



Contract Number: CT. WW- 15*195
Effective Date: 12-1-14
Term Date: 11-30-16
Cost: \$110,000. -
Revenue: \$1360,000. -
Total: NTE: _____
Action: 9-1-16
Renewal By: 9-1-16
Term: 11-30-16
Reviewed by: gak

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: 11/18/2014

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

IGA between Town of Marana and Pima County for wastewater billing and collection services. Town of Marana provides billing services to Pima County for the monthly billing of wastewater user fees from Town of Marana customers. Under the Agreement, Town of Marana bills and collects sewer user fees for all of Town of Marana customers that are also users of the wastewater system. This is approximately 2,600 accounts each month. This IGA is for a 2-year term, beginning December 1, 2014 and sets the rates for associated billing fees and services between Town of Marana and the County.

CONTRACT NUMBER (If applicable): CT 15*195

STAFF RECOMMENDATION(S):

Staff recommends that the Board of Supervisors approve this IGA so that the billing of sewer user accounts for Town of Marana customers will continue as outlined in the IGA

CORPORATE HEADQUARTERS: _____

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Ver. 1
Vendor 1
Pgs. 9

To: CWB - 11-5-18
Agenda - 11-18-18
(2)

Procure Dept 11/05/14 AM08:26

CLERK OF BOARD USE ONLY: BOS MTG. _____

ITEM NO. _____

PIMA COUNTY COST: \$55,000 per year for 2 years and/or REVENUE TO PIMA COUNTY:\$ 1,260,000.00

FUNDING SOURCE(S): *Enterprise Fund*
(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

| | | | | |
|--|--|------------|----------|-----------|
| | | YES | X | NO |
|--|--|------------|----------|-----------|

Board of Supervisors District:

| | | | | | | | | | | | |
|---|--|---|--|---|--|---|--|---|--|------------|----------|
| 1 | | 2 | | 3 | | 4 | | 5 | | All | X |
|---|--|---|--|---|--|---|--|---|--|------------|----------|

IMPACT:

IF APPROVED: *Town of Marana will continue to bill and collect wastewater/sewer user fees for the County utilizing Town of Marana's billing system*

IF DENIED: *Town of Marana will not continue to bill and collect for wastewater/sewer user fees for the County utilizing Town of Marana's billing system*

DEPARTMENT NAME: Regional Wastewater Reclamation Department

CONTACT PERSON: Barry Holbert **TELEPHONE NO.:** 724-6571

CONTRACT

AMENDMENT NO.

This number must appear on all invoices, correspondence and documents pertaining to this contract.

Intergovernmental Agreement
between
Pima County
and the
Town of Marana
for
the provision of
Water Consumption Data

This Intergovernmental Agreement (IGA) is entered into by and between Pima County, a body politic and corporate of the State of Arizona ("County") and the Town of Marana (Town) pursuant to A.R.S. § 11-952.

Recitals

1. County and Town may contract for services and enter into agreements with one another for joint or cooperative action pursuant to A.R.S. § 11-951, et seq.
2. County and Town desire to exchange proprietary water use information for the purpose of calculating billings to sewer users.

NOW, THEREFORE, County and Town, pursuant to the above, and in consideration of the matters and things hereinafter set forth, do mutually agree as follows:

Agreement

1. **Purpose.** The purpose of this IGA is to exchange water use data for the purpose of calculating, billing and collecting sewer user fees from the Town's customers.
2. **Scope of Services.** See attached Exhibit A (Three (3) pages).
3. **Financing.**
 - a. For the services described in Item 2 above, the County agrees to pay and the Town agrees to offset against amounts owed the County, a monthly administrative and billing fee (collectively, the "Unit Price") of \$1.00 per account per month. Such fees will reimburse the Town for the cost of billing and collection services each year. Total payment for this contract shall not exceed \$55,000.00 annually. In the event population growth projections point to a potential exceedence of the \$55,000 annual limit, County and Town agree to meet to discuss increasing funding to allow payment for the continued provision of services provided, however, the terms of this IGA may only be amended pursuant to Article 21, below.
 - b. No state or municipal taxes are applicable to the IGA.
 - c. The Town shall provide detailed documentation in support of requested payment. Payment requests shall assign all costs to items identified by this section.

- d. It is the intention of both parties that the billing fee shall remain firm during the term of the IGA. Billing fee increases shall only be considered in conjunction with a renewal of the IGA. In the event that economic conditions are such that a billing fee increase is desired by the Town upon renewal of the IGA, the Town shall submit a written request to the County with supporting documents justifying such increase at least 90 days prior to the termination date of the IGA. It is agreed that the Unit Price shall include compensation for the Town to implement and actively conduct cost and price control activities.

4. **Term.** The term of this Agreement shall commence on December 1, 2014 and shall terminate on November 30, 2016, unless sooner terminated or further extended pursuant to the provisions of this Agreement. The parties may renew this Agreement for up to four (4) additional one-year periods or any portion thereof.

5. **Disposal of Property.** Upon the termination of this IGA, all property involved shall revert back to the owner. Termination shall not relieve any party from liabilities or costs already incurred under this IGA, nor affect any ownership of property pursuant to this IGA.

6. **Indemnification.** Each party (as Indemnitor) agrees to indemnify, defend and hold harmless the other party (as Indemnitee) from and against any and 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 officers, officials, agents, employees, or volunteers.

7. **Insurance.** Each party shall obtain and maintain at its own expense, during the entire term of this Contract the following type(s) and amounts of insurance:

The above requirement may be alternatively met through self insurance pursuant to A.R.S. §§ 11-261 and 11-981 or participation in an insurance risk pool under A.R.S. § 11.952.), at no less than the minimal coverage levels set forth in this article.

Parties to this agreement shall provide thirty (30) days written notice to all parties to this IGA of cancellation, non-renewal or material change of coverage.

8. **Compliance with Laws.** The parties shall comply with all federal, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this IGA. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this IGA and any disputes hereunder. Any action relating to this IGA shall be brought in an Arizona court in Pima County.
9. **Non-Discrimination.** The parties shall not discriminate against any County employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this IGA. The parties shall comply with the provisions of Executive Order 75-5, as amended by Executive Order 99-4, which is incorporated into this IGA by reference, as if set forth in full herein.

- 10. ADA.** The parties 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.
- 11. Severability.** If any provision of this IGA, or any application thereof to the parties or any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this IGA which can be given effect, without the invalid provision or application and to this end the provisions of this IGA are declared to be severable.
- 12. Termination/Cancellation.** This Agreement may be terminated by either the County or the Town with written one hundred-twenty (120) day notice.
- 13. Conflict of Interest.** This contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated herein by reference.
- 14. Non-Appropriation.** Not notwithstanding any other provision in this IGA, this IGA may be terminated if for any reason the Pima County Board of Supervisors does not appropriate sufficient monies for the purpose of maintaining this IGA. In the event of such cancellation, the County shall have no further obligation to the Town other than for payment for services rendered prior to cancellation.
- 15. Legal Authority.** Neither party warrants to the other its legal authority to enter into this IGA. If a court, at the request of a third person, should declare that either party lacks authority to enter into this IGA, or any part of it, then the IGA, or parts of it affected by such order, shall be null and void, and no recovery may be had by either party against the other for lack of performance or otherwise.
- 16. Worker's Compensation.** Each party shall comply with the notice of A.R.S. § 23-1022 (E). For purposes of A.R.S. § 23-1022, each party shall be considered the primary employer of all personnel currently or hereafter employed by that party, irrespective of the operations of protocol in place, and said party shall have the sole responsibility for the payment of Worker's Compensation benefits or other fringe benefits of said employees.
- 17. No Joint Venture.** It is not intended by this IGA to, and nothing contained in this IGA shall be construed to, create any partnership, joint venture or employment relationship between the parties or create any employer-employee relationship between County and any Town employees, or between Town and any County employees. Neither party shall be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other party's obligation to withhold Social Security and income taxes for itself or any of its employees.
- 18. No Third Party Beneficiaries.** Nothing in the provisions of this IGA is intended to create duties or obligations to or rights in third parties not parties to this IGA or affect the legal liability of either party to the IGA by imposing any standard of care with respect to the maintenance of public facilities different from the standard of care imposed by law.
- 19. Notice.** Any notice required or permitted to be given under this IGA shall be in writing and shall be served by delivery or by certified mail upon the other party as follows (or at such other address as may be identified by a party in writing to the other party):

COUNTY:

Director
Regional Wastewater Reclamation Dept.
201 N. Stone, 8th Floor
Tucson AZ 85701

TOWN:

Town Manager
Town of Marana
11555 W. Civic Center Drive
Marana AZ 85653

With copies to:

County Administrator
Pima County
130 W. Congress, 10th Floor
Tucson AZ 85701

With copies to:

Town Attorney
Town of Marana
11555 W. Civic Center Drive
Marana AZ 85653

and:

Clerk of the Board
Pima County
130 W. Congress, 5th Floor
Tucson AZ 85701

20. Legal Arizona Workers Act Compliance.

- a. Town hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Town's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Town shall further ensure that each Subcontractor who performs any work for Town under this contract likewise complies with the State and Federal Immigration Laws.
- b. County shall have the right at any time to inspect the books and records of Town and any Subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.
- c. Any breach of Town's or any Subcontractor'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 Town to penalties up to and including suspension or termination of this Contract. If the breach is by a Subcontractor, and the subcontract is suspended or terminated as a result, Town 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 subcontractor, (subject to County approval if MWBE preferences apply) as soon as possible so as not to delay project completion.
- d. Town shall advise each Subcontractor of County's rights, and the Subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in

compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

21. 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 IGA shall not be modified, amended, altered or extended except through a written amendment signed by the parties and recorded with the Pima County Recorder, or Arizona Secretary of State, whichever is appropriate.

In Witness Whereof, County has caused this Intergovernmental Agreement to be executed by the Chairman of its Board of Supervisors, upon resolution of the Board and attested to by the Clerk of the Board, and Town has caused this Intergovernmental Agreement to be executed by the Mayor, Town of Marana, upon resolution of the Mayor and attested to by the Town Clerk.

PIMA COUNTY:

Chairperson, Board of Supervisors

ATTEST:

Clerk of the Board

Date: _____

TOWN OF MARANA:

Mayor, Town of Marana

ATTEST:

Town Clerk

Date: _____

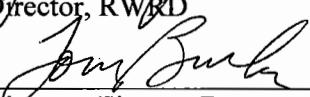
APPROVAL:

The foregoing Intergovernmental Agreement between Pima County and the Town of Marana has been reviewed by the undersigned, and is hereby approved as to content.

PIMA COUNTY:



Director, RWD



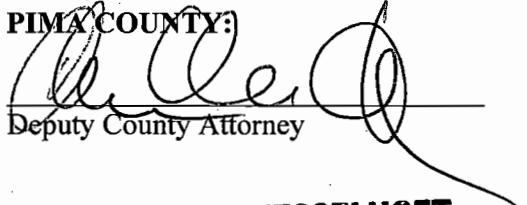
Director, Finance Department

TOWN OF MARANA:

Intergovernmental Agreement Determination

The foregoing Intergovernmental Agreement between Pima County and the Town of Marana has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Intergovernmental Agreement represented by the undersigned.

PIMA COUNTY:


Deputy County Attorney

TOWN OF MARANA:

Town Attorney

CHARLES WESSELHOFT

EXHIBIT A: Scope of Services

The Town shall provide the following sewer billing and collection services for the County:

- A. Provide water consumption data for each water and sewer account and provide monthly billings and collection of these accounts monthly.
- B. Update all water and sewer accounts (turn-on and turn-off) to maintain an accurate active customer file.
- C. Bill and disconnect delinquent sewer accounts in same manner the Town uses to bill and disconnect delinquent water accounts and transmit to the County for collecting those delinquent sewer accounts that cannot be collected through the water billing system.
- D. Process sewer user fee adjustments transmitted by the County and adjust sewer user fees in accordance with adjustment policies authorized by the County.
- E. Maintain an accurate, computerized sewer billing and accounts receivable.
- F. Provide the County with read-only access to the computerized customer billing system maintained by the Town.
- G. Provide the County with winter (December, January and February) water use data for those sewer users on the Town water system.
- H. Consistent with Pima County Code §13.24.120(D), process all customer wastewater account vacant/vacation requests.
- I. Provide a monthly report of vacant/vacation requests processed by the Town, including the account number, customer name, service address, initiation date of vacancy, and the termination date of vacancy.
- J. Provide the County with all necessary and agreed upon computer-oriented reports required to effectively manage the revenues and customer accounts of the sewer utility.
- K. Provide the County with the ability to insert sewer utility-related information into the monthly customer billings.
- L. Upon receipt of sewer user fee payments, the Town shall deposit the funds with the County Treasurer as per the agreed upon schedule.
- M. At the County's option, the Town shall provide a register showing active account status of each account on a monthly basis and will provide a final delinquent account register of all accounts considered as the inactive final billing register.
- N. At the request of the County, the Town shall provide to the County all data related to the billing and collection of sewer user fees within the Town, at no cost to the County.
- O. The Town shall provide a Project Manager for this Agreement who shall serve as liaison with the County on all issues relating to this Agreement.

EXHIBIT A: Scope of Services

- N. The Town shall provide the County with the opportunity to provide input to any billing system changes prior to implementation.
- O. The Town shall cooperate with the County to develop procedures and reporting modifications to satisfy deficiencies identified in yearly audits.
- P. To the extent possible, the Town shall provide additional computer services in the form of special computer programs or printouts to the County at no cost.
- Q. The Town shall maintain books, records, documents and other evidence directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles and practices consistently applied. The Town shall also maintain the financial information and data used by the Town in the preparation or support of the cost submission and a copy of the cost summary submitted to the County. The County shall have access to such books, records, documents and other evidence for inspection, audit and copying. The Town shall provide proper facilities for such access and inspection.
- R. Audits conducted under this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).
- S. The Town agrees to the disclosure of all information and reports resulting from access to records, as described in Item Q, to the County designated auditor, provided that the Town is afforded the opportunity for an audit exit conference and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report and that the final audit report will include written comments of reasonable length, if any, of the Town.
- T. At the request of the County and with the concurrence of the Town, the Town may provide billing and collection services for sewer accounts receiving water from private water companies:
 - 1. If the Town agrees to provide billing and collection services for these accounts, the County shall pay fees as described in Article 3: Financing.

The County shall provide the following services for the Town:

- A. Adjust the Town sewer user fee accounts as required.
- B. Answer sewer user complaints from the Town customers.
- C. Accept responsibility to collect all delinquent sewer accounts served by the Town after they have been written off to bad debt expense by the Town.
- D. Inspect and identify any computer errors and notify the Town of any necessary changes.
- E. The County and Town will review and adjust the monthly administrative billing fee on an annual basis, provided the fees are appropriate.

EXHIBIT A: Scope of Services

F. The County and the Town agree to provide security measures for all hardware and software to assure confidentiality of all data. Each entity is to provide security for its own facility and information.