

PLANNING ASSISTANCE TO STATES AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
MCKINLEY COUNTY, NEW MEXICO
FOR
DRAINAGE MANAGEMENT PLAN

THIS AGREEMENT is entered into this 2nd day of Sept., 2014, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Albuquerque District (hereinafter the "District Engineer") and McKinley County (hereinafter the "Non-Federal Sponsor"), represented by the Commission Chair.

WITNESSETH, THAT:

WHEREAS, Section 22 of the Water Resources Development Act ("WRDA") of 1974, Public Law 93-251, as amended, authorizes the Secretary of the Army, acting through the Chief of Engineers, to assist the States, as therein defined, in the preparation of comprehensive plans for the development, utilization and conservation of water and related resources of drainage basins, watersheds, or ecosystems located within the boundaries of such State;

WHEREAS, the Non-Federal Sponsor has reviewed the State of New Mexico's comprehensive water plans and identified the need for planning assistance as described in the *Scope of Work* incorporated into this agreement;

WHEREAS, the Government and the Non-Federal Sponsor desire to enter into an agreement (hereinafter the "Agreement") to provide the planning assistance (hereinafter the "*Study*") as defined in Article I.A. of this Agreement) and to share equally in the costs of the *Study*;

WHEREAS, section 319 of the WRDA of 1990, Public Law 101-640 authorizes the Secretary of the Army to collect fees from States and other non-Federal governmental entities for the purpose of recovering 50 percent of the cost of the program established by WRDA of 1974, Section 22;

WHEREAS, Section 2013 of the Water Resources Development Act of 2007, Public Law 110-114, amended Section 22 of the WRDA 1974, Public Law 93-251 to allow the Non-Federal Sponsor to provide up to 100 percent of its required contribution of total study costs (hereinafter "*total study costs*" as defined in Article I.B.) by the provision of services, materials, supplies, or other in-kind services, and to increase the statutory limitation on the amount that may be expended to carry out comprehensive plans in any one year in any one State from \$500,000 to \$2,000,000;

WHEREAS, the Non-Federal Sponsor reserves the right to provide in-kind contributions (hereinafter "*in-kind contributions*" as defined in Article I.F. of this Agreement) that are

necessary to complete the *Study* and to receive credit for such contributions toward the amount of its required contribution for the *Study*;

WHEREAS, the Government and the Non-Federal Sponsor have the full authority and capability to perform as hereinafter set forth and intend to cooperate in cost-sharing and financing of the *Study* in accordance with the terms of this Agreement; and

WHEREAS, the Government and the Non-Federal Sponsor, in connection with this Agreement, desire to foster a partnering strategy and a working relationship between the Government and the Non-Federal Sponsor through a mutually developed formal strategy of commitment and communication embodied herein, which creates an environment where trust and teamwork prevent disputes, foster a cooperative bond between the Government and the Non-Federal Sponsor, and facilitate the successful *Study*.

NOW THEREFORE, the Government and the Non-Federal Sponsor agree as follows:

ARTICLE I – DEFINITIONS

A. The term "*Study*" shall mean the activities and tasks required to identify and perform hydrologic and hydraulic analyses and prepare a Drainage Management Plan (DMP), which is a planning guidance document that will outline the existing and future drainage needs in identified areas within McKinley County. The term includes the *in-kind contributions* described in paragraph F. of this Article.

B. The term "*total study costs*" shall mean the sum of all costs incurred by the Non-Federal Sponsor and the Government in accordance with the terms of this Agreement directly related to performance of the *Study*, from Federal appropriations or from funds made available to the Government by the Non-Federal Sponsor and any *in-kind contributions* performed by the Non-Federal Sponsor pursuant to this Agreement. *Total study costs* shall include, but not be limited to: labor charges; direct costs; overhead expenses; supervision and administration costs; the costs of participation in Study Management and Coordination in accordance with Article IV of this Agreement; the costs of contracts with third parties, including termination or suspension charges; and any termination or suspension costs (ordinarily defined as those costs necessary to terminate ongoing contracts or obligations and to properly safeguard the work already accomplished) associated with this Agreement.

C. The term "*study period*" shall mean the time period for conducting the *Study*, commencing with the release to the U.S. Army Engineer, Albuquerque District (hereinafter the "District Engineer") of initial Federal funds following the execution of this Agreement and ending when the Albuquerque District provides the planning report to the Non-Federal Sponsor.

D. The term "*Scope of Work*" ("*SOW*") means a description of the work to be performed that specifies the scope, the estimated *total study costs*, the estimated costs of *in-kind contributions* if provided, and the schedule for activities to accomplish the *Study*. The *SOW* is

attached to this Agreement is not be considered binding on either party and is subject to change by the Government, in consultation with the Non-Federal Sponsor.

E. The term "*fiscal year*" shall mean one fiscal year of the Government beginning on October 1 and ending on September 30.

F. The term "*in-kind contributions*" shall mean planning, supervision and administration, services, materials, supplies, and other in-kind services that are performed or provided by the Non-Federal Sponsor after the effective date of this Agreement in accordance with the SOW and that are necessary for performance of the *Study*.

G. The term "*estimated total study costs*" shall mean the estimated cost of performing the *Study* as of the effective date of this Agreement, as specified in Article III.A. of this Agreement.

ARTICLE II - OBLIGATIONS OF PARTIES

A. The Government, subject to receiving funds appropriated by the Congress of the United States (hereinafter the "Congress"), and using those funds and funds provided by the Non-Federal Sponsor, shall expeditiously complete the *Study*, in accordance with the provisions of this Agreement and Federal laws, regulations, and policies. If the Non-Federal Sponsor elects to perform or provide *in-kind contributions*, the Non-Federal Sponsor shall expeditiously perform or provide any *in-kind contributions* in accordance with applicable Federal laws, regulations, and policies.

B. In accordance with this Article and Article III of this Agreement, the Non-Federal Sponsor shall contribute 50 percent of *total study costs*, which may be provided as a combination of cash and *in-kind contributions*. If agreeable to all parties, *in-kind contributions* may comprise 100 percent of the Non-Federal Sponsor's contributions. If the Non-Federal Sponsor provides *in-kind contributions*, the estimated cost for those *in-kind contributions* and the estimated schedule under which those *in-kind contributions* will be provided are specified in the SOW. *In-kind contributions* shall be subject to an audit by the Government to determine reasonableness, allocability, and allowability.

C. The Government shall afford the Non-Federal Sponsor the opportunity to review and comment on the solicitations for all Government contracts, including relevant scopes of work, prior to the Government's issuance of such solicitations. To the extent possible, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Non-Federal Sponsor with notification of a contract modification is not possible prior to execution of the contract modification, the Government shall provide such notification in writing at the earliest date possible. To the extent possible, the Government also shall afford the Non-Federal Sponsor the opportunity to review and comment on all contract claims prior to resolution thereof. The Government shall consider in good faith the comments of the Non-Federal Sponsor, but the contents of solicitations,

award of contracts or commencement of work on the *Study* using the Government's own forces, execution of contract modifications, resolution of contract claims, and performance of all work on the *Study*, except for the *non-Federal in-kind contributions*, shall be exclusively within the control of the Government.

D. The Non-Federal Sponsor shall afford the Government the opportunity to review and comment on the solicitations for all contracts for the *in-kind contributions*, including relevant scopes of work, prior to the Non-Federal Sponsor's issuance of such solicitations. To the extent possible, the Non-Federal Sponsor shall afford the Government the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Government with notification of a contract modification is not possible prior to execution of the contract modification, the Non-Federal Sponsor shall provide such notification in writing at the earliest date possible. To the extent possible, the Non-Federal Sponsor also shall afford the Government the opportunity to review and comment on all contract claims prior to resolution thereof. The Non-Federal Sponsor shall consider in good faith comments of the Government but the contents of solicitations, award of contracts, or commencement of work on the *Study* using the Non-Federal Sponsor's own forces, execution of contract modifications, resolution of contract claims, and performance of all work on the *in-kind contributions* shall be exclusively within the control of the Non-Federal Sponsor. At the time the Non-Federal Sponsor furnishes a contractor with a notice of acceptance of completed work for each contract awarded by the Non-Federal Sponsor for the *in-kind contributions*, the Non-Federal Sponsor shall furnish a copy thereof to the Government.

E. The Non-Federal Sponsor understands that the schedule of work may require the Non-Federal Sponsor to provide cash or *in-kind contributions* at a rate that may result in the Non-Federal Sponsor temporarily diverging from the obligations concerning cash and *in-kind contributions* specified in paragraph B. of the Article. Such temporary divergences shall be identified in the quarterly reports provided for in Article III.A. of this Agreement and shall not alter the obligations concerning costs and services specified in paragraph B. of the Article or the obligations concerning payment specified in Article III of this Agreement.

F. No Federal funds may be used to meet the Non-Federal Sponsor's share of *total study costs* unless the Federal granting agency verifies in writing that the expenditure of such funds is expressly authorized by statute.

G. The award and management of any contract with a third party in furtherance of this Agreement which obligates Federal appropriations shall be exclusively within the control of the Government. The award and management of any contract by the Non-Federal Sponsor with a third party in furtherance of the Agreement which obligates funds of the Non-Federal Sponsor and does not obligate Federal appropriations shall be exclusively within the control of the Non-Federal Sponsor, but shall be subject to applicable Federal laws and regulations.

H. Notwithstanding any provision of this Agreement, this Agreement and the Government's obligations hereunder shall not be effective and will not commence until Federal funds have been appropriated and allocated to the District Engineer for the implementation of the

Study. In the event that Federal funds are allocated to the District Engineer for the *Study* after the date that the parties hereto execute this Agreement, the effective date of this Agreement shall be the date that funding approval is provided to the District Engineer.

ARTICLE III - METHOD OF PAYMENT

A. The Government shall maintain current records of contributions provided by the parties, current projections of *total study costs*, and current projections of each party's share of *total study costs*. At least quarterly, the Government shall provide the Non-Federal Sponsor a report setting forth this information. As of the effective date of this Agreement, estimated *total study costs* are \$558,800 and the Non-Federal Sponsor's share of estimated *total study costs* is \$279,400. The dollar amounts set forth in this Article are based upon the Government's best estimates, which reflect the scope of the study described in the *SOW*, projected costs, price-level changes, and anticipated inflation. Such cost estimates are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Sponsor.

B. The Sponsor shall contribute 50 percent of *total study costs* in accordance with the following provisions:

1. To determine the contribution of funds the Non-Federal Sponsor shall provide, the Government shall reduce the 50 percent of *total study costs* by the amount of credit the Government projects will be afforded for the *in-kind contributions* pursuant to paragraph C. of this Article.

2. Not less than 30 calendar days prior to the scheduled date of the Government's issuance of the solicitation for the first contract for the *Study* or for the Government's anticipated first in-house expenditure using the Government's own forces for the *Study*, the Government shall notify the Non-Federal Sponsor in writing of the funds the Government determines to be required from the Non-Federal Sponsor to meet its required cash share to be incurred for such contract and its required cash share for the obligations of the in-house expenditures by the Government to be incurred through the first *fiscal year*. Not later than such scheduled date, the Non-Federal Sponsor shall provide the Government with the full amount of such required funds by delivering a check payable to "FAO, USAED, Albuquerque District" to the District Engineer or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited the required funds in an escrow account or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or presenting the Government with an irrevocable letter of credit acceptable to the Government for the required funds, or providing an Electronic Funds Transfer in accordance with the procedures established by the Government.

3. For the second and subsequent *fiscal years* of the *Study*, the government shall, not later than 60 calendar days prior to the beginning of the *fiscal year*, notify the Non-Federal Sponsor in writing of the funds the Government determines to be required from the Non-Federal Sponsor for the upcoming contract and upcoming *fiscal year* to meet its required share of *total*

study costs for that *fiscal year*, taking into account any temporary divergences identified under Article II.D. of this Agreement.

a. The Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the scheduled date for issuance of the solicitation for each remaining contract for work on the *Study*, of the funds the Government determines to be required from the Non-Federal Sponsor to meet its required share of *total study costs* to be incurred for such contract. No later than such scheduled date, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government through any of the payment mechanisms specified in paragraph B.2. of this Article.

b. The Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the beginning of each *fiscal year* in which the Government projects that it will incur in-house expenditures using the Government's own forces, of the funds the Government determines to be required from the Non-Federal Sponsor to meet its required share of *total study costs* to be incurred for the projected in-house expenditures using the Government's own forces for that *fiscal year*. No later than 30 calendar days prior to the beginning of that *fiscal year*, the Non-Federal Sponsor shall make the full amount of such required funds for that *fiscal year* available to the Government through any of the payment mechanisms specified in paragraph B.2. of this Article.

4. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary, when considered with any credit the Government projects will be afforded for any *in-kind contributions*, to cover the Non-Federal Sponsor's share of contractual and in-house fiscal obligations attributable to the *Study* as they are incurred.

5. In the event the Government determines that the Non-Federal Sponsor must provide additional funds to meet its share of *total study costs*, the Government shall so notify the Non-Federal Sponsor in writing. No later than 60 calendar days after receipt of such notice, the Non-Federal Sponsor shall make the full amount of the additional required funds available through any of the funding mechanisms specified in paragraph B.2. of this Article.

C. The Government, in accordance with this paragraph, shall afford credit toward the amount of funds determined in accordance with paragraph B. of this Article for the costs of any *in-kind contributions*. However, the maximum amount of credit that can be afforded for any *in-kind contributions* shall not exceed the least of the following amounts as determined by the Government: the costs of the *in-kind contributions* provided by the Non-Federal Sponsor or 50 percent of *total study costs*.

D. Within 90 days after the conclusion of the *study period* or termination of this Agreement, and resolution of all relevant claims and appeals, the Government shall conduct a final accounting of *total study costs*, including disbursements by the Government of federal funds, cash contributions by the Non-Federal Sponsor, and credits for any *in-kind contributions* provided by the Non-Federal Sponsor, and shall furnish the Non-Federal Sponsor with the results of this accounting. Within 30 days thereafter, the Government, subject to the availability of

funds, shall reimburse the Non-Federal Sponsor for the excess amount, if any, over its required share of *total study costs*; or, the Non-Federal Sponsor shall provide the Government cash contributions required for the Non-Federal Sponsor to meet its required share of *total study costs*.

ARTICLE IV - STUDY MANAGEMENT AND COORDINATION

To provide for consistent and effective communication, the Government's Project Manager for the *Study* and the Non-Federal Sponsor's designated representative shall communicate regularly until the end of the *study period*.

ARTICLE V - DISPUTES

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. The parties shall each pay 50 percent of any costs for the services provided by such a third party as such costs are incurred. Such costs shall not be included in *total study costs*. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE VI - MAINTENANCE OF RECORDS AND AUDIT

A. Within 60 days of the effective date of this Agreement, the Government and the Non-Federal Sponsor shall develop procedures for keeping books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to this Agreement. These procedures shall incorporate, and apply as appropriate, the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 C.F.R. Section 33.20. The Government and the Non-Federal Sponsor shall maintain such books, records, documents, or other evidence in accordance with these procedures and for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence were required. To the extent permitted under applicable Federal laws and regulations, the Government and the Non-Federal Sponsor shall each allow the other to inspect such books, documents, records, and other evidence.

B. In accordance with 32 C.F.R. Section 33.26, the Non-Federal Sponsor is responsible for complying with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as implemented by OMB Circular No. A-133 and Department of Defense Directive 7600.10. Upon request of the Non-Federal Sponsor and to the extent permitted under applicable Federal laws and regulations, the Government shall provide to the Non-Federal Sponsor and independent auditors any information necessary to enable an audit of the Non-Federal Sponsor's activities under this

Agreement. The costs of any non-Federal audits performed in accordance with this paragraph shall be allocated in accordance with the provisions of OMB Circulars A-87 and A-133, and such costs as are allocated to the *Study* shall be included in *total study costs* and shared in accordance with the provisions of this Agreement.

C. In accordance with 31 U.S.C. Section 7503, the Government may conduct audits in addition to any audit that the Non-Federal Sponsor is required to conduct under the Single Audit Act Amendments of 1996. Any such Government audits shall be conducted in accordance with Government Auditing Standards and the cost principles in OMB Circular No. A-87 and other applicable cost principles and regulations. The costs of Government audits shall be included in *total study costs* and shared in accordance with the provisions of this Agreement.

ARTICLE VII - RELATIONSHIP OF PARTIES

A. The Government and the Non-Federal Sponsor act in independent capacities in the performance of their respective rights and obligations under this Agreement, and neither is to be considered the officer, agent, or employee of the other.

B. In the exercise of its rights and obligations under this Agreement, neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights the other party may have to seek relief or redress against that contractor either pursuant to any cause of action that the other party may have or for violation of any law.

ARTICLE VIII - OFFICIALS NOT TO BENEFIT

No member of or delegate to the Congress, nor any resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise there from.

ARTICLE IX - FEDERAL AND STATE LAWS

In the exercise of their respective rights and obligations under this Agreement, the Non-Federal Sponsor and the Government shall comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto and published in 32 C.F.R. Part 195, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army."

ARTICLE X - TERMINATION OR SUSPENSION

A. Prior to conclusion of the *study period*, upon 30 calendar days written notice to the other party, either party may elect without penalty to terminate this Agreement or to suspend future performance under this Agreement. In the event that either party elects to suspend future performance under this Agreement pursuant to this paragraph, such suspension shall remain in effect until either the Government or the Non-Federal Sponsor elects to terminate this Agreement.

B. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Government shall terminate this Agreement or suspend future performance under this Agreement unless it determines that continuation of performance of the *Study* is in the interest of the United States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the *Study*.

C. In the event the Government projects that the amount of Federal funds the Government will make available to the *Study* through the then-current *fiscal year*, or the amount of Federal funds the Government will make available for the *Study* through the upcoming *fiscal year*, is not sufficient to meet the Federal share of *total study costs* that the Government projects to be incurred through the then-current or upcoming *fiscal year*, as applicable, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the Government projects that the Federal funds that will have been made available to the *Study* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Study*, future performance under this Agreement shall be suspended. Such suspension shall remain in effect until such time that the Government notifies the Non-Federal Sponsor in writing that sufficient Federal funds are available to meet the Federal share of *total study costs* the Government projects to be incurred through the then-current or upcoming *fiscal year*, or the Government or the Non-Federal Sponsor elects to terminate this Agreement.

D. In the event that this Agreement is terminated pursuant to this Article, the parties shall conclude their activities relating to the *Study* and conduct an accounting in accordance with Article III.D. of this Agreement. In the event of such termination, neither the Government nor the Non-Federal Sponsor shall have any further obligations under this Agreement except as provided in Article III of this Agreement. Upon termination of this Agreement, all data and information generated as part of the *Study* shall be made available to the parties to the Agreement.

E. Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Article shall not relieve the parties of liability for any obligation previously incurred. Any delinquent payment owed by the Non-Federal Sponsor shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

ARTICLE XI - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or sent by telegram or mailed by first-class, registered, or certified mail, as follows:

If to the Non-Federal Sponsor:

County Manager
McKinley County
P.O. Box 70
Gallup, NM 87305-0070

If to the Government:

Project Manager
U.S. Army Corps of Engineers
Albuquerque District, (SPA-PMC)
4101 Jefferson Plaza, NE
Albuquerque, NM 87109

B. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

C. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

ARTICLE XII - LIMITATION ON GOVERNMENT EXPENDITURE

In accordance with Section 22 of WRDA of 1974, as amended, Government financial participation in the cooperative preparation of comprehensive plans for development, utilization, and conservation of water and related resources pursuant to said authority shall be limited to the expenditure of not more than \$2,000,000 in any one year in any one State.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which, subject to the provisions of Article II.H. of this Agreement, shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

BY: Pat J. Dagon
Patrick J. Dagon
Lieutenant Colonel, U.S. Army
District Commander

DATE: 2 Sep 14

MCKINLEY COUNTY

BY: Carol Bowman-Muskett
Carol Bowman-Muskett
Commission Chair
McKinley County

DATE: 8/21/2014

CERTIFICATE OF AUTHORITY

I, Douglas W. Decker, do hereby certify that I am the principal legal officer of McKinley County, that McKinley County is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and McKinley County in connection with the study for the DRAINAGE MANAGEMENT PLAN, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed this Agreement on behalf of the McKinley County have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this 22nd day of August, 2014



Douglas W. Decker
County Attorney
McKinley County

CERTIFICATION REGARDING LOBBYING

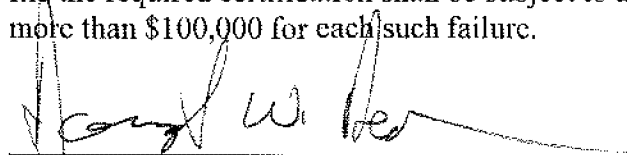
The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



Douglas W. Decker
County Manager (Acting)
McKinley County

DATE: 8/22/14

APPENDIX A
SCOPE OF WORK
PLANNING ASSISTANCE TO STATES
DRAINAGE MANAGEMENT PLAN
MCKINLEY COUNTY, NEW MEXICO

1. GENERAL.

The Albuquerque District of the U.S Army Corps of Engineers (Corps) will provide a Drainage Management Plan for identified areas within McKinley County. The Drainage Management Plan will provide an evaluation of the flood risk of these identified areas and propose risk reduction measures for these areas that have experienced repeated flooding. Authority for this type of work is given in Section 22 of the 1974 Water Resources Development Act, Planning Assistance to States (PAS) Program.

2. STUDY AREA LOCATION

There are five areas of concern within in McKinley County, New Mexico included in this scope of work. There are: the Town of Thoreau (two locations), County Road (CR) 27 corridor between Thoreau and Coolidge, Church Rock to Iyanbito, Box Canyon, and Hunters Point Road from the intersection with Leo Canyon Rd and extending north for approximately 2.5 miles (location maps attached). The scopes of work include the series of alluvial fans and arroyos within these areas. These fans are on the north side of I-40, draining the mountains and flowing south to the Rio Puerco of the West. The Box Canyon area is a watershed containing two well-incise arroyos.

3. WORK TO BE PERFORMED

Aerial Surveys and Elevation Mapping: Detailed maps are needed to perform hydraulic analyses for the study areas included in this scope of work. For this activity, LiDAR data coverage of the study areas will be obtained to allow creating detailed maps with 1 foot contour intervals. The LiDAR data will consist of high accuracy classified data in LAS format as well as a combination of raster digital elevation models and additional hydrographic break lines. Specifications for LiDAR acquisition will follow the USGS National Geospatial Program LiDAR Base Specifications Version 1.0. The LiDAR vertical accuracy will be tested and is required to meet ASPRS/NDEP standards.

The following activities will be performed for each study area:

Research and Review of Previous Reports and Studies: Research and review of previous reports and studies will be performed for this assessment. This will include an attempt to obtain the hydrology estimates used for the I-40 crossings and hydrologic features installed in Thoreau by NMDOT that may have had hydrologic estimates completed.

Hydrologic Analysis: Hydrologic assessments of the major tributaries contributing flow to the alluvial fans and major arroyos, as well as local flooding, will be performed. The assessments will be conducted using a numeric model such as HEC-HMS for eight frequency flows (50%,

20%, 10%, 4%, 2%, 1%, 0.5%, 0.2%-chance events). U.S. Geological Survey regression equations will be used to compare peak discharges for the larger tributaries that are modeled. Some drainage divides are non-distinct; therefore, field verification may be required. Estimated volume for each flow is also required.

Hydraulic Analysis: Each identified arroyo and pertinent bridges/crossings in the study reaches will be investigated. Using existing digital design files and orthophotos for the study area and an appropriate geo-referenced version of the HEC-RAS computer program, flood elevations and delineate flood plain boundaries for the 50%, 20%, 10%, 4%, 2%, 1%, 0.5%, 0.2%-chance events for each project area will be developed. A floodway analysis is not required. The file layer/level structure should conform to FEMA digitizing specifications outlined in the most recent edition of Flood Insurance Study Guidelines and Specifications for Study Contractors. Plot profiles will be developed for each frequency flood. Since the study areas are in alluvial fans, the hydraulics model may be a FLO-2D model due to the potential for comingling of flow from the large arroyos. Specific hydraulic models (HEC-RAS) would still be required at the major road crossings or proposed flood risk reduction measure locations.

Floodplain Delineation: Floodplain delineations for the areas of concern will be developed.

Drainage Management Plan: Detailed recommendations for reduction of flood risk will be provided as part of the Drainage Management Plan. Layouts will be developed that show plan view and typical cross-sections describing a proposed type of channel (soil cement, concrete, rock, etc.)/flood risk reduction measure. No water surface profiles shall be delineated but generic elevation-storage-outflow data for modeling ponds and other plan features will be developed. Sediment and detention basins will be located where necessary. Only channels with drainage areas of 0.5 square miles or larger shall be analyzed.

Report Preparation and Presentations: The data, findings, and recommendations will be compiled into a Draft Report for Hydrologic, Hydraulic, and Floodplain Investigations in support of the DMP. The draft report will include a technical report: a detailed description of the drainage area, study methods, pertinent data, assumptions made during the course of the study, and results of the analyses including tables of peaks and volumes, and profile plots. All maps will be included as 11" x 17" fold-out sheets. Tables of pertinent parameters and plates, including a watershed map, will be included.

Following a review period, a Final Report incorporating all accepted review comments of the Draft Report will be prepared.

Site Visits: Site visits will be required for both the hydrologic and the hydraulic assessments. An estimated five days are required for the hydrology and eight days for the hydraulics. More days for the hydraulics may be required if there are a significant number of road-crossing/flood sites to be modeled. Travel time, and mileage to and from Albuquerque is covered in this item.

Coordination Activities: Coordination between the Corps and the Sponsor will be necessary during the course of the study. This work includes internal coordination of meetings,

documentation of email and phone correspondence, submittal of reports and presentations, and planning and recording of site visits.

Agency Technical Review: A Corps internal review will be performed to ensure the quality of the models and respective reports. The reviewer shall be an experienced professional in the field of surface water hydraulic analysis.

Project Archive and Storage: This item includes all activities required to archive data, models, photos, correspondence, printing and binding services, which are used in the study. A data notebook will be compiled and housed at the Corps Albuquerque District Office that will contain miscellaneous study documentation, correspondence, analyses, and references.

Supervision and Administration: This item includes all supervision and administration of technical and support staff involved in completing the study. Time will be required to monitor and report overall study progress and accounts for billing purposes.

List of Deliverables: The Corps anticipates the following project deliverables as shown in Section 4. This table should be regarded as flexible and the noted time frames are only best estimates based on previous studies.

4. DELIVERY AND SCHEDULE

The scope above will be phased in terms of priority, as listed below. Several phases may be performed concurrently if sufficient funding is available.

- 1 - Aerial Surveys and Elevation Mapping
- 2 - Town of Thoreau
- 3 - CR 27 corridor between Thoreau and Coolidge
- 4 - Church Rock to Iyanbito
- 5 - Box Canyon
- 6 - Hunters Point Road

<u>Deliverables</u>	<u>Delivery Schedule*</u>
Acquisition of aerial surveys and elevation mapping	100*
Each area:	
Hydrology & hydraulic models, floodplain delineation	60**
Draft report	30**
Review period	20**
Final report	20**

* Calendar days after signing of agreement.

** Days after completing subsequent activity, contingent on funding availability.

APPENDIX B

TIME AND COST ESTIMATE
PLANNING ASSISTANCE TO STATES

DRAINAGE MASTER PLAN
MCKINLEY COUNTY, NEW MEXICO

Expanded Church Rock – Iyanbito Area

<u>Study Item</u>	<u>Cost</u>		Total
	Corps	McKinley County	
1. Aerial Surveys and Elevation Mapping	\$ 65,000	\$ 65,000	\$130,000
2. Town of Thoreau (Site 1)	\$ 38,050	\$ 38,050	\$ 76,100
3. CR 27 corridor-Thoreau to Coolidge (Site 2)	\$ 41,850	\$ 41,850	\$ 83,700
4. Church Rock to Iyanbito (Site 3)	\$ 70,050	\$ 70,050	\$140,100
5. Box Canyon (Site 4)	\$ 30,100	\$ 30,100	\$ 60,200
6. Hunters Point Road (Site 5)	\$ 21,850	\$ 21,850	\$ 43,700
7. Project Management and admin.	\$ 12,500	\$ 12,500	\$ 25,000
Total Cost	\$279,400	\$279,400	\$558,800
Corps Cost-Share	\$279,400		
McKinley County Cost-Share	\$279,400		
Total Study Cost	\$558,800		