



**BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS**

Requested Board Meeting Date: 1/05/2016

or Procurement Director Award

Contractor/Vendor Name (DBA): ARIZONA ATTORNEY GENERAL'S OFFICE ("AG")

Project Title/Description:

Agreement for Pima County ITD Subscriber Services

Purpose:

The Agreement between Pima County and AG regarding Subscriber Services is effective for a one (1) year term commencing January 5, 2016 through January 4, 2017, and is renewable upon mutual written agreement of the parties. The Agreement was made and entered into by the parties pursuant to A.R.S. §§ 41-2631 through 41-2634.

As a participant in the Pima County Wireless Integrated Network (PCWIN), AG has been issued mobile and portable radio equipment specifically for this purpose. Pima County ITD Wireless Division and City of Tucson General Services Division are the only two service providers authorized by the PCWIN Board of Directors for subscriber repair and maintenance. AG has chosen Pima County ITD Wireless Division to provide this service. Therefore, since Pima County ITD Wireless Services Division has sufficient facilities, resources, and expertise to maintain and service PCWIN communication equipment, AG has agreed to pay Pima County for use and repair of the equipment during the term as specified in Exhibit B.

Procurement Method:

D 29.4.XI.H. "Other Non-Procurement Contracts"

Program Goals/Predicted Outcomes:

To ensure PCWIN equipment is sufficiently maintained and remains fully functional.

Public Benefit:

To support efforts of PCWIN, a state-of-the-art digital trunked radio communications system designed to provide public safety grade radio communications throughout Pima County.

Metrics Available to Measure Performance:

AG to maintain equipment and make timely payments through January 4, 2017, per terms of the Agreement.

Retroactive:

The delay was caused by verbiage changes and subsequent legal review and negotiation by both parties. Original signed documents were not received by County from AG until November 9, 2015.

To: COB- 12-22-15 (2)
Ver. -1
Pgs. 13

Procure Dept 12/22/15 PM02:16

Original Information

Document Type: CTN Department Code: IT Contract Number (i.e.,15-123): 16*0092

Effective Date: 01/05/2016 Termination Date: 01/04/2017 Prior Contract Number (Synergen/CMS): N/A

Expense Amount: \$ _____ Revenue Amount: \$ 2,443.35

Funding Source(s): State of Arizona

Cost to Pima County General Fund: N/A

Contract is fully or partially funded with Federal Funds? Yes No Not Applicable to Grant Awards

Were insurance or indemnity clauses modified? Yes No Not Applicable to Grant Awards

Vendor is using a Social Security Number? Yes No Not Applicable to Grant Awards

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment Information

Document Type: _____ Department Code: _____ Contract Number (i.e.,15-123): _____

Amendment No.: _____ AMS Version No.: _____

Effective Date: _____ New Termination Date: _____

Expense Revenue Increase Decrease Amount This Amendment: \$ _____

Funding Source(s): _____

Cost to Pima County General Fund: _____

Contact: Michael D. Stofko

Department: Real Property Services

Telephone: 520-724-6667

Department Director Signature/Date: [Signature] 12-14-15

Deputy County Administrator Signature/Date: [Signature] 12/17/15

County Administrator Signature/Date: [Signature] 12/18/15
(Required for Board Agenda/Addendum Items)

CONTRACT
NO <u>CTN-IT-16000000000000000000 92</u>
AMENDMENT NO. _____
This number must appear on all invoices, correspondence and documents pertaining to this contract.

KR15-0095

**AGREEMENT
FOR PIMA COUNTY ITD SUBSCRIBER SERVICES
BETWEEN PIMA COUNTY AND
ARIZONA ATTORNEY GENERAL'S OFFICE**

THIS AGREEMENT (Agreement), is made and entered into by and between Pima County, a political subdivision of the State of Arizona ("*County*") and Arizona Attorney General's Office (hereinafter referred to as "*Agency*") pursuant to A.R.S. §41-2501(B)

WHEREAS County and Agency may contract for services and enter into agreements with one another for services pursuant to A.R.S. § 41-2501(B); and

WHEREAS County is implementing a regional public safety communications network known as the Pima County Wireless Integrated Network ("**PCWIN**"); and

WHEREAS Agency agreed to participate in the PCWIN program; and

WHEREAS Agency desires to use PCWIN communication equipment and services and does not have the ability to maintain same; and

WHEREAS County has facilities and resources to maintain and service PCWIN communication equipment; and

WHEREAS County is willing to provide communication service and equipment maintenance to Agency;

NOW, THEREFORE County and Agency agree as follows:

1. Purpose.

The purpose of this Agreement is to set forth the responsibilities of the parties and provide communication service and equipment maintenance to Agency.

2. Scope:

- A. County, through its Information Technology Department, Wireless Services Division, shall provide communication equipment maintenance to Agency at 1313 South Mission Road, Tucson, Arizona, 85713. County shall only provide communication equipment maintenance to PCWIN communications equipment owned or leased by Agency, and all affected equipment shall be clearly marked

or identified as such.

- B. County guarantees communication equipment maintenance work for 90 days and will pass on to Agency any parts warranty provided by the manufacturer. If County communication equipment maintenance work or replacement parts fail in normal service within that period, the County shall make additional repairs at no additional charge to Agency. County provides no other express warranty on communication equipment maintenance work. Any implied warranty of merchantability or fitness is limited to the 90 day duration of this warranty.
- C. Liability for damages to County Facilities Shall be in accordance with the Indemnification clause included below.

3. Payment

- A. County shall bill Agency monthly through the Finance Department, Revenue Management Division for maintenance services. This service will be billed in arrears of the service provided. Current rates are outlined in the attached Exhibit A. Exhibits B and C require each participating Public Agency to opt for either monthly or time and materials billing; provided, however, that Agency may opt for **both** monthly and time and materials payment. Agency shall pay County within thirty (30) days of receipt of County's bill.
- B. If, after ten (10) days additional written notice to Agency it fails to pay the full amount due, County may terminate this Agreement immediately upon written notice to Agency.
- C. Upon renewal of this IGA, County reserves the right to increase the rates set forth in Exhibit A or Time and Materials charges as applicable to Agency, if County's actual costs increase.

4. Term and Termination

- A. County and Agency shall within their lawful methods of financing provide for payment of the costs and expenses of their obligations arising each year under this Agreement from current annual budgeted funds for that year.
- B. The term of the Agreement shall be for a one year period upon endorsement by the Pima County Board of Supervisors and is renewable upon mutual agreement of both parties, unless terminated pursuant to Section 4 (D.) below. Any modification of this Agreement shall be by formal written amendment and executed by the parties hereto.
- C. Notwithstanding any other provision in this Agreement, this Agreement may be terminated if for any reason the Pima County Board of Supervisors or Agency's

governing body do not appropriate sufficient monies for the purpose of maintaining this Agreement. In the event of such cancellation, County shall have no further obligation to the terminating Agency, and Agency's only obligation to County will be payment for services rendered and the satisfaction of any other obligations under this Agreement

- D. Either party may terminate this Agreement only by issuing a written notice of its intention not to renew this Agreement at least 90 days prior to the end of the then existing Term.

5. Severability

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

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. Americans With Disabilities Act

Agency 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.

8. Cancellation For Conflict Of Interest

This Agreement is subject to cancellation for conflict of interest pursuant to ARS § 38-511, the pertinent provisions of which are incorporated into this Agreement by reference.

9. No Joint Venture

It is not intended by this Agreement to, and nothing contained in this Agreement 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 of Agency's employees, or between Agency and any County employees. None of the parties shall be liable for any debts, accounts, obligations or other liabilities whatsoever of the other party, including (without limitation) Agency's and County's obligation to withhold Social Security and income taxes for itself or any of its employees.

10. Insurance.

- A. Coverages. Subject to section 10. E. below, the Parties to this Agreement shall obtain and maintain at their own expense, during the entire term of this Agreement the following type(s) and amounts of insurance:
- 1) *Commercial General Liability.* Coverage shall be at least as broad as ISO form CG 00 01 in an amount not less than \$2,000,000.00.
 - 2) *Commercial General Automobile Liability.* Coverage shall be at least as broad as ISO form CA 00 01 in an amount not less than \$1,000,000.00 for vehicles actually used in the operations at the Premises (as compared to use for simple commuting).
- B. Changes to Insurance Requirements. County retains the right to reasonably increase the limits or types of coverage from time to time as determined in the best interests of County by Pima County Risk Management.
- C. Certificates of Insurance. The Parties shall provide each other with current certificates of insurance within thirty (30) days of the execution of this Agreement. All certificates of insurance must provide for guaranteed thirty (30) days written notice to all Parties to this Agreement of cancellation, non-renewal or material change.
- D. Self-Insurance Pool. The requirements of this Section 10 above may be alternatively met by the Parties through self-insurance or participation in a governmental insurance risk pool, at no less than the minimal levels set forth in this article. If applicable, Parties to this Agreement shall provide all other Parties with certificates of self-insurance under A.R.S. §§ 11-261 and 11-981 (or if a school district, § 15-382) or documentation of participation in an insurance risk pool pursuant to A.R.S. § 11-952.01, (if a school district, § 15-382) within thirty (30) days of the execution of this Agreement. All certificates must provide for guaranteed thirty (30) days written notice to all other Parties of cancellation, non-renewal or material change.

11. Compliance With Laws

The parties shall comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation. In the event any services provided under this Agreement require a license issued by the Arizona Registrar of Contractors (ROC), County certifies that those services will be provided by a contractor licensed by ROC to perform those services in Arizona. The laws and regulations of the State of Arizona shall govern the rights, performance and disputes of and between the parties. Any action relating to this Agreement shall be brought in a court of the State of Arizona in Pima County.

Any changes in the governing laws, rules, and regulations during an agreement shall apply, but do not require an amendment/revisions.

12. Non-Discrimination

Agency agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 **including flow down of all provisions and requirements to any subcontractors**. 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 which is hereby incorporated into this agreement as if set forth in full herein. During the performance of this agreement, Agency 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.

13. No Third Party Beneficiaries

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

14. Workers' Compensation

Agency shall comply with the notice of A.R.S. §23-1022 (E). For purposes of A.R.S. §23-1022, Agency shall be considered the primary employer of all personnel currently or hereafter employed by those parties, irrespective of the operations of protocol in place, and said party shall have the sole responsibility for the payment of Workers' Compensation benefits or other fringe benefits of said employees.

15. Applicable Law

In accordance with ARS § 41-2501, et seq, and AAC R2-7-101, et seq, Contract shall be governed and interpreted by the laws of the State of Arizona and the Arizona Procurement Code.

16. Non-Availability of Funds

In accordance with ARS § 35-154, every payment obligation of the State under the Contract is conditioned upon the availability of funds appropriated or allocated for payment of such obligation. If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

17. Audit

In accordance with A.R.S. § 35-214, the Contractor shall retain and shall contractually require each subcontractor to retain all data, books and other records ("records") relating to this Contract for a period of five years after completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce the original of any or all such records.

18. Arbitration

In accordance with ARS § 12-1518, the parties to agree to resolve all disputes arising out of or relating to this Contract through arbitration, after exhausting applicable administrative review except as may be required by other applicable statutes.

19. Notice

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

COUNTY:
Pima County IT Department
Attn: Contract Administrator
150 West Congress, 6th Floor
Tucson, AZ 85701
520-724-8113
contract.administrator@pima.gov

AGENCY:
Arizona Attorney General's Office
Attn: Charles Loftus
1275 W. Washington Street
Phoenix, AZ 85007

20. 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 Agreement may be modified, amended, altered or extended only by a written amendment signed by the parties.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS THEREOF, the parties have affixed their signatures to this Agreement on the date written below.

PIMA COUNTY

ARIZONA ATTORNEY GENERAL'S OFFICE

Chair, Board of Supervisors



Authorized Officer Signature

Date

Jerry Connolly Procurement mgr

Printed Name and Title

11/12/2015

Date

Legal Advisory

Date

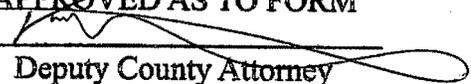
AGO Contract # AG15-0040

ATTEST

Clerk of Board

APPROVED AS TO FORM

Date



Deputy County Attorney
TOBIN ROSEN

APPROVED AS TO CONTENT:



Pima County Chief Information Officer

11/3/15

Date

APPROVAL AS TO FORM

Re: Attorney General Contract No.

KR15-0095

Pursuant to your request, the Attorney General's Office has reviewed the above referenced contract and approved it as to form. When reviewing this contract for form, the Attorney General's Office considers whether the following situations have been addressed:

1. Identification of parties;
2. Offer and acceptance;
3. Existence of contract consideration (we do not review to determine if consideration is adequate); and
4. That certain provisions specifically required by statute are included.
(e.g., provisions concerning Non-Availability of Funds; Audit of Records, A.R.S. § 35-214; Conflict of Interest, A.R.S. § 38-511; Non-Discrimination, Executive Order 2009-9; and Third Party Antitrust Violations.)

Although we will notify you if we observe other issues or problems with a contract, we have not reviewed the contract for other issues. Therefore, approval as to form should not be considered as approval of the appropriateness of the terms or conditions of the contract or the underlying transaction. In addition, approval of the form should not be considered approval of the underlying policy considerations addressed by the contract.

DATED this 5th day of November 2015.

By 
Assistant Attorney General

EXHIBIT A

Subscriber Services and Time & Materials Services (Aug 6, 2013)

Monthly Radio Subscriber Agencies/Departments (Pima County; or Other Agencies who subscribe for service):

- A. Monthly fee of \$8/Radio
- B. Subscriber Services Provided:
 - i. Programming
 - ii. New Radio Activation
 - iii. Radio Deactivation
 - iv. Encryption/no Encryption
 - v. Basic Troubleshooting
 - vi. Radio Kill (lost or stolen)
 - vii. Loaner Radio during Radio repairs
 - viii. Preventative Maintenance Services at Agency Premises or in Maintenance Provider shop to tune radios and replace various parts (antennas, clips, knobs, batteries, etc.)
- C. Motorola Radio Repair Costs (including shipping and applicable taxes) are charged directly to the Agency
- D. Radio Reactivation fee of \$50 / per occurrence

PCWIN Requires CommShop 360 to Be the Book of Record for All Radio Subscriber Services Provided To Agencies

Subscriber Services and Time & Materials Services (Aug 6, 2013)

Time & Material (Non Pima County) Radio Agency Services:

- A. T&M Services Provided (\$40/hour, 1 hour minimum charge):
 - i. Programming
 - ii. New Radio Activation
 - iii. Radio Deactivation
 - iv. Encryption/no Encryption
 - v. Basic Troubleshooting
 - vi. Radio Kill (lost or stolen)
 - vii. For other costs associated with T&M Services not included in the hourly charge which are charged directly to the Agency:
 - a. Minimum of \$20 shipping or actual shipping costs where over \$20, for Motorola Radio repairs, where applicable
 - b. Actual Motorola radio repair costs and applicable taxes
 - c. Spare parts and materials used in basic repairs
 - d. Any T&M Services(including Annual Preventative Maintenance) provided at the Agency Location are charged a mileage expense (Trip Charge) of:
 - i. \$ 1.16 per mile roundtrip
- B. Other Costs That Will Be Directly Charged To An Agency:
 - i. Radio Reactivation fee of \$50 / per occurrence
 - ii. Each T&M Agency must pay for an Annual Mandatory Preventative Maintenance checkup to tune their radios @ \$20/Radio (Agency pays for cost of parts, if applicable).
- C. Agencies on T&M Must Maintain An Inventory of Spare Radios

PCWIN Requires CommShop 360 To Be The Book Of Record For All Radio T&M Services Provided To Agencies

EXHIBIT B

Agency Name	Arizona Attorney General's Office
County or COT Maintenance	County
Monthly / T&M / Both	T&M

	Totals
# of Mobiles	28
# of Portables	37
# of Control Stations	0
# of DVRs	
Totals	65

Monthly		\$8 Monthly Fee (\$96 Annual)
Mobiles	0	\$ -
Portables	0	\$ -
Control Stations	0	\$ -
DVRs	0	\$ -
Totals	0	\$ -

T&M		\$20 Base Annual Fee
Mobiles	28	\$ 560.00
Portables	37	\$ 740.00
Control Stations	0	\$ -
DVRs	0	\$ -
Totals	65	\$ 1,300.00

T&M Estimated Annual Service Cost* \$ 1,143.35

Grand Total	65	\$ 2,443.35
--------------------	-----------	--------------------

*10% of total radios needing 1 hour repair and an average of battery, belt clip and antenna replacement (\$135.90 for parts and \$40 for one hour of labor = \$175.90).

EXHIBIT C

PCWIN Maintenance Provider Survey

May 30, 2014

To All PCWIN Subscribers:

Completion of this survey will assist both maintenance providers with projecting the quantity and type of spare parts to stock and personnel staffing needs.

Please provide your agencies' contact for radio maintenance policies and procedures.

Agency Name: ARIZONA ATTORNEY GENERAL'S OFFICE
Point of Contact: CHARLES ERICKSON
Phone Number: (602) 686-3261
Email Address: CHARLES.ERICKSON@AZAG.GOV

Mark an "X" for your selection

	City of Tucson Communications Maintenance Services
	Pima County Wireless Services
	1) Monthly Services AND/OR
X	2) Time & Material Services

Agency sections will be valid for one (1) year once an agreement is in place.

CHARLES ERICKSON [Signature] 6/6/2014
Name (printed) Signature Date