

AI-24525

4.

S#15 to WA#13 DHS 0-6BC Rescind 5-11-2010

DRAINAGE DISTRICT

Date: 02/22/2011

Submitted By: Minerva Luna, DRAINAGE DISTRICT

Department: DRAINAGE DISTRICT

Information

CAPTION

A. Request approval to rescind action on Drainage District #1 Agenda Item 5 B. from May 11, 2010 relating to Supplemental Agreement #15 to Work Authorization #13 on DHS Segment 0-6BC.

B. Request approval of Memorandum of Agreement between United States Customs and Border Protection, the City of Hidalgo, and Hidalgo County Drainage District No. 1 regarding modification of tactical infrastructure in Hidalgo County.

BACKGROUND

Fiscal Impact

Attachments

Link: [Memorandum CBP, City of Hidalgo & HCDD#1](#)

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	Budget & Management	Erika Zamora	02/18/2011 11:03 AM	APRV
2	Perla Lopez	Perla Lopez	02/18/2011 11:30 AM	APRV
3	Final Approval		02/18/2011 04:10 PM	NEW

Form Started By: Minerva Luna
Started On: 12/20/2010 01:38 PM

Final Approval Date: 02/18/2011

**MEMORANDUM OF AGREEMENT BETWEEN
UNITED STATES CUSTOMS AND BORDER PROTECTION,
THE CITY OF HIDALGO,
AND
HIDALGO COUNTY DRAINAGE DISTRICT #1 REGARDING
MODIFICATION OF TACTICAL INFRASTRUCTURE IN HIDALGO COUNTY**

Article I. Purpose and Scope

- A. This Memorandum of Agreement (“MOA”) is made by and between U.S. Customs and Border Protection (“CBP”), a component of the Department of Homeland Security, the City of Hidalgo (“the City”) and Hidalgo County Drainage District #1 (“the County”). Collectively, CBP, the City, and the County are referred to hereinafter as the “PARTIES.”
- B. This MOA is intended to facilitate cooperation between the PARTIES, to provide consistent goals, principles, and guidance, and to define the PARTIES’ respective roles and responsibilities regarding modification and corresponding installation of tactical infrastructure in the City of Hidalgo, Texas for the purpose of addressing concerns of the City and the County regarding the finished height of the bollards along the east portion of the border fence referred to as DHS Segment 0-6B/C. These concerns include diminished visual observation capabilities of the U.S. Fish and Wildlife Refuge from the City’s hike and bike trail due to the height of the border fence.
- C. This MOA is entered into pursuant to the governing authorities of each of the PARTIES.

Article II. Definitions

- A. For purposes of this MOA, “tactical infrastructure” includes, but is not limited to, fencing, gates, lighting, and roads.
- B. For purposes of this MOA, “fencing” and “fence” refers to tactical infrastructure installed by CBP to impede illegal cross-border traffic.
- C. For purposes of this MOA, “light” and “lighting” refers to pole-mounted lights for the purpose of providing strategic or safety advantages to the Border Patrol, local law enforcement, and visitors of the City’s hike and bike trail.

Article III. Background

- A. CBP, as a component of the Department of Homeland Security, is authorized pursuant to various provisions, including the Homeland Security Act of 2002, Pub. L. 107-296, codified at 6 U.S.C. §§ 101 *et seq.*, Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104-208, as amended, 8 U.S.C. § 1103, and other Acts amendatory thereof and supplementary thereto, to control and guard the

boundaries and borders of the United States against illegal border crossing activities, to install border infrastructure as needed to deter illegal crossings, and obtain operational control of the border.

- B. CBP, pursuant to the legal authorities identified above, owns, operates and maintains tactical infrastructure, consisting primarily of fences and roads, which are situated in the City of Hidalgo and Hidalgo County, Texas.
- C. The Hidalgo Pump House and Museum along with its hike and bike trail are part of the U.S. Fish and Wild Life Service's ("USFWS") World Birding Center, and the acreage surrounding the pump house is open for exploration by the public. The grounds immediately adjacent have been intensively landscaped to attract birds and butterflies for the public viewing. The City and the County believes that the current tactical infrastructure in DHS Segment 0-6B/C has reduced ability of the public, from the hike and bike trail, to view the surrounding wildlife habitat located directly south of the border fence segment.

Article IV. Common Findings and Affirmations of the PARTIES

- A. The City and the County recognizes that CBP has a responsibility to control, guard, and secure the borders of the United States.
- B. CBP recognizes that the City and the County have the responsibility and desire to provide the public unobstructed visual observation capabilities of the USFWS World Birding Center.
- C. The PARTIES therefore enter into this MOA in a cooperative spirit with the goal of working together to minimize any potential disruption to each PARTY's day-to-day operations and activities by ensuring that there is an appropriate level of coordination and exchange regarding the lowering of the fence and the corresponding changes to tactical infrastructure, and to ensure that each party takes the necessary steps to accomplish their goals and responsibilities.

Article V. Responsibilities and Terms of the Agreement

The PARTIES hereby agree to the following terms and conditions:

- A. CBP, as the sole owner of the tactical infrastructure, is and will remain the sole owner of the fence, lighting, crossovers and gates.
- B. Because of the south side levee ramp located directly south of the Old Hidalgo Pump House, the eighteen-foot bollards located on both sides of the future border fence gate will not be cut. This is an operational requirement for Border Patrol because the bollards located on each side of the gate must have a height of 18 feet to prevent person(s) from using the elevation of the ramp to defeat the border fence.

C. CBP will allow the City and the County, at its own expense, to lower the border fence to an overall height of no less than fifteen feet if the City and the County agree to the following terms:

1. Lighting at the Don Francisco Trailer Park

- i. The City of Hidalgo, through its contractor, must replace at least 5 or 6 street lights that were removed from the hike and bike area near the levee (Project O-6b/c) erected just south of the trailer park. The City also agrees to add an additional 9 lights immediately south of the Don Francisco Trailer Park. The location of the lights is depicted in Attachment A of this MOA.
- ii. The City of Hidalgo must pay for the relocation of these street lights, maintenance and repair of the street lights, and the electric bills incurred through their nightly use.
- iii. Further, the City of Hidalgo must consult with the United States Border Patrol before determining the exact placement of the street lights.
- iv. Floodlights must not shine onto the USFWS refuge. Light panels/blinders may be required to meet this requirement.
- v. Burnt-out light bulb(s) have to be replaced as soon as possible and at no cost to CBP. CBP will immediately notify the City and the County's designated point-of-contact as described under Article VII of this MOA when a bulb requires replacement. The City will replace the light bulbs within 72 hours of notification from CBP.

2. Upgrading The Chain Link Fence Surrounding the Don Francisco Trailer Park

- i. The City of Hidalgo must replace the 8 foot high chain link fence surrounding the Don Francisco Trailer Park (approximate GPS coordinate start location of 26.096447 / -98.26053 and end GPS coordinate location of 26.095516 / -98.258063), closing all gaps, and henceforth must maintain and repair the fence. The replacement fence will be made of heavy gauge wire or mesh chain link material to prevent compromising of the fence.
- ii. All repairs to the chain link fence must be made as soon as possible, but no longer than within 72 hours of notice that the fence requires repair.
- iii. If the City is unable to make such repairs within the 72 hour timeframe, the City will notify CBP and give CBP the option to temporarily repair the chain link fence. CBP will be provided with the necessary materials to repair the fence until the City can make the permanent repair.

3. Civil Code Enforcement and Nuisance Abatement at the Don Francisco Trailer Park

- i. The City of Hidalgo must remove at its cost all abandoned trailers and mobile homes from the Don Francisco Trailer Park.
- ii. The City of Hidalgo must also remove at its cost all trash, brush, and debris from the Don Francisco Trailer Park.
- iii. The City of Hidalgo must enforce all municipal ordinances in the Don Francisco Trailer Park and its immediate vicinity, particularly those related to fire safety and nuisance abatement.

4. Law Enforcement Patrols at the Don Francisco Trailer Park

- i. The City of Hidalgo must continue to provide, at a minimum, multiple law enforcement patrols north and south of the Don Francisco Trailer Park on a daily shift-by-shift basis to assist with deterring illegal activity in the area.

5. Other Measures to Improve Security In Neighborhoods Along the Fence

- i. If, in the future, the City installs cameras or other law enforcement technologies in the Don Francisco Trailer Park or within its vicinity, the City will grant CBP access to the monitors and/or pans and tilt controls.
- ii. In addition, the City will be responsible for removing trash, clutter, and other debris at or near the levee wall, particularly items such as refrigerators, abandoned cars, and piles of trash large enough to conceal those seeking to cross the border illegally. The City will trim vegetation to a level that allows visibility north of the levee.

6. Cost of Reducing and Rebuilding the Fence

- i. County will bear sole financial responsibility for cutting the current fence height to fifteen feet.

D. The City must meet all terms of Article V prior to the modification of the border fence by the County. The County shall not commence modification of the border fence until CBP notifies the County in writing that the City has met all its obligations under Article V of this MOA.

E. If the City fails to comply with any of the above-described terms and the height of the fence has already been reduced, the City will bear the sole financial responsibility for

raising the fence back to eighteen feet, using a contractor and materials approved by CBP.

- F. The County and the City will enter into a separate agreement covering reimbursements for costs associated with implementation of this MOA. CBP will not be a party to the separate agreement.

Article VI. Duration and Modification of MOA

This MOA will take effect when signed by the PARTIES hereto and shall remain in effect unless terminated, in writing, by either PARTY after 60 days notice. This MOA may be modified at any time by written agreement of all PARTIES, and does not restrict any PARTY from enforcing or implementing any laws within its authority or jurisdiction.

Article VII. Interagency Communications

To provide for consistent, recurring, and effective communication between both PARTIES, each PARTY shall immediately designate representatives to serve as the points of contact on all matters relating to this MOA. Each PARTY will advise the other PARTY, in writing, of the names and telephone numbers of the representative designated within 10 calendar days of the MOA's execution.

Article VIII. Miscellaneous Provisions

- A. Nothing in this MOA may be construed to obligate the PARTIES or the United States to any current or future expenditure of funds in advance of the availability of appropriations, nor does this MOA obligate the PARTIES or the United States to spend funds for any particular project or purpose, even if funds are available.
- B. This MOA is to be implemented consistent with the statutory provisions and other legal authorities pursuant to which the PARTIES undertake their activities. Nothing in this MOA will be construed as affecting the authority or jurisdiction of either PARTY in carrying out its responsibilities under applicable statutes or other legal authorities.
- C. This document is an inter-governmental agreement among the PARTIES and does not create or confer any rights, privileges, benefits, or rights of action, upon any person, party, or entity. This MOA is not and shall not be construed as a rule or regulation.
- D. This MOA is intended to function solely as an agreement among the PARTIES as to the modification and operation of certain CBP-owned tactical infrastructure. Nothing herein shall be construed to alter, modify, or affect any right, title, or interest in real or personal property of any PARTY.
- E. The PARTIES shall retain all applicable legal responsibility for their respective personnel with respect to, *inter alia*, pay, personnel, benefits, injuries, accidents, losses, damages,

and civil liability. This MOA is not intended to change in any way the individual employee status or the liability or responsibility of any PARTY under Federal, State, or local law.

- F. The PARTIES will strive to both resolve conflicts at and delegate resolution authority to the lowest field operational level possible while applying the principles of this MOA in such a manner as will be consistent with the spirit and intent of this MOA. If any conflicts arise, the PARTIES will consult before any adverse actions are taken affecting the daily operations of either PARTY. If a dispute cannot be resolved at the lowest field operational level, then the issue will be elevated the next level of command or authority with the PARTIES' respective organizations.

IN WITNESS WHEREOF, the PARTIES hereto execute this MOA on the date(s) set forth below:

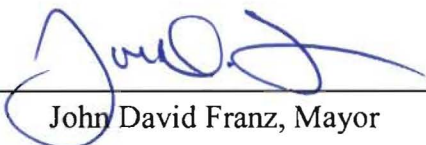
FOR CBP

DATE: _____

Loren Flossman
Director, Border Patrol Facilities and Tactical
Infrastructure Program Management Office
Facilities Management and Engineering
Office of Administration
U.S. Customs and Border Protection
Department of Homeland Security

FOR THE CITY OF HIDALGO

DATE: 2/8/11



John David Franz, Mayor

FOR HIDALGO COUNTY DRAINAGE DISTRICT #1

DATE: _____

AI-25422

5.

RFQ: 11-009-03-23

DRAINAGE DISTRICT

Date: 02/22/2011

Submitted By: Jaime Salazar, DRAINAGE DISTRICT

Submitted For: Jaime Salazar

Department: DRAINAGE DISTRICT

Information

CAPTION

Requesting approval to advertise for the following:
RFQ No. 11-009-03-23 "Pool of Professional Consultants to assist in recapturing funds through federal and state agencies, and other sources.

BACKGROUND

Fiscal Impact

Attachments

No file(s) attached.

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	Budget & Management	Erika Zamora	02/18/2011 11:03 AM	APRV
2	Perla Lopez	Perla Lopez	02/18/2011 11:08 AM	APRV
3	Final Approval	Angela Garcia	02/18/2011 04:10 PM	APRV

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