Mesquite Circle Pond construction activities during amphibian breeding season.

Deliverables:

- ❖ Communicate progress during project work and attend meetings and provide education materials review as requested.
- ❖ Prepare, and revise upon District review, progress reports and a final summary report:
  - Data and tabular, graphic, and quantitatively summarized results
  - Discussion salvage effectiveness and holding / translocation outcomes
  - Recommendations for:
    - back-translocation

- project site repopulation with targeted species

Element 1D scope. Major Enclosure or Road Fence Repair or Replacement Contingency:

- Repair or replace as necessary major sections (>300 ft) of fence in the enclosure(s) or road fencing areas, up to and including complete reinstallation in case of vandalism, theft, or other damage or loss.

Enclosure fences will be maintained by us throughout their useful lifespan holding lizards, with minor repairs and maintenance covered under Scope Element 1A, and including realignments that may be needed to accommodate movement of landscape construction equipment that may be required by the project plans (as indicated in the 50% plans, which I have seen, there may be some planting in the edges of or adjoining the area(s) designated here as pens). This scope item is for major damage or complete, unpredicted, movement or replacement of the enclosures. This scope element (1D) also applies to the road fence up to the time PCFCD (or another government agency) assumes ownership of the road fence after construction. A government agency should assume ownership as soon as possible after we complete the fence, but we will, as directed by RFCD, utilize 1D funds for major repairs, etc., and will, under Scope Element 1A, monitor and make less major repairs to all fencing for the duration of the SOW. PCFCD will provide us with detailed project plans (75%, 95%, and 100% plans) when available, and Scope Element 1D may be revised according to the detailed construction plan including need to move enclosures extensively and the level of protection of the project area by construction site fencing. We recommend that existing fencing along Cottonwood Lane be kept in place, to protect the enclosure fencing from theft or vandalism, until construction fencing (i.e., chain link, post-and-cable, etc.) is installed.

These and some other items remain to be clarified. Another example is potential on-site re-use of fence posts from the existing fence along Cottonwood Lane.

Element 2A scope. Reptile re-establishment:

- Obtain Arizona Game & Fish Dept. permit for wider salvage and urban re-establishment of targeted species.
- Return horned lizards to suitable sites in restored habitat in the project area:
  - Release some or all horned lizards from the protective enclosure to suitable sites in the project area
- Identify suitable sources, if any, for other lizard species, and juvenile gopher snakes, in consultation with county, state, and city personnel:
  - Detail plans for translocation sources and operations for county review
  - Collect small groups of other targeted reptiles (especially giant spotted whiptails, Clark's spiny lizards, western banded geckos, side-blotched lizards, and zebra-tailed lizards; and non-venomous snake species [focusing on gopher snakes]) for re-establishment in the project area.
    - from West Branch release sites if feasible
    - from urbanizing tracts prior to grading

Initiate work based on timing of establishment of suitable habitat conditions (side-blotched, zebra-tailed, and western banded gecko lizards in earliest stage of vegetation development, horned lizards when ant, grass, and forb development is suitable, and other lizards when bosque

environments are suitable. For gopher snakes in southeast quadrant, release will be timed based on suitable development of grass and sub-shrub cover and presence of small mammal populations.

Commence work upon notice-to-proceed.

Deliverables:

- ❖ Communicate progress during project work and attend meetings and provide education materials review as requested.
- ❖ Detailed report on translocation releases of reptiles
  - Number of translocated individuals by source, release site, size, sex, age-class, date, and release site criteria.
  - Detailed monitoring concept and work plan for review

Element 2B scope. Amphibian re-establishment:

- Return Great Plains toads from West Branch, if possible, to Mesquite Circle Pond area
- Obtain Arizona Game & Fish Dept. permit for wider salvage and urban re-establishment of targeted amphibian species.
  - Identify suitable sources for other species, in consultation with county and state personnel, and report number of translocated individuals by source, release site, size, sex, age-class, and date.
- Collect small tadpoles, head-start grow-out (protected from predation) and release to Mesquite Circle Pond:
  - Great Plains narrow-mouthed toad from West Branch
  - Mexican spadefoots from Tucson Southlands and Vail area
  - Great Plains toads from other areas if West Branch source insufficient
  - Head-starting in plastic tubs with natural substrate; flake, vegetable, and algal foods; daily care for 7-12 days, followed by release
- Collect mud and small swimming invertebrates from West Branch other suitable sites for invertebrate re-establishment at Mesquite Circle Pond. Focus on lower-dispersal species and species with limited local sources for rapid recolonization:
  - tadpole shrimp and fairy shrimp
  - predacious diving beetles
  - giant water bugs and water scorpions

Initiate work immediately upon first summer rains following construction at Mesquite Circle Pond.

Commence work upon notice-to-proceed.

Deliverables:

- ❖ Communicate progress during project work and attend meetings and provide education materials review as requested.
- ❖ Detailed report on translocation releases of amphibians
  - Number of translocated individuals by source, release site, size, sex, age-class, date, and release site criteria.
  - Detailed monitoring concept and work plan for review

Element 3 scope. Post-construction monitoring of re-established and self-re-establishing animal populations:

- After reptile species releases, two months of 1 per week, single-morning plus single-late afternoon GPS transect monitoring (time, distance, and location-standardized); monitoring time(s) adjusted based on target species activity period(s)
- For reptile species, after construction completion, 3 years of single-morning plus single-late afternoon GPS transect monitoring (time, distance, and location-standardized) during late March – early November. One monitoring set each in March-April, October-November; two sets each in May-June and July-September. Each set will include coverage of 4 geographic quadrants of project area and major macrohabitat categories (scrub and bosque). Evaluate methods and results, and modify accordingly (based on need for monitoring and methods evaluation), after year 1 and year 2 and based on Arroyo Chico Phase 2B monitoring.
- After amphibian species releases, two-week period with 4 post-release monitoring samples of amphibian tadpoles.
- For amphibian species, after construction completion, 3 years of 4-day breeding amphibian monitoring (breeding aggregation survey [auditory and visual] plus 1-hour dipnet survey of tadpoles) during July-early August. Evaluate methods and results and modify accordingly (based on need for monitoring and methods evaluation) on annual basis.
- Aquatic invertebrate (including mosquito larvae) monitoring:
  - at Mesquite Circle Pond, including monitoring at other sites in the project area with lentic (non-flowing) surface water for > 3 days or lotic (flowing) surface water for > 6 days
  - by sweep net sampling (10 sweeps/microhabitat per sampling period)
  - for first 2 wet seasons after construction completion:
    - twice weekly for up to 6 weeks during July-August wet period
    - once weekly during late August to early October, if wet
    - twice monthly during other wet periods
  - evaluate methods and results, and accordingly modify sampling protocol and frequency (based on need for monitoring and methods evaluation) after year 1 and year 2 and based on Arroyo Chico Phase 2B monitoring.
  - as indicated by initial findings in years 1 and 2 post-construction, for next 0-1 wet seasons after construction completion:
    - continue at reduced ( $\frac{1}{2}$  –  $\frac{1}{4}$ ) sampling intensity
    - with appropriately modified methods if warranted
- Interpretation of aquatic invertebrate (including mosquito larvae) monitoring results in relation to public health agency mosquito trap results
- For bird species, after construction completion, 3 years of spring and summer point counts (16 hr/yr total), plus record of all raptorial and target species observations during reptile GPS transects (scope does not include any focused work on Burrowing Owls)

Initiate monitoring work immediately following completion of habitat and predation affecting construction elements in respective portions of the project area, with access to Mesquite Circle

Pond required for invertebrate (including mosquito larvae) monitoring required as soon as area is wetted during summer rains.

Commence work upon notice-to-proceed.

Deliverables:

- ❖ Prepare, and revise upon District review, comprehensive annual reports covering:
  - Data and tabular, graphic, and quantitatively analyzed results
  - Relationship between habitat restoration progress and species responses
  - Lizard and bird status and trends at project site
  - Recommendations for modifications, future habitat designs, and monitoring

**Elements and Schedule (all start dates are upon notice-to-proceed):**

<b>Scope Element and Description</b>	<b>Annual Report Date</b>	<b>Estimated Start Date</b>	<b>Estimated Completion Date</b>
<b>Element 1A.</b> Cottonwood Lane fence construction	15 Jan. 2014 or 2015	coordinate with construction schedule	coordinate with construction schedule
<b>Element 1B.</b> Lizard Salvage and Holding	1-Feb-2014	18-Feb-2013	1-May-2015
<b>Element 1C.</b> Amphibian Salvage	1-Feb-2014	1-Jul-2013	20-Sep-2013
<b>Element 1D.</b> Major Repairs	1-Feb-2015 to 2016	1 Feb.2013	17-Feb-2018
<b>Element 2A.</b> Reptile re-establishment	1-Feb-2015 to 2016	1-Oct-2014	1-Nov-2015
<b>Element 2B.</b> Amphibian re-establishment	1-Feb-2015 to 2016	1-Jun-2014	1-Nov-2016
<b>Element 3.</b> Post-construction monitoring of re-established and self-re-establishing animal populations	1-Feb-2013 to 2018	1-Apr-2013	17-Feb-2018

### Not to Exceed Budget

Not to Exceed amounts for tasks and subtasks are in the following table. Amounts include contingency due to uncertain features in construction and extent of multi-species data collection needs over this multi-year contract.

We anticipate significant cost savings in Task 1A and Task 4 from overseas and bulk purchase of fencing materials and in actual labor costs of fence installation, but have budgeted as shown because we have uncertainties over details of siting, novel construction problems, and use of existing fencing in the Cottonwood Lane area.

We may achieve significant labor savings in Tasks 1-3 but have budgeted for contingencies involving difficulties handling animals and unknown inflation in labor and medical benefits rates. Monitoring cost reductions may be achieved through positive interactions with related monitoring on county and other projects.

Project management (meetings, oversight, and reporting) savings may be realized if multiple tasks are approved.

#### **Paseo de las Iglesias Animal Conservation and Monitoring BUDGET 2013-2018**

<u>Task and Subtask</u>	<u>Not-to Exceed</u>	<u>Years</u>
<b>Task 1A enclosure and Cottonwood Lane fencing TOTAL</b>	<b>\$ 37,431</b>	2013-2015
1B Salvage and translocate reptiles	\$ 31,632	2013
1C Salvage and translocate amphibians	\$ 15,637	2013-2014
1D Contingency for major fence repair or replacement	\$ 30,000	2013-2018
<b>Task 1B 1C TOTAL</b>	<b>\$ 77,269</b>	
2A Collect-release reptiles	\$ 43,096	2015-2016
2B Collect-headstart-release amphibians - inverts	\$ 34,708	2015-2016
<b>Task 2 TOTAL</b>	<b>\$ 77,804</b>	
3-r Monitor reptiles	\$ 45,592	2013-2018
3-a-i-b Monitor amphibians-inverts and birds	\$ 45,796	2015-2018
<b>Task 3 TOTAL</b>	<b>\$ 91,388</b>	
<b>TOTAL 2013-2018</b>	<b>\$ 283,891</b>	

## APPENDIX A. ENCLOSURE SITING AND DRIFT FENCE DESIGN

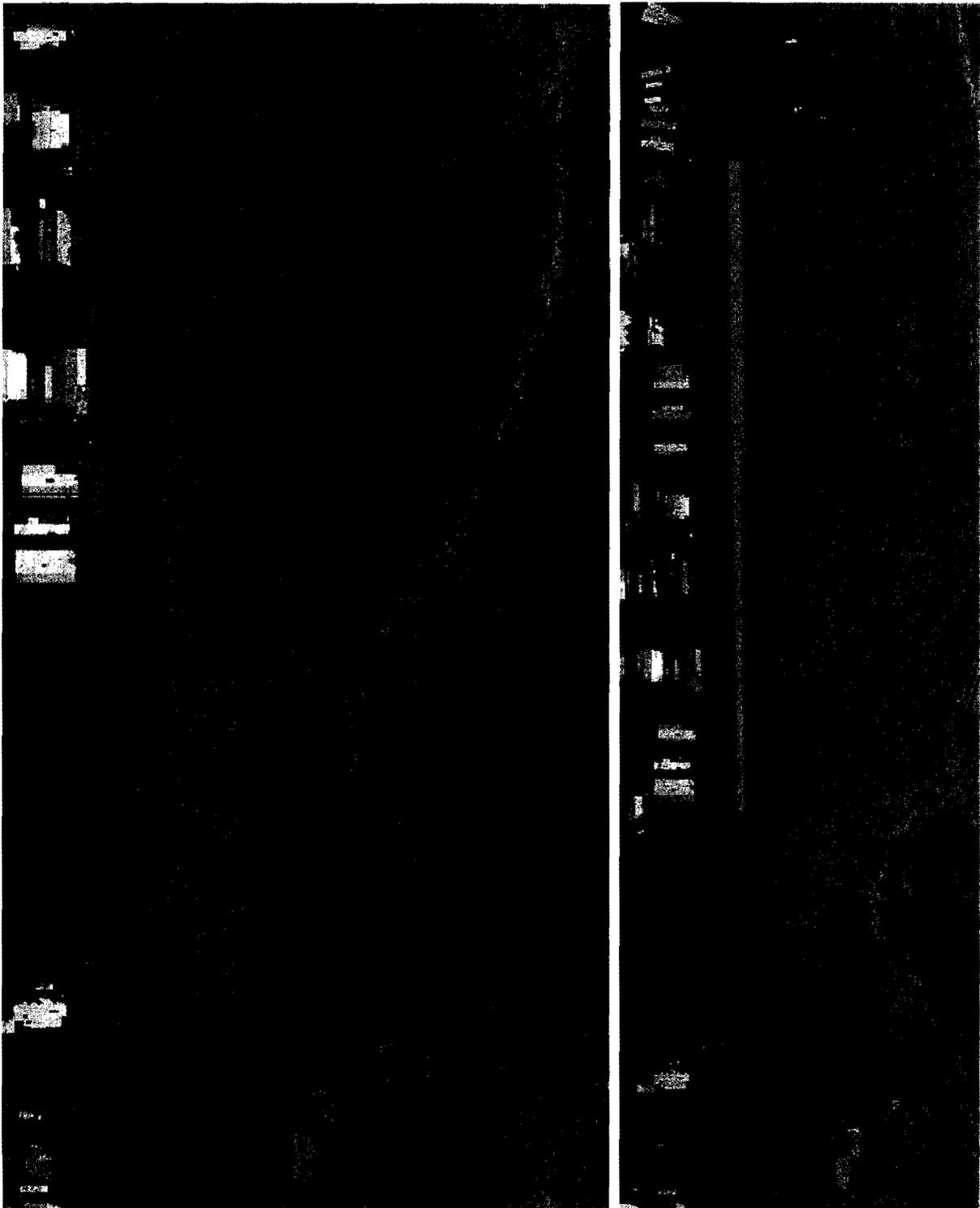


Figure 1. Proposed sitings of temporary enclosure fencing (blue [left] and red [right]), and final post-construction fence alignment (orange) along Cottonwood Lane area. Final enclosure fence siting is pending approval of RFCD. Necessary permissions and any new materials for use on parcel 11810019E are not covered under this Scope of Work.



**EXHIBIT "B": CONSULTANT FEE SCHEDULE**

**Not-to-Exceed BUDGET - Paseo de las Iglesias Phase I –Wildlife and Habitat Conservation:  
 Predator-Resistant Wildlife Fencing, Salvage, Temporary Holding, Re-establishment, and Monitorir  
 Scope (5 years)**

Task and Subtask	Not-to Exceed	Years
<b>Task 1A enclosure and Cottonwood Lane fencing TOTAL</b>	<b>\$37,431</b>	2013-2015
1B Salvage and translocate reptiles	\$31,632	2013
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