



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

Requested Board Meeting Date: February 2, 2016

or Procurement Director Award ☐

Contractor/Vendor Name (DBA): The Bureau of Land Management ("BLM")

Project Title/Description:

The Wilmot North of Sahuarita Rd road improvement project

Purpose:

BLM will grant a Temporary Use Permit to construct an ingress/egress access point for WAPA for its Western Nogales Substation and the Tucson - Apache 115 - Kilovolt transmission line. The Temporary Use Permit has a term of 3 years with the right of renewal. This temporary use permit is in conjunction with the BLM Right of Way/ Temporary use permit for improvements on Wilmot Road.

Procurement Method:

Exempt pursuant to Pima County Code 11.04.020

Program Goals/Predicted Outcomes:

Temporary Use Permit will allow WAPA to access there property while the County grades and paves Wilmot Road.

Public Benefit:

Pima County will have continued use of the access over the public right of way to the surrounding community.

Metrics Available to Measure Performance:

There is no cost for the Temporary Use Permit.

Retroactive:

Yes, the effective date is January 23, 2016, per BLM.

JAN 25 16 PM 03:07 PC CLK OF DP *BL*

To: COB- 1-25-16 (2)

Ver. 1

Pgs - Addendum 9

Procure Dept 01/25/16 PM 03:25

Original Information

Document Type: CTN Department Code: PW Contract Number (i.e., 15-123): 16*0105
Effective Date: 1/23/2016 Termination Date: 01/23/2019 Prior Contract Number (Synergen/CMS): _____
☐ Expense Amount: \$ N/A ☐ Revenue Amount: \$ N/A
Funding Source(s): N/A

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: Rita Leon

Department: Real Property Services Telephone: 724-6462

Department Director Signature/Date: [Signature] 1-20-2016

Deputy County Administrator Signature/Date: [Signature] 1/21/16

County Administrator Signature/Date: [Signature] 1/22/16
(Required for Board Agenda/Addendum Items)

WHEN RECORDED RETURN TO:
PIMA COUNTY REAL PROPERTY SERVICES
201 N. STONE, 6TH FLOOR
TUCSON, AZ 85701

DOCUMENT TITLE:
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

<table border="1"><tr><td>CONTRACT</td></tr><tr><td>NO. <u>CTN-PW-16 #105</u></td></tr><tr><td>AMENDMENT NO. _____</td></tr><tr><td>This number must appear on all invoices, correspondence and documents pertaining to this contract.</td></tr></table>	CONTRACT	NO. <u>CTN-PW-16 #105</u>	AMENDMENT NO. _____	This number must appear on all invoices, correspondence and documents pertaining to this contract.
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AMENDMENT NO. _____				
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Procurement Contract Number				

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

Issuing Office
AZG020 - Tucson Field Office

Serial Number
AZA-035758-01

1. A (right-of-way) (permit) is hereby granted pursuant to:

- a. ☒ Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);
- b. ☐ Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);
- c. ☐ Other (describe) _____

2. Nature of Interest:

- a. By this instrument, the holder Pima County Department of Transportation, 201 N. Stone, Tucson, AZ 85701 receives a right to construct, operate, maintain, and terminate a Temporary Use Permit for construction easement along ROW AZA-035758-01. on public lands (or Federal land for MLA Rights-of-Way) described as follows:

TEMPORARY USE PERMIT (TUP)

Gila and Salt River Meridian, Arizona (Pima County)
T. 16 S., R. 15 E.,
sec. 7, lot 3.

For construction activities along access road associated with AZA-035758.

Effective on January 23, 2016

- b. The right-of-way or permit area granted herein is 40 feet wide, 45 feet long and contains 0.04 acres, more or less. If a site type facility, the facility contains _____ acres.
- c. This instrument shall terminate on January 23, 2019, 3 years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument ☐ may ☒ may not be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

See Cover Letter

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations parts 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 180 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit(s) A & B, dated December 23, 2015, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF. The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

See attached

(Signature of Holder)

(Signature of Authorized Officer)

(Title)

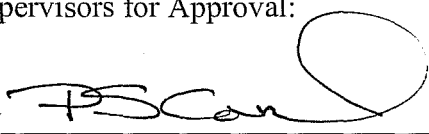
FIELD OFFICE MANAGER

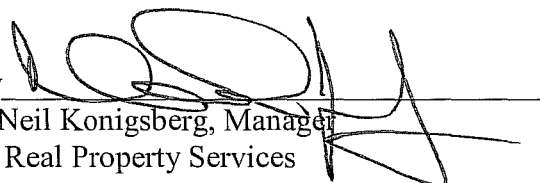
(Title)

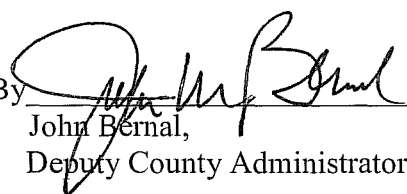
(Date)

(Effective Date of Grant)

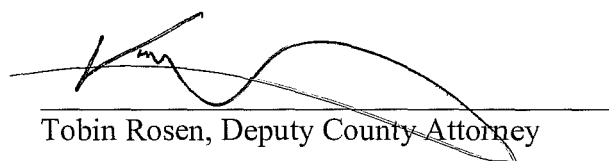
Recommended to the Board of
Supervisors for Approval:

By 
Priscilla S. Cornelio, P.E., Director
Pima County Department of Transportation

By 
Neil Konigsberg, Manager
Real Property Services

By 
John Bernal,
Deputy County Administrator-Public Works

Approved as to form:


Tobin Rosen, Deputy County Attorney

Approved and accepted by Pima County:

Chairman, Pima County Board of Supervisors

Attest:

Robin Brigode, Clerk of the Board of Supervisors

Bureau of Land Management STANDARD STIPULATIONS

AZA-035785 Pima County Department of Transportation

RIGHT-OF-WAY

1.0 Definitions

- 1.1. The Tucson Field Manager or its designee is the Authorized Officer (AO), as defined by 43 CFR 2920.0-5(c).
- 1.2. "Grantee," or "holder," means Pima County Department of Transportation (PCDOT), and any and all assignees that may be of record, including all agents, contractors, sub-contractors, and employees.
- 1.3. "Grant," means the Right-of-Way (ROW), license, lease, permit, or other permission granted by the United States to the grantee for the use of public lands and resources.

2.0 General

- 2.1. The ROW reserves to the Secretary of the Interior, or lawful delegates, the right to grant additional rights-of-way, leases, or easements for compatible uses over, under, within or adjacent to the lands involved in this grant.
- 2.2. The ROW grant herein granted shall be subject to the express covenant that it will be modified, adapted, or discontinued if found by the Secretary to be necessary, without liability or expense to the United States, so as not to conflict with the use and occupancy of the land for any authorized works which may be hereafter constructed thereon under the authority of the United States.
- 2.3. The holder shall comply with all State and Federal laws applicable to the authorized use and such additional state and Federal laws, along with the implementing regulations, that may be enacted and issued during the term of the grant.
- 2.4. The holder shall inform other users in the project area of their pending actions.

3.0 Maintenance

- 3.1. The holder shall notify the AO prior to commencement of emergency maintenance outside of the ROW to discuss repair and construction activities.
- 3.2. Grant holder shall operate and maintain its facilities, improvements, and structures within the ROW limits in a safe, usable, clean and attractive condition. This ROW does not allow for any surface-disturbing activities outside the ROW area.
- 3.3. Grant holder shall conduct all maintenance activities in a manner that will minimize disturbance to vegetation, drainage channels and stream banks. Grant Holder shall take resource conservation and protection measures on the ROW as the AO deems reasonably necessary.
- 3.4. Maintenance and any associated costs will be the responsibility of the Grantee and any other existing or future Grantees associated with the issued ROW. The Grantee will maintain the ROW in a safe, usable condition, as directed by the AO.

- 3.5. Any modification to the ROW initiated by the holder may require the submission of an environmental assessment, cultural resource survey and biological evaluation to the Bureau of Land Management's AO.

4.0 Environmental

- 4.1. All waste material resulting from construction or use of the site by holder shall be removed from the site and shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
- 4.2. The holder will maintain the road in a good and safe condition and also do mitigation for erosion control and dust mitigation.
- 4.3. Use of pesticides or herbicides shall comply with the applicable Federal and State laws. Pesticides and herbicides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides or herbicides, the grantee shall obtain from the AO written approval of a plan showing the type and quantity of materials to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the AO. Emergency use of pesticides or herbicides shall be approved in writing by the AO prior to such use.
- 4.4. The operator shall be held responsible if noxious weeds become established within the areas of operations. Weed control shall be required on the disturbed land where noxious weeds exist, which includes any access roads and adjacent land affected by the establishment of weeds as a result of this action. The operator shall consult with the AO for acceptable weed control methods, which include following U.S. Environmental Protection Agency (EPA) and BLM requirements and policies.
- 4.5. Any vehicles or equipment that are brought in from outside the area will be power-washed including the undercarriage to prevent the introduction and spread of noxious weeds and/or invasive species.
- 4.6. Protected vegetation species will not be trimmed or removed without first contacting the BLM.

5.0 Cultural

- 5.1. Any archaeological or historical artifacts or remains, or vertebrate fossils discovered during operations shall be left intact and undisturbed; all work in the area shall stop immediately and the AO shall be notified immediately. Commencement of operations shall be allowed upon clearance by the AO.
- 5.2. If, in connection with operations under this authorization, any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (16 U.S.C. 4701-4702; 25 U.S.C. 3001) are discovered by the holder, or any person working on his behalf, on public or Federal lands, the holder shall stop operations in the immediate area of the discovery, protect the remains and objects and

immediately notify the AO of the discovery. The holder shall continue to protect the immediate area of the discovery until notified by the AO that operations may resume.

- 5.3. An evaluation of the discovery will be made by the AO to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of the evaluation and the AO will make any decision as to proper mitigation measure after consulting with the holder. An additional cultural and paleontological resource survey may be required in the event the project location is changed or additional surface disturbing operations are added to the project after the initial survey. Any such survey would have to be completed prior to commencement of operations.

6.0 Hazardous Materials

- 6.1. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the ROW or on facilities authorized under this ROW grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the AO concurrent with the filing of the reports to the involved Federal agency or State government.
- 6.2. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq., or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et seq.) on the ROW (unless the release or threatened release is wholly unrelated to the ROW holder's activity on the ROW). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third party.

7.0 Termination / Renewal

- 7.1. Prior to termination of the ROW, the holder shall contact the AO 180 days prior to arrange a pre-termination conference. This conference will be held to review the termination provisions of the grant.
- 7.2. This ROW may be renewed. If renewed, the ROW will be subject to regulations existing at the time of renewal, and such other terms and conditions deemed necessary to protect the public interest.
- 7.3. If the grant is to be renewed, an application for renewal must be received 180 days prior to the expiration of the grant.

Bureau of Land Management STANDARD STIPULATIONS
AZA-035785-01 Pima County Department of Transportation
TEMPORARY USE PERMIT

IN ADDITION TO STIPULATIONS ISSUED FOR THE RIGHT-OF-WAY, THESE SHALL APPLY:

- 1.1. The holder shall conduct all activities associated with the construction, operation, and termination of the Temporary Use Permit (TUP) within the authorized limits of the TUP. If any scarring or damage occurs outside of approved areas because of the holder's operations, the areas shall be repaired and reseeded, or otherwise corrected as necessary to the satisfaction of the AO.
- 1.2. All operations shall be conducted with due regard for good resource management and in such a manner as not to block any stream, or drainage system, or cause the pollution or siltation of any stream or lake.
- 1.3. Petroleum products or by-products shall not be used for dust suppression.
- 1.4. The permittee shall ensure that a copy of the permit and stipulations are present on site at all times.

2.0 Termination

- 2.1. After your TUP terminates, you must remove any facilities within the TUP area within 90 days, unless BLM instructs you otherwise in writing.
- 2.2. After removing the facilities, you must remediate and restore the TUP area to a condition satisfactory to BLM, including the removal and clean-up of any hazardous materials.
- 2.3. If you do not remove all facilities within a reasonable period, as determined by BLM, BLM may declare them to be the property of the United States, however you are still liable for the cost of removing them and for remediating and restoring the TUP area.

AZA-035758 Wilmot Road ROW and TUP Location

EXHIBIT B

