



Contract Number: CTN-IT-12 * 371-01
Effective Date: 8-5-2013
Term Date: 8-4-2018
Cost: _____
Revenue: ✓
Total: _____ NTE: _____
Action: 5-1-18
Renewal By: 8-4-18
Term: _____
Reviewed by: XLR

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: June 3, 2014

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

In August 2008, Pima County and the U.S. Department of Homeland Security, Customs and Border Protection (CBP) entered into an Intergovernmental Agreement that allowed CBP to enter upon, and to construct, install, operate, and maintain certain equipment on the County property located at 33200 South Sasabe Highway. The project is a critical component of CBP's Secure Border Initiative along the US-Mexico border.

This Amended and Restated IGA more specifically defines the parties' obligations and responsibilities under the Agreement including financial costs associated with conducting a 911 feasibility study and co-location opportunities for PCWIN operations. The Amendment is effective retroactive to August 5, 2013; the extensive delay is attributed to CBP's numerous changes and modifications, which required multiple revisions and months of review.

Annual Fee: N/A
Licensee: U.S. Department of Homeland Security, Customs and Border Protection
Term: August 5, 2013 to August 4, 2018
Property: 33200 South Sasabe Highway
Legal Description: S807.30' of SE4 of NW4 lying W of center line of Hwy H 7.89 AC P 2-35-20-8
Tax Parcel No.: 302-02-0130.

CONTRACT NUMBER (If applicable): CTN-IT-12000000000000000371
(Previous #01-14-U-141123-0808)

STAFF RECOMMENDATION(S):

The Information Technology Department recommends that the Pima County Board of Supervisors adopt and the Chairman sign the Amended and Restated Intergovernmental Agreement with the U.S. Department of Homeland Security, Customs and Border Protection.

CORPORATE HEADQUARTERS: Washington, DC

Page 1 of 2 Ver. 2

Vendor 1

Pgs. 13

To: CoB. 5-21-13

Agenda 6-3-13

(4)

CLERK OF BOARD USE ONLY: BOS MTG. _____

ITEM NO. _____

PIMA COUNTY COST: N/A and/or REVENUE TO PIMA COUNTY:\$ N/A

FUNDING SOURCE(S): N/A

(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

		YES	X	NO
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Board of Supervisors District:

1		2		3	X	4		5		All	
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IMPACT:

IF APPROVED:

CBP will continue to maintain equipment on the County property located at 33200 South Sasabe Highway in furtherance of the Federal Government's Secure Border Initiative along the US-Mexico border. Once the feasibility study has been conducted, CBP will allow installation of equipment at the site to permit emergency communications via cellular telephone. In addition, Pima County will have permission to co-locate at designated CBP facilities in support of the Pima County Wireless Integrated Network System.

IF DENIED:

CBP will be required to decommission and remove existing equipment on the County property located at 33200 South Sasabe Highway, which will greatly compromise the Federal Government's Secure Border Initiative along the US-Mexico border. Pima County will no longer have a potential site to install equipment for emergency communications via cellular telephone, and the Pima County Wireless Integrated Network System will not be allowed to co-locate at CBP facilities.

DEPARTMENT NAME: Information Technology Department

CONTACT PERSON: Julie K McWilliams TELEPHONE NO.: 724-8066



CONTRACT	
NO. <u>CTN-IT-12000000000000000000371</u>	
AMENDMENT NO.	<u>01</u>
This number must appear on all invoices, correspondence and documents pertaining to this contract.	

**AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT
BETWEEN PIMA COUNTY, ARIZONA
AND
THE U.S. DEPARTMENT OF
HOMELAND SECURITY, CUSTOMS AND
BORDER PROTECTION**

CONTRACT No. CTN-IT-12000000000000000000371 (Previous #01-14-U-141123-0808)

Customs and Border Protection Contract Number: HSBP-1113-L-DA00532

THIS AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT is entered into by and between Pima County ("County"), a political subdivision of the State of Arizona, and the U.S. Department of Homeland Security, U.S. Customs and Border Protection, a branch of the United States government, hereinafter referred to as "CBP," and shall be effective August 5, 2013.

RECITALS

A. County and CBP entered into an Intergovernmental Agreement effective August 5, 2008, with an expiration date of August 4, 2013. The parties desire to extend and modify the original agreement, and, as such, have agreed to this Amended and Restated Intergovernmental Agreement (the "Agreement"), which shall fully replace and supersede the original agreement.

B. The parties hereto desire that CBP have permission to enter upon, and to construct, install, operate, and maintain certain equipment on, specific County Property within unincorporated Pima County.

C. The parties hereto desire that the County have permission and access to the Block 1 communications and/or surveillance towers operated by CBP in Pima County, which are identified on Exhibit B to this Agreement, in order to attach radios and antennas in support of the Pima County Wireless Integrated Network System ("PCWIN").

D. The parties hereto desire that, where feasible, equipment be installed to permit emergency communications via cellular telephone between each Block 1 communications and/or surveillance tower operated or maintained by CBP in Pima County and/or on the Tohono O'odham Indian Reservation and the closest Public Safety Answering Point.

E. The parties intend that no monetary payment be made by either party to the other in connection with this Agreement.

F. The County is authorized to enter into this Agreement pursuant to A.R.S. sections 11-951 *et seq.*

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and undertakings of the parties hereinafter set forth, it is agreed as follows:

A. The County hereby grants to CBP permission to enter upon, and to construct, install, operate, and maintain certain equipment (the "Facilities") on, and to remove the Facilities from, the property described and depicted on the attached Exhibit A (the "Property"), which is a portion of the following land:

Property Address:	33200 South Sasabe Highway
Legal Description:	S807.30' of SE4 of NW4 lying W of centerline of Hwy H 7.89 AC P 2-35-20-8
Tax Parcel No.:	302-02-0130

B. This permission is granted subject to the following conditions:

1. CBP shall use the Property only for the construction, installation, operation, maintenance, and removal of the Facilities, which shall consist of a semi-permanent surveillance tower and related structures and equipment, and telecommunications equipment, all as described and depicted on Exhibit A.
2. CBP shall restrict access to the Facilities by means of a gate with a keyed lock.
3. CBP is responsible for repairing damage to the County's improvements cause by CBP. However, CBP's liability for such damage may not exceed appropriations available for such payment, and nothing contained in this

Agreement may be considered a warranty that Congress will at a later date appropriate funds sufficient to meet deficiencies. CBP will replace vegetation that is removed to facilitate construction, operation, or maintenance of the Facilities.

4. CBP shall be responsible for acquiring all permits required by applicable law for conducting the requested activity, and CBP shall be responsible for complying with all zoning and code requirements that may apply.
5. CBP shall keep the Property in as good order, condition, and repair as reasonable use will permit, and shall keep the Property free of trash.
6. Upon termination of this Agreement for any reason, including but not limited to termination under Paragraphs (H), (I), or (T) below, CBP shall remove the Facilities and return the Property to its original state at no cost to the County.

C. The County shall be responsible for the cost of any feasibility study concerning the use of any Block 1 communications and/or surveillance towers to support the County's PCWIN system and shall ensure that any such feasibility study shall include the following items:

1. a tower superstructure analysis in accordance with TIA-222-G;
2. a tower foundation analysis in compliance with ASCE 7;
3. a radio frequency (RF) study demonstrating that there will not be electromagnetic interference with CBP systems;
4. in compliance with the R-56 Standard, an analysis of lighting and surge protection, grounding, shielding, and bonding requirements; and
5. an assessment as to whether any additional security measures will be required.

D. The County shall be responsible for the cost of any feasibility study concerning enabling emergency cellular-telephone communications between any Block 1 communications and/or surveillance tower and the closest public safety answering point and shall ensure that any such feasibility study shall include the following items:

1. a tower superstructure analysis in accordance with TIA-222-G;
2. a tower foundation analysis in compliance with ASCE 7;
3. a radio frequency (RF) study demonstrating that there will not be electromagnetic interference with CBP systems;

4. in compliance with the R-56 Standard, an analysis of lighting and surge protection, grounding, shielding, and bonding requirements; and
5. an assessment as to whether any additional security measures will be required.

E. Where technically feasible, CBP shall grant the County permission and access to Block 1 communication and/or surveillance towers in Pima County in order to install equipment permitting emergency cellular-telephone communications between any Block 1 communications and/or surveillance tower and the closest Public Safety Answering Point. The County's use of the Block 1 communication and/or surveillance towers shall be at no cost to the County, provided, however, that the County shall be responsible for the costs of installation, operation, and maintenance of the equipment that supports emergency cellular-telephone communications. Further, prior to installation the County shall submit to CBP an Engineering Change Proposal ("ECP") in order to ensure that said installation is coordinated between the parties, the County shall be responsible for the cost of any Block 1 tower superstructure and/or foundation modifications that are required to support the County's equipment loads in compliance with TIA-222-G and ASCE 7, respectively, and the County shall also be responsible for providing separate power and equipment shelter/enclosure systems for its equipment. Prior to any change or upgrade to the County's equipment, Pima County shall be required, at no cost to CBP, to prepare a feasibility study that shall include all of the items listed in Section D of this Agreement.

F. Where technically feasible, CBP shall grant the County permission and access to Block 1 communication and/or surveillance towers in Pima County in order to attach radios and antennas to support the PCWIN system. The County's use of the Block 1 communication and/or surveillance towers shall be at no cost to the County, provided, however, that the County shall be responsible for the costs of installation, operation, and maintenance of the radios and antennas that support the PCWIN system. Further, prior to installation the County shall submit to CBP an ECP in order to ensure that said installation is coordinated between the parties, the County shall be responsible for the cost of any Block 1 tower superstructure and/or foundation modifications that are required to support the County's equipment loads in compliance with TIA-222-G and ASCE 7, respectively, and the County shall also be responsible for providing separate power and equipment shelter /enclosure systems for its equipment. Prior to any change or upgrade to any radio or antenna that is placed on a Block 1 communication and/or surveillance tower that is used to support the PCWIN System, the County shall be required, at no cost to CBP, to prepare a feasibility study that shall include all of the items listed in Section C of this Agreement.

G. Notwithstanding any prior approval by CBP, the County agrees that it will not allow any equipment it installs on CBP's Block 1 communication and/or surveillance towers to cause interference with any existing or modified CBP communications or surveillance systems or equipment on the Block 1 communication and/or surveillance towers. If the County is notified that its operations are causing such interference, the

County will immediately take all necessary steps to determine the cause of and eliminate such interference. If the interference continues for a period in excess of seventy-two (72) hours following such notification, CBP shall have the right to require the County to reduce power and/or cease operations until such time as the County can make repairs to the interfering equipment. In the event that the County fails to promptly take such action as agreed, then CBP shall have the right, in its sole discretion, to terminate the operation of the equipment causing such interference.

H. The term of this Agreement shall be through August 4, 2018, renewable upon mutual agreement of the parties.

I. This Agreement is subject to termination pursuant to A.R.S. section 38-511.

J. The County shall have the right, without notice or payment of any compensation to CBP, to sell, destroy, or dispose of any personal property left on the Property after CBP has vacated or abandoned the Property, or when this Agreement has been terminated, whether such termination be accomplished pursuant to Paragraphs (H), (I), or otherwise.

K. CBP shall indemnify, to the fullest extent permitted by law, the County and its officers, departments, employees, and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands, liens, losses, fines or penalties, damages, liability, interest, and expenses of whatsoever kind and nature (including attorneys', consultants', and accounts' fees or costs), resulting from or arising out of any act or omission of CBP, its agents, employees, or anyone acting under its direction or control, whether intentional, negligent, grossly negligent, or amounting to a breach of contract, in connection with or incident to the performance of this Agreement.

L. All notices, requests, and communication hereunder shall be addressed as follows:

County:

Pima County
Department of Information Technology
Attn: Contract Administrator
150 W. Congress St., 6th Floor
Tucson, AZ 85701

CBP:

U.S. Customs and Border Protection
BPFTI Program Office
Attn: Realty Specialist
150 West Park Way
Euless, Texas 76040-3961

M. Either party hereto may change the place for giving notice to it by giving 30 days prior written notice to the other as provided in Paragraph (L).

N. This instrument constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, hereby are superseded and merged herein.

O. This Agreement shall not be modified, amended, altered, or changed except by written agreement signed by the parties.

P. All provisions of this Agreement shall be construed to be consistent with the intention of the parties as expressed in the recitals hereof.

Q. In the event that any provision of this Agreement or the application thereof is declared invalid or void by statute or judicial decision, such action shall have no effect on other provisions and their application that can be given effect without the invalid or void provision or application, and to this extent the provisions of the Agreement are severable. In the event that any provision of this Agreement is declared invalid or void, the parties agree to meet promptly upon request of the other party in an attempt to reach an agreement on a substitute provision.

R. The failure of either party on one or more occasion to insist upon the full and complete performance of any of the terms or conditions of this Agreement by the other, 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.

S. Nothing in this Agreement is intended to create duties or obligations to, or rights in, third parties who are not parties to this Agreement, or to affect the legal liability of any part to this Agreement, by imposing any standard of care with respect to the maintenance of public facilities different from the standard of care imposed by law.

T. No party shall be in default under this Agreement by reason of its failure to fulfill any obligation under this Agreement if such failure is the result of uncontrollable forces. The term "uncontrollable forces" shall mean, for the purposes of this Agreement, any cause beyond the control of the party affected, including but not limited to failure of facilities, breakage of or accidental damage to machinery or transmission facilities, weather conditions, flood, earthquake, lighting, fire, epidemic, war, riot, civil disturbance, sabotage, strike, lockout, labor dispute, boycott, material or energy shortage, casualty loss, acts of God, or action or non-action by governmental bodies in approving or failing to act upon applications or approvals or permits which are not due to the negligence or willful action of the parties, order of any government officer or court (excluding orders promulgated by the parties themselves), and declared local, state, or national emergency, which, by exercise of due diligence and foresight, such party could not have reasonably have been expected to avoid. Either party rendered unable to fulfill any obligations by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

U. To the extent that CBP determines that the Facilities are no longer necessary to support CBP operations, CBP may terminate this Agreement upon thirty days' written notice to the County. Upon receipt of such notice of termination, if CBP determines that the cost of removing and handling the Facilities exceeds the value of the Facilities and if the County determines that it wants to continue to use the Facilities to support PCWIN or

for any other purpose, the County shall be given the option to purchase the Facilities from the United States upon terms mutually agreeable to the parties. The County shall notify CBP of its desire to exercise said option within thirty days of its receipt of CBP's notice of termination. If the County fails to provide such notice within the time period specified above, CBP shall remove the Facilities pursuant to (B)(6) above.

V. The recitals to this Agreement are not mere recitations of the parties' intent, but are an integral part of this agreement, and shall be construed as if set forth fully herein.

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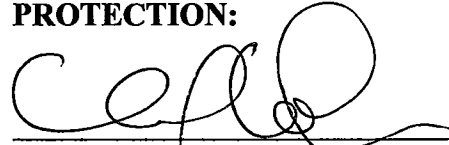
IN WITNESS THEREOF, the parties have affixed their signatures to this First Amendment on the dates written below.

PIMA COUNTY:

Chair, Board of Supervisors

Date

**U.S. DEPARTMENT OF
HOMELAND SECURITY,
CUSTOMS AND BORDER
PROTECTION:**



Christopher J. Colacicco, Division
Director, Real Estate and
Environmental Services Division
Border Patrol Facilities and Tactical
Infrastructure Facilities Management

25 APRIL 2014
Date

ATTEST:

Clerk of the Board

Date

APPROVED AS TO CONTENT:



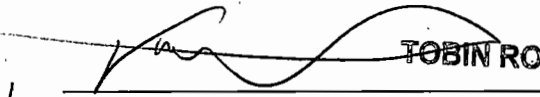
Jesse Rodriguez, Chief Information Officer
Pima County Department of Information Technology

5/6/14
Date

Intergovernmental Agreement Determination

The foregoing Amendment to the Intergovernmental Agreement between Pima County and the U.S. Department of Homeland Security, Customs and Border Protection, has been reviewed pursuant to A.R.S. section 11-952 by the undersigned, who has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to Pima County.

Pima County:



for Marc Natelsky, Deputy County Attorney

TOBIN ROSEN

4/29/14

Date

This is an Official Copy of the Pima County
contract executed and on file with Pima County.

EXHIBIT A



This is an Official Copy of the Plima County
court's records and on file with Plima County.

EXHIBIT B

CBP Block 1 Tower Sites Available to Pima County

	Site Number	Site Name	Tower Function	Tower	Tower Coordinates (Lat / Long)
1	TCA-TUS-032	M4	Sensor	RDT 80	31.64618 / -111.50028
2	TCA-TUS-035	Guijas	Sensor	RDT 80	31.66447 / -111.41240
3	TCA-TUS-036	Black Mesa	Sensor	RDT 100	31.48460 / -111.37732
4	TCA-TUS-041	County Line	Sensor	RDT 80	31.52525 / -111.28923
5	TCA-TUS-085	Rose	Sensor	RDT 80	31.56594 / -111.55478
6	TCA-TUS-287	De La Osa	Sensor	RDT 80	31.49451 / -111.55469
7	TCA-TUS-290	Spears Property	Sensor	RDT 40	31.59328 / -111.34946
8	TCA-TUS-298	Blackberry Hill	Sensor	RDT 80	31.45840 / -111.43367
9	TCA-TUS-299	Garcia Ranch	Sensor	RDT 80	31.48202 / -111.47012
10	TCA-AJO-003	Cipriano	Sensor	RDT 100	31.97801 / -112.99953
11	TCA-AJO-004	59.4 Road	Sensor	RDT 100	32.20083 / -112.89475
12	TCA-AJO-170	Power Line	Sensor	RDT 100	32.09552 / -112.79638
13	TCA-AJO-302	Camino del Diablo	Sensor	RDT 100	32.13007 / -113.08533
14	TCA-AJO-310	AZ Trust Land	Sensor	RDT 80	31.89355 / -112.74581