

EXHIBIT 2

DECLARATION OF JILL E. STIGLICH

I, JILL E. STIGLICH, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the Director of Contracting for the United States Army Corps of Engineers (USACE), and have recently been designated as the “Head of the Contracting Activity” (HCA) for USACE by the Senior Procurement Executive for the Department of the Army. In my capacity as the Director of Contracting and HCA for USACE, I am responsible for oversight and direction of all USACE contracting activities, including the contracting activities of Task Force Barrier.
2. This declaration is based on my own personal knowledge and information made available to me in the course of my official duties.
3. As explained in the fourth declaration of Kenneth P. Rapuano, dated August 26, 2019, on August 26, 2019, Secretary of Defense Esper approved three additional Section 284 projects (Yuma Sector Projects 4 and 5 and Tucson Sector Project 4) using contract savings obtained from previously approved Section 284 projects.
4. USACE anticipates that it will award contracts and fully obligate the necessary funds for the additional Section 284 projects no later than September 30, 2019, but no earlier than September 15, 2019. The funds will expire if they are not obligated before the end of the fiscal year. USACE does not expect to begin construction, or to engage in any ground disturbing activities, on any new Section 284 projects before October 1, 2019.
5. Contracts for the three additional Section 284 projects will be awarded under the Western Multiple Award Task Order Contract (Western MATOC). A MATOC is a contracting vehicle used by USACE to solicit requests for proposals from a limited group of contractors identified in the MATOC to satisfy USACE task orders. Under the MATOC, USACE may enter into fixed-price task orders. Because the terms, specifications, and price will be determined at the time of each task order award, all of the funds required under the task order may be obligated at that time.
6. The Western MATOC is an indefinite-quantity contract as described in Federal Acquisition Regulation (FAR) 16.504. This type of contract provides for an indefinite quantity, within stated limits, of supplies or services during a fixed period. The Government places task orders for individual requirements. Quantity limits may be stated as number of units or as dollar values. FAR 16.504(a). Except for certain, unrelated, indefinite-quantity contracts, the Government must, to the maximum extent practicable, give preference to making multiple awards of indefinite-quantity contracts under a single solicitation for the same or similar supplies or services to two or more sources. FAR 16.504(c). The scope of the Western MATOC includes design-build or design-bid-build horizontal construction work in the Department of Homeland Security’s San Diego, El Centro, Yuma, and Tucson Border Patrol Sectors as well as work within the USACE Southwestern and South Pacific Divisions. USACE awarded twelve (12)

MATOC contracts in total, five (5) contracts to small businesses, and seven (7) contracts to other-than-small businesses, all with the same scope. The total contract ceiling amount to be shared among all Western MATOC contractors is \$5 billion. The estimated maximum task order award amount is \$350 million. Contractors may, at their discretion, accept task orders above the estimated maximum. The period within which the Government may place task orders is five years from the date of award, May 8, 2019.

7. The first tranche of Section 284 projects was approved in March 2019, and the second tranche was approved in May 2019. Previous Section 284 projects were awarded as “undefinitized” contract actions. The Western MATOC had not been awarded when the first tranche of Section 284 projects was approved. As explained in the declarations of Col. McFadden, dated May 29, 2019, and June 18, 2019, an “undefinitized” contract action is a contracting vehicle that allows USACE to award a contract and obligate up to 75 percent of the anticipated contract value before USACE and the contractor have finalized the contract terms, specifications, and price. With limited exceptions, only 50 percent of the anticipated contract may be obligated if no qualifying proposal has been submitted by the contractor. Only after the final terms, specifications, and price have been determined—i.e., the contract has been “definitized”—may the full value of the contract be obligated.

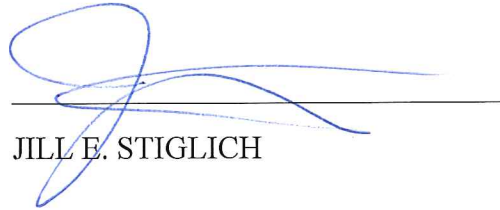
8. Whether a task order is awarded under a MATOC or an undefinitized contract action is awarded, the full value of the task order or contract cannot be obligated until the final terms, specifications, and price are determined. How quickly the final terms, specifications, and price can be determined will depend on, among other things, the size and scope of the project, the availability of information needed to scope out the requirements and determine the specifications for the project, the complexity of the scope of the project, the relative negotiating position of the parties, and the potential magnitude of the cost of the project.

9. USACE expects to be able to award task orders and fully obligate funds for the new Section 284 projects on a faster timeline than the previous Section 284 projects for several reasons. First, because of the proximity of the new projects to the existing projects and because of the geotechnical and other preparatory work recently performed on the existing projects, USACE already has access to much of the information it will need to scope out the requirements and determine the specifications for the new projects. Also, through ongoing efforts to definitize the existing Section 284 projects, USACE is amassing more technical knowledge that will be helpful in defining scopes and determining specifications for the new projects. This additional information was not available to USACE at the time contracts were awarded for the existing Section 284 projects; thus, USACE required more time to conduct the necessary preparation work to definitize the contracts and obligate the funds. Second, the size and scope of the additional projects are also considerably less than the total size and scope of the previously approved projects. The combined distance of the new projects is not expected to exceed 20 miles; whereas, the total distance of the first and second tranche projects is estimated at 129 miles. Likewise, the total expected cost of the additional projects (\$200-400 million) is far lower than the total cost of the first two tranches (over \$2 billion). The smaller overall scale for the additional projects, both in terms of construction mileage and cost, reduces the complexity of the

contracting and obligation process, thus enabling USACE to award contracts and obligate funds on a faster schedule than the prior Section 284 projects.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on: August 26, 2019



JILL E. STIGLICH