



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: March 3, 2020

* = Mandatory, information must be provided

or Procurement Director Award ☐

***Contractor/Vendor Name/Grantor (DBA):**

T-Mobile West, LLC, a Delaware Limited Liability Company ("Licensee").

***Project Title/Description:**

Master Agreement for Wireless Communications Facilities / 2nd Amendment Lic-0079

***Purpose:**

The purpose of this Amendment is to extend the term for all seven (7) Site Specific Agreements through the Master agreement, to November 2, 2025.

***Procurement Method:**

Exempt per Pima County Code Section 11.04.020

***Program Goals/Predicted Outcomes:**

To modify Licensee's term and annual fees for all seven (7) sites

***Public Benefit:**

Licensee will continue to provide high quality cellular service to its customers in Pima County

***Metrics Available to Measure Performance:**

T-Mobile West will pay fees and rates as stipulated in the Master Agreement; obtain permits as required; comply with highway safety and construction standards; exercise care and restore County roadways or facilities as warranted; and provide written notice of change to use of facility.

***Retroactive:**

No

To: CoB - 2-19-20
Ver. - 3
pgs. - 17
(1)

Contract / Award Information

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

Effective Date: _____ Termination Date: _____ Prior Contract Number (Synergen/CMS): _____

☐ Expense Amount: \$* _____ ☐ Revenue Amount: \$ _____***Funding Source(s) required:**Funding from General Fund? ☐ Yes ☐ No If Yes \$ _____ % _____Contract is fully or partially funded with Federal Funds? ☐ Yes ☐ No**If Yes, is the Contract to a vendor or subrecipient?** _____Were insurance or indemnity clauses modified? ☐ Yes ☐ No*If Yes, attach Risk's approval.*Vendor is using a Social Security Number? ☐ Yes ☐ No*If Yes, attach the required form per Administrative Procedure 22-10.***Amendment / Revised Award Information**Document Type: CTN Department Code: IT Contract Number (i.e.,15-123): 17*100Amendment No.: 2 AMS Version No.: 3Effective Date: 11/3/2020 New Termination Date: 11/2/2025

Prior Contract No. (Synergen/CMS): _____

☐ Expense or ☒ Revenue ☒ Increase ☐ Decrease Amount This Amendment: \$ 628,130.60Is there revenue included? ☒ Yes ☐ No If Yes \$ _____***Funding Source(s) required:**Funding from General Fund? ☐ Yes ☐ No If Yes \$ _____ % _____**Grant/Amendment Information** (for grants acceptance and awards) ☐ Award ☐ Amendment

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

Effective Date: _____ Termination Date: _____ Amendment Number: _____

☐ Match Amount: \$ _____ ☐ Revenue Amount: \$ _____***All Funding Source(s) required:*****Match funding from General Fund?** ☐ Yes ☐ No If Yes \$ _____ % _____***Match funding from other sources?** ☐ Yes ☐ No If Yes \$ _____ % _____***Funding Source:** _____***If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?** _____Contact: Tim MurphyDepartment: Real Property Services Telephone: 724-6379Department Director Signature/Date: [Signature] 2/12/2020Deputy County Administrator Signature/Date: [Signature] 2/12/2020County Administrator Signature/Date: [Signature] 2/12/2020
(Required for Board Agenda/Addendum Items)

**PIMA COUNTY DEPARTMENT OF:
INFORMATION TECHNOLOGY**

PROJECT: Master Agreement For Wireless
Communications Facilities and Site-
Specific Supplemental Agreements for
Specified Locations

LICENSEE: T-Mobile West LLC, a Delaware Limited
Liability Company

CONTRACT NO.: CTN-IT-17-100

CONTRACT AMENDMENT NO.: Two (#02)

ORIG. CONTRACT TERM: 11/03/2015 -11/02/2020
TERMINATION PRIOR AMENDMENT: N/A
TERMINATION THIS AMENDMENT: 11/02/2025

ORIG. CONTRACT AMOUNT: \$522,172.14
PRIOR AMENDMENTS: \$-0-
AMOUNT THIS AMENDMENT: \$628,130.60
REVISED CONTRACTAMOUNT: \$1,150,302.74

**SECOND AMENDMENT TO MASTER AGREEMENT FOR WIRELESS COMMUNICATIONS
FACILITIES AND SITE-SPECIFIC SUPPLEMENTAL AGREEMENTS FOR SPECIFIED
LOCATIONS**

WHEREAS, COUNTY and LICENSEE entered into that certain Master Agreement for Wireless Telecommunications Facilities and Site-Specific Supplemental Agreements for Specified Locations dated November 22, 2016, (the "Agreement") with a retroactive Effective Date of November 3, 2015; and

WHEREAS, seven Site-Specific Agreements ("SSA's") were approved under the subject Contract Number, including SSA #7 for Licensee's communications facilities located at 4010 N. Craycroft Road, also known as PH35306A (the "Craycroft Road Site"); and

WHEREAS, pursuant to Amendment No. 1 to the Agreement, dated June 20, 2017, the Parties acknowledged that pursuant to that certain Management Agreement dated November 10, 2015, between Licensee and PTI US Acquisitions, LLC, and its affiliates ("PTI"), PTI assumed management responsibility for the Craycroft Road Site; and

WHEREAS, this Agreement is set to expire on November 2, 2020 and Licensee desires to extend the term of the Agreement for an additional five (5) year term, pursuant to Section 7 of the Agreement, and County is agreeable to such requested extension of the term;

NOW, THEREFORE, it is agreed as follows:

1. The Effective Date of this Second Amendment shall be November 3, 2020.
2. The term of the Agreement as set forth in Section 7 of the Master Agreement, "Term" is hereby renewed for an additional term of five (5) years to expire on November 2, 2025. Seven Site-Specific Supplemental Agreements (each a "SSA"), each effective for a five- year period commencing November 3, 2020, are attached hereto.
3. The first paragraph of Section 6 of the Master Agreement, "Annual Fee", shall be amended to read as follows: "Licensee shall pay annual fees to Licensor in the amounts set forth in individual SSA's. Payments shall be due as stipulated in each SSA. Fees are subject to annual three percent (3%) escalation. Such change in the annual escalation percentage shall commence on November 3, 2020."
4. The following language shall be added to the end of the current Section 7 of the Master Agreement: "Licensee may terminate the Master Agreement or any of the Site-Specific Supplemental Agreements without further liability, upon thirty (30) days' prior written notice to Landlord, for any of the following reasons: (i) changes in local or state laws or regulations which adversely affect Tenant's ability to operate; (ii) a Federal Communications Commission ("FCC") ruling or regulation which is beyond the control of Tenant; (iii) technical or economic reasons; or (iv) if Tenant is unable to obtain any Governmental Approval required for the construction or operation of Tenant's Antenna Facilities. Additionally, upon ninety (90) days prior written notice to Landlord, Tenant may terminate this Agreement for any or no reason.
5. The amount of the Performance Bond Licensee is required to provide as set forth in Section 10 of the Master Agreement, "Removal of Facility; Performance Bond," shall be changed from Five-Thousand Dollars (\$5,000.00) to Twenty-Thousand Dollars (\$20,000.00).
6. All other provisions of the Master Agreement and of all seven (7) Site-Specific Supplemental Agreements governed by this Agreement and not specifically changed by this Amendment shall remain in effect and shall be binding upon the parties.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

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

LICENSOR:

PIMA COUNTY

Richard Elias, Chairman
Board of Supervisors

Date: _____

ATTEST:

Julie Castaneda, Clerk of the Board

Date: _____

APPROVED AS TO CONTENT

Dan Hunt, Chief Information Officer

Date: 02/05/2020

APPROVED AS TO FORM:

Stacey Roseberry, Deputy County Attorney

Date: 2/5/2020

LICENSEE:

T-MOBILE WEST LLC,
a Delaware Limited Liability Company,
as to SSAs #1 through and including #6

By: _____

Its: VP, CIP & CM

Date: 1/27/2020

PTI US TOWERS II, LLC,
a Delaware limited liability company,
as Manager of the Craycraft Road Site for
T-Mobile West LLC

By: _____

Its: Dayan Vasavara, CEO

Date: 1/27/2020

Kelly Dunham 11/7/19
T-Mobile Contract Attorney, as to form



REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

**SITE-SPECIFIC SUPPLEMENTAL AGREEMENT #1 TO MASTER AGREEMENT
RIGHT-OF-WAY USE LICENSE
FOR WIRELESS COMMUNICATIONS FACILITIES**

This Site-specific Supplemental Agreement, is made by and between Pima County ("Licensor"), a political subdivision of the State of Arizona, and T-Mobile West LLC, a Delaware limited liability company, successor-in-interest to VoiceStream PCS Corporation (together with its successors and assigns, "Licensee"), referred to collectively as the "Parties", pursuant and subject to the Master Agreement for Wireless Communications Facilities entered into by the parties effective November 3, 2015, as amended, and is effective November 3, 2020.

RIGHT-OF-WAY LOCATION/ADDRESS

3588 N Sabino Canyon Drive, Tucson, AZ 85750
T-Mobile Site Name: TEP Pole NE of River
T-Mobile Site Number: PH10871B (co-location)

DESCRIPTION OF WIRELESS COMMUNICATIONS FACILITIES

Three (3) antennas (1 per sector, 3 sectors total) on TEP power pole (90'-0" H); one (1) GPS antenna; concrete pad (8'0" x 12'0"); three (3) equipment cabinets; brick and chain link fence surrounding compound (20' x 12').

LICENSE FEE SCHEDULE

Annual Payment due on November 3rd of each year

11/03/2020-11 /02/2021	\$13,145.69
11/03/2021-11 /02/2022	\$13,540.06
11/03/2022-11/02/2023	\$13,946.27
11/03/2023-11 /02/2024	\$14,364.65
11/03/2024-11 /02/2025	\$14,795.59

IN WITNESS WHEREOF, the Parties have affixed their signatures to this Site-Specific Supplemental Agreement on the dates written below.

PIMA COUNTY:

Chairman, Board of Supervisors

Date

LICENSEE:

T-Mobile West LLC

By

Mike D. Taylor
Name (Please Print)

VP, CIP & CM
Title

12/3/19
Date

ATTEST:

Clerk of the Board of Supervisors

Date

Kelly Dunham 11/7/19
T-Mobile Contract Attorney, as to form



INFORMATION TECHNOLOGY DEPARTMENT:

Daniel C Hunt
Dan Hunt, Chief Information Officer

02/05/2020
Date

APPROVED AS TO FORM:

Stacey Roseberry
Stacey Roseberry, Deputy County Attorney

2/5/2020
Date

**SITE-SPECIFIC SUPPLEMENTAL AGREEMENT #2
TO MASTER AGREEMENT
RIGHT-OF-WAY USE LICENSE
FOR WIRELESS COMMUNICATIONS FACILITIES**

This Site-specific Supplemental Agreement is made by and between Pima County ("Licensor"), a political subdivision of the State of Arizona, and T-Mobile West LLC, a Delaware limited liability company, successor-in-interest to VoiceStream PCS Corporation (together with its successors and assigns, "Licensee"), referred to collectively as the "Parties", pursuant and subject to the Master Agreement for Wireless Communications Facilities entered into by the parties effective November 3, 2015, as amended, and is effective November 3, 2020.

RIGHT-OF-WAY LOCATION/ADDRESS

6756 E Sunrise Drive, Tucson, AZ 85750
T-Mobile Site Name: Pima Pole 2
T-Mobile Site Number: PH20896 (Single Use)

DESCRIPTION OF WIRELESS COMMUNICATIONS FACILITIES

Two (2) panel antennas (1 per sector, 2 sectors total) on 33' wood pole located west of Kolb Road on south side of Sunrise Drive; A/C unit, electric meter, and cabinet mounted at base of pole.

LICENSE FEE SCHEDULE

Annual Payment due on November 3rd of each year

11/03/2020-11 /02/2021	\$26,291.41
11/03/2021-11 /02/2022	\$27,080.15
11/03/2022-11/02/2023	\$27,892.55
11/03/2023-11 /02/2024	\$28,729.33
11/03/2024-11 /02/2025	\$29,591.21

IN WITNESS WHEREOF, the Parties have affixed their signatures to this Site-Specific Supplemental Agreement on the dates written below.

PIMA COUNTY:

LICENSEE:

T-Mobile West LLC

Chairman, Board of Supervisors

Date

By

Mike D. Taylor
Name (Please Print)

VP, CIP & CM
Title

12/3/19
Date

ATTEST:

Kelly Dunham 11/7/19
T-Mobile Contract Attorney, as to form

Clerk of the Board of Supervisors

Date



INFORMATION TECHNOLOGY DEPARTMENT:

Dan Hunt
Dan Hunt, Chief Information Officer

02/05/2020
Date

APPROVED AS TO FORM:

Stacey Roseberry
Stacey Roseberry, Deputy County Attorney

2/5/2020
Date

**SITE-SPECIFIC SUPPLEMENTAL AGREEMENT #3
TO MASTER AGREEMENT
RIGHT-OF-WAY USE LICENSE
FOR WIRELESS COMMUNICATIONS FACILITIES**

This Site-specific Supplemental Agreement is made by and between Pima County ("Licensor"), a political subdivision of the State of Arizona, and T-Mobile West LLC, a Delaware limited liability company, successor-in-interest to VoiceStream PCS Corporation (together with its successors and assigns, "Licensee"), referred to collectively as the "Parties", pursuant and subject to the Master Agreement for Wireless Communications Facilities entered into by the parties effective November 3, 2015, as amended, and is effective November 3, 2020.

RIGHT-OF-WAY LOCATION/ADDRESS

5465 Northridge Drive, Tucson, AZ 85718
T-Mobile Site Name: M_Via Entrada_TEP1
T-Mobile Site Number: PH35300A (Co-Location)

DESCRIPTION OF WIRELESS COMMUNICATIONS FACILITIES

Three (3) antennas contained within one 60" canister mounted at a rad center of 42'0" on TEP steel power pole (45'-0" H); one cabinet and four amplifiers mounted at base of pole.

LICENSE FEE SCHEDULE

Annual Payment due on November 3rd of each year

11/03/2020-11 /02/2021	\$13,145.69
11/03/2021-11/02/2022	\$13,540.06
11/03/2022-11 /02/2023	\$13,946.27
11/03/2023-11/02/2024	\$14,364.65
11/03/2024-11 /02/2025	\$14,795.59

IN WITNESS WHEREOF, the Parties have affixed their signatures to this Site-Specific Supplemental Agreement on the dates written below.

PIMA COUNTY:

Chairman, Board of Supervisors

Date

LICENSEE:

T-Mobile West LLC

By

Mike D. Taylor
Name (Please Print)

VP, CIP & CM
Title

12/3/19
Date

ATTEST:

Clerk of the Board of Supervisors

Date

Kelly Dunham 11/7/19
T-Mobile Contract Attorney, as to form



INFORMATION TECHNOLOGY DEPARTMENT:

Dan Hunt
Dan Hunt, Chief Information Officer

02/05/2020
Date

APPROVED AS TO FORM:

Stacey Roseberry
Stacey Roseberry, Deputy County Attorney

2/5/2020
Date

**SITE-SPECIFIC SUPPLEMENTAL AGREEMENT #4
TO MASTER AGREEMENT
RIGHT-OF-WAY USE LICENSE
FOR WIRELESS COMMUNICATIONS FACILITIES**

This Site-specific Supplemental Agreement is made by and between Pima County ("Licensor"), a political subdivision of the State of Arizona, and T-Mobile West LLC, a Delaware limited liability company, successor-in-interest to VoiceStream PCS Corporation (together with its successors and assigns, "Licensee"), referred to collectively as the "Parties", pursuant and subject to the Master Agreement for Wireless Communications Facilities entered into by the parties effective November 3, 2015, as amended, and is effective November 3, 2020.

RIGHT-OF-WAY LOCATION/ADDRESS

6540 N Calle Padre Filipe, Tucson, AZ 85718
T-Mobile Site Name: M_Orange Grove_TEP2
T-Mobile Site Number: PH35301A (Co-Location)

DESCRIPTION OF WIRELESS COMMUNICATIONS FACILITIES

Three (3) antennas contained within one 60" canister mounted at a rad center of 42'0" on TEP steel power pole (46'-0" H); one cabinet and four amplifiers mounted at base of pole.

LICENSE FEE SCHEDULE

Annual Payment due on November 3rd of each year

11/03/2020-11/02/2021	\$13,145.69
11/03/2021-11/02/2022	\$13,540.06
11/03/2022-11/02/2023	\$13,946.27
11/03/2023-11/02/2024	\$14,364.65
11/03/2024-11/02/2025	\$14,795.59

IN WITNESS WHEREOF, the Parties have affixed their signatures to this Site-Specific Supplemental Agreement on the dates written below.

PIMA COUNTY:


Chairman, Board of Supervisors

Date

LICENSEE:

T-Mobile West LLC

By


Mike D. Taylor

Name (Please Print)

VP, CIP & CM
Title

12/3/19
Date

ATTEST:

Clerk of the Board of Supervisors

Date

Kelly Dunham 11/7/19
T-Mobile Contract Attorney, as to form

INFORMATION TECHNOLOGY DEPARTMENT:


Dan Hunt, Chief Information Officer

02/05/2020
Date



APPROVED AS TO FORM:


Stacey Roseberry, Deputy County Attorney

2/5/2020
Date

**SITE-SPECIFIC SUPPLEMENTAL AGREEMENT #5
TO MASTER AGREEMENT
RIGHT-OF-WAY USE LICENSE
FOR WIRELESS COMMUNICATIONS FACILITIES**

This Site-specific Supplemental Agreement is made by and between Pima County ("Licensor"), a political subdivision of the State of Arizona, and T-Mobile West LLC, a Delaware limited liability company, successor-in-interest to VoiceStream PCS Corporation (together with its successors and assigns, "Licensee"), referred to collectively as the "Parties", pursuant and subject to the Master Agreement for Wireless Communications Facilities entered into by the parties effective November 3, 2015, as amended, and is effective November 3, 2020.

RIGHT-OF-WAY LOCATION/ADDRESS
4954 Hacienda Del Sol Road, Tucson, AZ 85718
T-Mobile Site Name: M_Entrada Del Sol_TEP4
T-Mobile Site Number: PH35303A (Co-Location)

DESCRIPTION OF WIRELESS COMMUNICATIONS FACILITIES

Three (3) antennas contained within one 57" canister mounted at a rad center of 41'10" on TEP steel power pole (45'-0" H); one cabinet and four amplifiers mounted at base of pole.

LICENSE FEE SCHEDULE

Annual Payment due on November 3rd of each year

11/03/2020-11/02/2021	\$13,145.69
11/03/2021-11 /02/2022	\$13,540.06
11/03/2022-11 /02/2023	\$13,946.27
11/03/2023-11 /02/2024	\$14,364.65
11/03/2024-11/02/2025	\$14,795.59

IN WITNESS WHEREOF, the Parties have affixed their signatures to this Site-Specific Supplemental Agreement on the dates written below.

PIMA COUNTY:

Chairman, Board of Supervisors

Date

LICENSEE:

T-Mobile West LLC

By Mike D. Taylor

Name (Please Print)

VP, CIP & CM
Title

12/3/19
Date

ATTEST:

Clerk of the Board of Supervisors

Date

Kelly Dunham 11/7/19
T-Mobile Contract Attorney, as to form



INFORMATION TECHNOLOGY DEPARTMENT:

Dan Hunt
Dan Hunt, Chief Information Officer

02/05/2020
Date

APPROVED AS TO FORM:

Stacey Roseberry
Stacey Roseberry, Deputy County Attorney

2/5/2020
Date

**SITE-SPECIFIC SUPPLEMENTAL AGREEMENT #6
TO MASTER AGREEMENT
RIGHT-OF-WAY USE LICENSE
FOR WIRELESS COMMUNICATIONS FACILITIES**

This Site-specific Supplemental Agreement is made by and between Pima County ("Licensor"), a political subdivision of the State of Arizona, and T-Mobile West LLC, a Delaware limited liability company, successor-in-interest to VoiceStream PCS Corporation (together with its successors and assigns, "Licensee"), referred to collectively as the "Parties", pursuant and subject to the Master Agreement for Wireless Communications Facilities entered into by the parties effective November 3, 2015, as amended, and is effective November 3, 2020.

RIGHT-OF-WAY LOCATION/ADDRESS

4975 N. Calle Bendita, Tucson, AZ 85718
T-Mobile Site Name: M_Calle Barril_TEP5
T-Mobile Site Number: PH35304A (Co-Location)

DESCRIPTION OF WIRELESS COMMUNICATIONS FACILITIES

Three (3) antennas contained within one 60" canister mounted at a rad center of 42'0" on TEP steel power pole (45'-0" H); one cabinet and four amplifiers mounted at base of pole.

LICENSE FEE SCHEDULE

Annual Payment due on November 3rd of each year

11/03/2020-11/02/2021	\$13,145.69
11/03/2021-11 /02/2022	\$13,540.06
11/03/2022-11/02/2023	\$13,946.27
11/03/2023-11/02/2024	\$14,364.65
11/03/2024-11/02/2025	\$14,795.59

IN WITNESS WHEREOF, the Parties have affixed their signatures to this Site-Specific Supplemental Agreement on the dates written below.

PIMA COUNTY:

LICENSEE:

T-Mobile West LLC

Chairman, Board of Supervisors

Date

By

Mike O. Taylor
Name (Please Print)

VP, CIP & CM
Title

12/3/19
Date

ATTEST:

Kelly Dunham 11/7/19
T-Mobile Contract Attorney, as to form

Clerk of the Board of Supervisors

Date



INFORMATION TECHNOLOGY DEPARTMENT:

Daniel C. Hunt
Dan Hunt, Chief Information Officer

02/05/2020
Date

APPROVED AS TO FORM:

Stacey Roseberry
Stacey Roseberry, Deputy County Attorney

2/5/2020
Date

SITE-SPECIFIC SUPPLEMENTAL AGREEMENT #7 TO MASTER AGREEMENT RIGHT-OF-WAY USE LICENSE FOR WIRELESS COMMUNICATIONS FACILITIES

This Site-specific Supplemental Agreement is made by and between Pima County ("Licensor"), a political subdivision of the State of Arizona, and PTI US Towers II, LLC, a Delaware limited liability company, as Manager of the Craycraft Road Site for T-Mobile West LLC, a Delaware limited liability company, successor-in-interest to VoiceStream PCS Corporation (together with its successors and assigns, "Licensee"), referred to collectively as the "Parties", pursuant and subject to the Master Agreement for Wireless Communications Facilities entered into by the parties effective November 3, 2015, as amended, and is effective November 3, 2020.

RIGHT-OF-WAY LOCATION/ADDRESS

4010 N Craycroft Road, Tucson, AZ 85718
T-Mobile Site Name: @River
T-Mobile Site Number: PH35306A (Single Use)

DESCRIPTION OF WIRELESS COMMUNICATIONS FACILITIES

Three (3) antenna contained within one 57" canister mounted on top of wooden pole (63'-0" H); four cabinets mounted at base of pole.

LICENSE FEE SCHEDULE

Annual Payment due on November 3rd of each year

11/03/2020-11/02/2021	\$26,291.41
11/03/2021-11/02/2022	\$27,080.15
11/03/2022-11/02/2023	\$27,892.55
11/03/2023-11 /02/2024	\$28,729.33
11/03/2024-11 /02/2025	\$29,591.21

IN WITNESS WHEREOF, the Parties have affixed their signatures to this Site-Specific Supplemental Agreement on the dates written below.

PIMA COUNTY:

Chairman, Board of Supervisors

Date

ATTEST:

Clerk of the Board of Supervisors

Date

INFORMATION TECHNOLOGY DEPARTMENT:

Dan Hunt
Dan Hunt, Chief Information Officer

02/06/2020
Date

APPROVED AS TO FORM:

Stacey Roseberry
Stacey Roseberry, Deputy County Attorney

2/5/2020
Date

LICENSEE:

PTI US TOWERS II, LLC,
a Delaware limited liability company,
as Manager of the Craycraft Road Site for
T-Mobile West LLC

By *[Signature]*

Dylan Kasurina
Name (Please Print)

CEO
Title

1/7/2020
Date

Kelly Dunham 11/7/19
T-Mobile Contract Attorney, as to form

