

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the City Manager or designee be authorized to sign a contract to fund a 90-day pilot program with Secure Origins, Inc. in the amount of \$195,000, using Project 21 to facilitate cross border traffic at the Ysleta-Zaragoza Port of Entry.

PASSED AND APPROVED this _____ day of _____, 2012.

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Josette Flores
Assistant City Attorney

Said Larbi-Cherif, Director
International Bridges

STATE OF TEXAS)
)
COUNTY OF EL PASO)

AGREEMENT

This Agreement entered into this _____ day of _____, 2012, by and between the City of El Paso, a municipal corporation situated in El Paso County, Texas, hereinafter referred to as “City”, and SecureOrigins, Inc., a 100% owned subsidiary of TECMA and located in El Paso, El Paso, County, Texas, hereinafter referred to as “Contractor”.

RECITALS

WHEREAS, the City Council of the City of El Paso has as its primary federal legislative agenda item the reduction of border crossing time for traffic across the City’s international bridges;

WHEREAS, enhanced border crossing time efficiencies could lead to growth in the maquiladora industry which in turn could translate to regional economic benefits;

WHEREAS, a successful reduction of border crossing time for commercial traffic across the City’s international bridges would serve as a model program for the rest of the nation’s land ports of entries;

WHEREAS, Contractor has developed Project 21, a technology-based tracking mechanism to enhance the efficient border crossing of commercial goods, with the goal of commercial vehicles achieving 3 round-trips across the international border, to improve upon the current 2.2 round trips per day, and wishes to provide its services to the City for a 90-day trial period to test at the City’s Ysleta-Zaragoza Port of Entry;

WHEREAS, Contractor has been determined to be the sole source of said technology-based tracking mechanism, as provided by Texas Local Government Code Section 252.022(a)(7); and

WHEREAS, the City wishes to contract with Contractor in order to implement a 90-day trial period to test Contractor’s technology-based tracking mechanism at the Ysleta-Zaragoza Port of Entry, on the terms and conditions set forth herein, and is aware that Contractor shall continue an additional 90-day trial period on an uncompensated basis after this Agreement has terminated.

WITNESSETH

The City and Contractor, for the consideration and mutual promises as herein, set forth agree as follows:

1.0 TERM.

The term of this Agreement shall begin on October 15, 2012, and shall expire on January 14, 2013. The term of this Agreement may be extended only upon the written approval of both parties.

2.0 CONTRACTOR RESPONSIBILITIES.

- 2.1 Contractor shall utilize Project 21, its technology-based tracking mechanism including Software-As-A-Service (“SaaS”), applied systems and C-TPAT best practices to track the cross-border movement of a minimum of 250 C-TPAT commercial shipments per day by 100 trucks headed from Juarez to El Paso over the Ysleta-Zaragoza Port of Entry.
- 2.2 Contractor shall provide on a bi-weekly basis to the Director of the City’s International Bridges Department (the “Director”) a report with data containing the number of roundtrips by Project 21 participating trucks across the Ysleta-Zaragoza Port of Entry per day, with a goal of increasing from the current 2.2 roundtrips to a total of 3 roundtrips per truck.
- 2.3 The first bi-weekly report shall be received by the Director on October 29, 2012. The last bi-weekly report shall be received by the Director no later than January 14, 2013. Failure to timely provide the City with the required reports described in Section 2.2 shall be deemed to be a material breach of this Agreement and shall be a basis for the City to terminate the Agreement in accordance with Section 10.
- 2.4 All reports and data shall be submitted to the City in a format that is compatible and readable with the City’s IT system.
- 2.5 If Contractor utilizes anything other than Project 21, or counts and reports on data for northbound commercial shipments at an international border crossing other than the Ysleta-Zaragoza Port of Entry during the 90-day effective period described in Section 1.0 to this Agreement, the parties may terminate the Agreement pursuant to Section 10.

3.0 CITY RESPONSIBILITIES.

- 3.1 For the services rendered under this Agreement, City will pay to Contractor as set forth in Section 4, Compensation.
- 3.2 The City shall allocate the funding for this Agreement from the International Bridges revenues. The City Manager is authorized to make all appropriate transfers to the relevant International Bridges fund for this purpose.
- 3.3 All payments by the City under this Agreement are payable only out of current City revenues. In the event that funds relating to this Agreement do not become available, such as by City Council not appropriating the funds, the City shall have no obligation to pay or perform any services related herein to Contractor, except to the extent that Contractor has in good faith obligated any funds by contract with third parties prior to actual notice of

non-appropriation, for the City's fiscal year during which time such funding is not available or appropriated. Should the City experience a funding unavailability, either party may choose to terminate the Agreement subject to Section 10.

4.0 COMPENSATION AND METHOD OF PAYMENT.

4.1 The total amount of compensation to Contractor by the City shall not exceed ONE HUNDRED NINETY-FIVE THOUSAND AND NO/100 Dollars (\$195,000) for the term of this Agreement, as set forth below.

4.2 The payments from the City to Contractor shall be split into equal amounts over the 90-day term.

4.2.1 Upon receipt of an appropriate invoice from Contractor to the Director, the first payment shall be made by the City to Contractor on October 15, 2012, in the amount of SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$65,000).

4.2.2 Upon receipt of an appropriate invoice from Contractor to the Director, and contingent upon timely receipt of the reports described in Section 2.2 of this Agreement, the second payment shall be made by the City to Contractor on November 15, 2012, in the amount of SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$65,000).

4.2.3 Upon receipt of an appropriate invoice from Contractor to the Director, and contingent upon timely receipt of the reports described in Section 2.2 of this Agreement, the second payment shall be made by the City to Contractor on December 17, 2012, in the amount of SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$65,000). If Contractor has failed to provide the reports described in Section 2.2 of this Agreement, the City may withhold its final payment.

4.3 Contractor agrees that at no time shall it make a claim against the City for more than the compensation provided under the terms of this Agreement.

4.4 Payment is subject to the payment terms and conditions set forth in the Prompt Payment Act, Texas Government Code Section 2251.

5.0 APPLICABLE LAWS. Contractor shall perform all services under this Agreement in accordance with all applicable local, state, and federal laws and regulations.

6.0 INDEPENDENT CONTRACTOR. Nothing contained herein shall be construed as creating the relationship of employer and employee between the City and Contractor. No partnership or joint venture is intended to be created by this Agreement, nor any principal-agent or employer-employee relationship between the parties or any of their officers, employees, agents or sub-consultants. As an independent contractor, each party understands and agrees that it will be

responsible for its respective acts or omissions, and the other party shall in no way be responsible as an employer to the other party's officers, employees, agents, representatives or sub-contractors who perform any service in connection with this Agreement.

7.0 ASSIGNMENT/SUBCONTRACTORS. The services to be provided under this Agreement are specific to Contractor and shall not be assigned or delegated without the prior written consent of the City. Contractor will ensure that any subcontractor will comply with all applicable terms of this Agreement.

8.0 INDEMNIFICATION.

CONTRACTOR UNDERSTANDS AND AGREES THAT IT AND/OR ITS SUBCONTRACTOR(S) SHALL INDEMNIFY AND HOLD HARMLESS THE CITY AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS AND EXPENSES, INCLUDING INVESTIGATION EXPENSES AND REASONABLE ATTORNEY FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, ARISING OUT OF OR ATTRIBUTED DIRECTLY OR INDIRECTLY TO THE NEGLIGENT, GROSS NEGLIGENT, INTENTIONAL, MALPRACTICE OR WILLFUL ACTS OR OMISSIONS OF CONTRACTOR, ITS AGENTS, SUBCONTRACTORS, EMPLOYEES, OR REPRESENTATIVES IN RENDERING THE SERVICES UNDER THIS AGREEMENT.

- 8.1 Without modifying the conditions of preserving, asserting or enforcing any legal liability against the City as required by the City Charter or any law, the City will promptly forward to Contractor every demand, notice, summons or other process received by the City in any claim or legal proceeding contemplated herein.
- 8.2 In addition, Contractor shall promptly advise the City in writing of any claim or demand against the City or Contractor known to Contractor related to or arising out of Contractor's activities under this Agreement.
- 8.3 Contractor understands and agrees that it will 1) investigate or cause the investigation of accidents or occurrences involving such claim or demand; 2) negotiate or cause to be negotiated the claim or demand as Contractor may deem expedient; and 3) defend or cause to be defended on behalf of the City all suits for damages even if groundless, false or fraudulent, brought because of such claim or demands.
- 8.4 Contractor understands and agrees that it will pay all final judgments establishing liability of the City in actions defended by Contractor pursuant to this section along with all reasonable attorneys' fees and costs incurred by the City including interest at the rate specified in such final judgment accruing and premiums on any appeal bonds.
- 8.5 The City, at its election will have the right to participate in any such negotiations or legal proceedings to the extent of its interest without relieving Contractor of any of its obligations under this paragraph.

9.0 LIABILITY INSURANCE.

Contractor agrees it or its subcontractor will provide public liability insurance and property damage insurance naming the City as an Additional Insured in an amount no less than \$500,000 for each person and \$100,000 for each single occurrence for bodily injury or death and \$100,000 for each single occurrence for injury to or destruction of property.

- 9.1 Upon execution hereof, Contractor shall file with the Purchasing Division, Financial Services Department, a copy of the Certificate of Insurance showing that such insurance coverage is in effect during the terms of this Agreement.
- 9.2 Issuers of Policies. The issuer of any policy must have a certificate of authority to transact insurance business in the State of Texas. Each issuer must be responsible, reputable, and have financial capability consistent with the risks covered. Each issuer shall be subject to approval by the City's Purchasing Manager in his or her sole discretion as to conformance with these requirements.
- 9.3 Deductibles. A policy may contain deductible amounts only if the City's Purchasing Manager approves the amount and scope of the deductible. Contractor shall assume and bear any claims or losses to the extent of such deductible amount and waives any claim it may ever have for the same against the City, its officers, agents or employees.
- 9.4 Cancellation. Each policy must expressly state that it may not be canceled or non-renewed unless thirty (30) days advance notice of cancellation or intent not to renew is given in writing to the City's Purchasing Manager by the insurance company. Contractor shall give written notice to the Director of Administrative Services for the City's Purchasing Manager **within five (5) days** of the date upon which total claims by any party against Contractor reduce the aggregate amount of coverage below the amounts required by this Agreement.
- 9.5 Subrogation. Each policy must contain an endorsement to the effect that the issuer waives any claim or right in the nature of subrogation to recover against the City, its elected and appointed officials, officers, agents or employees.
- 9.6 Endorsement of Primary Insurance. Each policy must contain an endorsement that such policy is primary insurance, so long as it is customary in the industry and under Texas law for such insurance to be primary, to any other insurance available to the City, the Additional Insured, with respect to claims arising hereunder and that the insurance applies separately to each insured.
- 9.7 Liability for Premium. If any of the policies referred to above do not have a flat premium rate and such premium has not been paid in full, such policy must have a rider or other appropriate certificate of waiver sufficient to establish that the issuer

is entitled to look only to Contractor for any further premium payment and has no right to recover any premiums from the City.

10.0 TERMINATION.

10.1 Either party may terminate this Agreement if the other is in default upon thirty (30) days written notice to the other party provided that the other party shall be given a reasonable time to cure said default. The City or Contractor may terminate this Agreement for any cause upon thirty (30) days written notice to the other party.

10.2 Termination shall be without prejudice to any obligation by one party to the other, which shall have accrued and be owing prior thereto.

11.0 NOTICES. All notices, communications and reports under this Agreement shall be hand-delivered or mailed, certified, return receipt requested, to the respective parties at the respective addresses shown below, unless and until either party is otherwise notified in writing by the other party with such notice not requiring a formal contract amendment:

CITY: City Manager
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901

With copy to:
International Bridges Department, Director
City of El Paso
1001 S. Stanton Street
El Paso, Texas 79901

CONTRACTOR:

SecureOrigins, Inc.
Attn: Toby Spoon, President
500 W. Overland Ave, Suite 320
El Paso, Texas 79901

12.0 WAIVER. Action or inaction by either party regarding any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

13.0 PUBLIC RECORDS. Contractor understands that the City is subject to the Texas Public Information Act (the "Act") and that records received by the City from Contractor are subject to public disclosure, except as provided for in said Act.

14.0 ENTIRE AGREEMENT; MODIFICATION OR AMENDMENT. This Agreement contains all commitments and agreements of the parties hereto, and no verbal or other written

commitment shall have any force or effect if not contained herein. This Agreement may be modified, amended, or supplemented only by a written instrument duly authorized and executed by both parties.

15.0 VENUE. The parties hereto agree that this Agreement shall be enforceable in El Paso, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in El Paso County, Texas.

16.0 CONTRACT INTERPRETATION. In interpreting the various provisions of this Agreement in a court of law, any court having jurisdiction shall apply the laws of the State of Texas to interpret the terms and provisions in this Agreement.

17.0 SEVERABILITY. If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected and in lieu of each provision which is found to be illegal, invalid or unenforceable, there will be added as part of this Agreement a provision which preserves the intention of the unenforceable provision, but which complies with the law.

18.0 CAPTIONS. The captions to the various paragraphs of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

19.0 BINDING AGREEMENT. The individual signing this Agreement for each of the parties acknowledges that he is authorized to do so and said individual further warrants that he or she is authorized to commit and bind that party to the terms and conditions of this Agreement.

(Signatures appear on following page)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

AGREEMENT

(Signature Page)

IN WITNESS WHEREOF, the parties have executed this Agreement in the City of El Paso to be effective on the date and year first above written.

SECUREORIGINS, INC.

Print Name: _____
Title: _____

CITY OF EL PASO

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:

Said Larbi-Cherif, Director
International Bridges Department

THE MODEL BORDER OF THE 21ST CENTURY



UNA FRONTERA DE SEGURIDAD Y PROSPERIDAD

RTE CAM2 11:25:43

**ZARAGOZA INTERNATIONAL BRIDGE
BEFORE THE DEDICATED LANES OF
FRONTERA-21 FOR TRUSTED SHIPPERS**



Live

Playback

Setup

THE FRONTERA-21 PROJECT IS BEING COMPLETED AT THE YSLETA INTERNATIONAL BRIDGE, RESULTING IN A MAJOR REDUCTION OF WAIT TIMES ON THE BORDER

Device Group

All Devices (4)

- 01 ACTI ACM8511
- 02 ACTI ACM8511
- 03 Route Camera 1
- 04 Route Camera 2

SHIPMENTS PER DAY

C-TPAT / FAST: 500

REGULAR: 1,000

DEDICATED LANE #1

ONLY C-TPAT SHIPMENTS

DEDICATED LANE #2

RESERVED TO DOUBLE CAPACITY TO 1,000 PER DAY

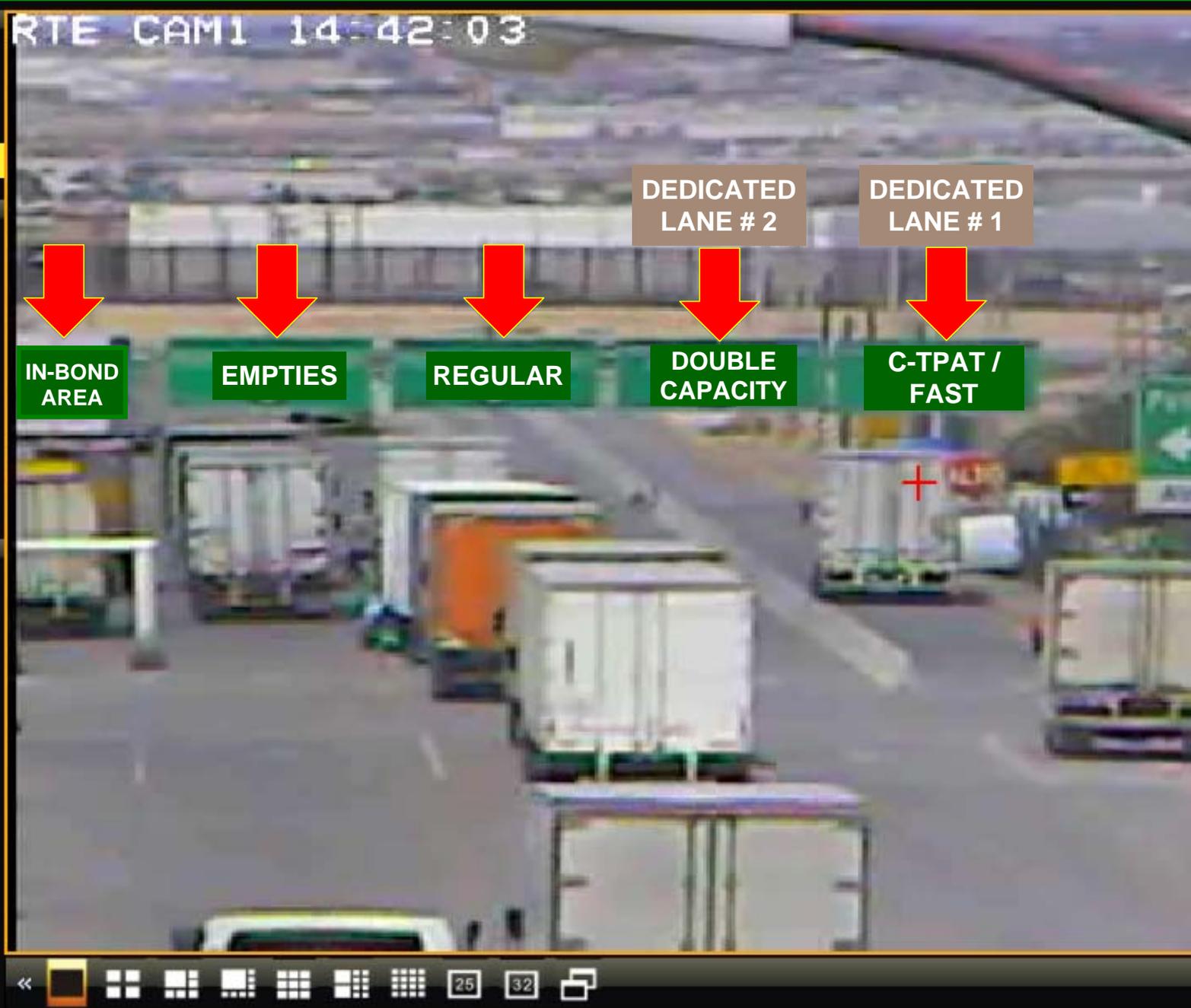
Pan Speed

Tilt Speed

Zoom Speed

Go to Preset

Preset Tour



Model Port Project Deliverables and Benefits

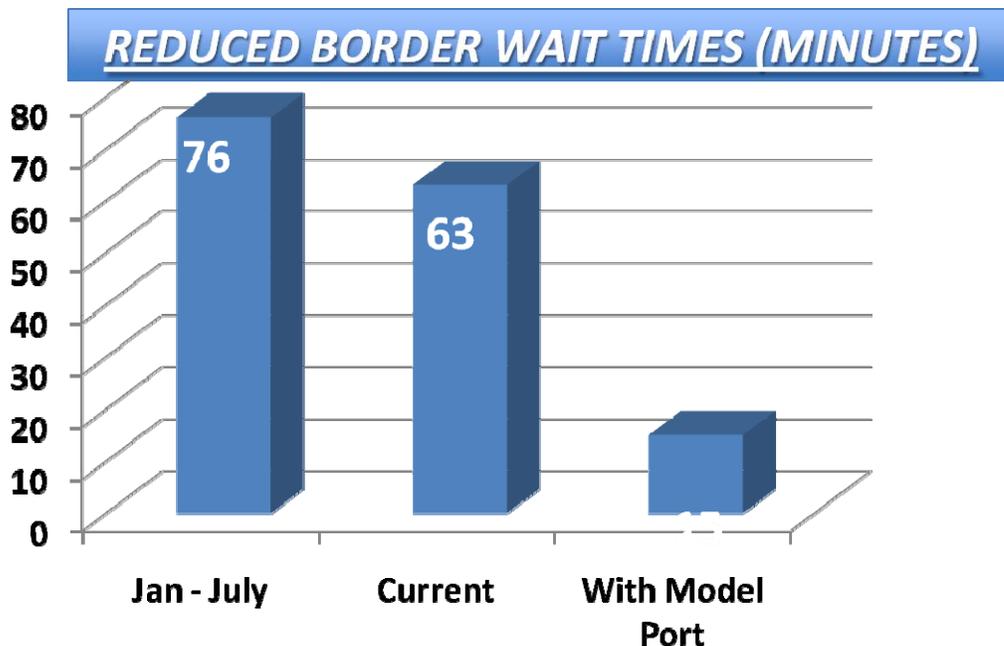
Deliverables

- Increase roundtrips from 2 to 3 per day for 250 shipments
(50 shipments = break even)
- Bi-weekly data reports
- Technology Based Tracking System



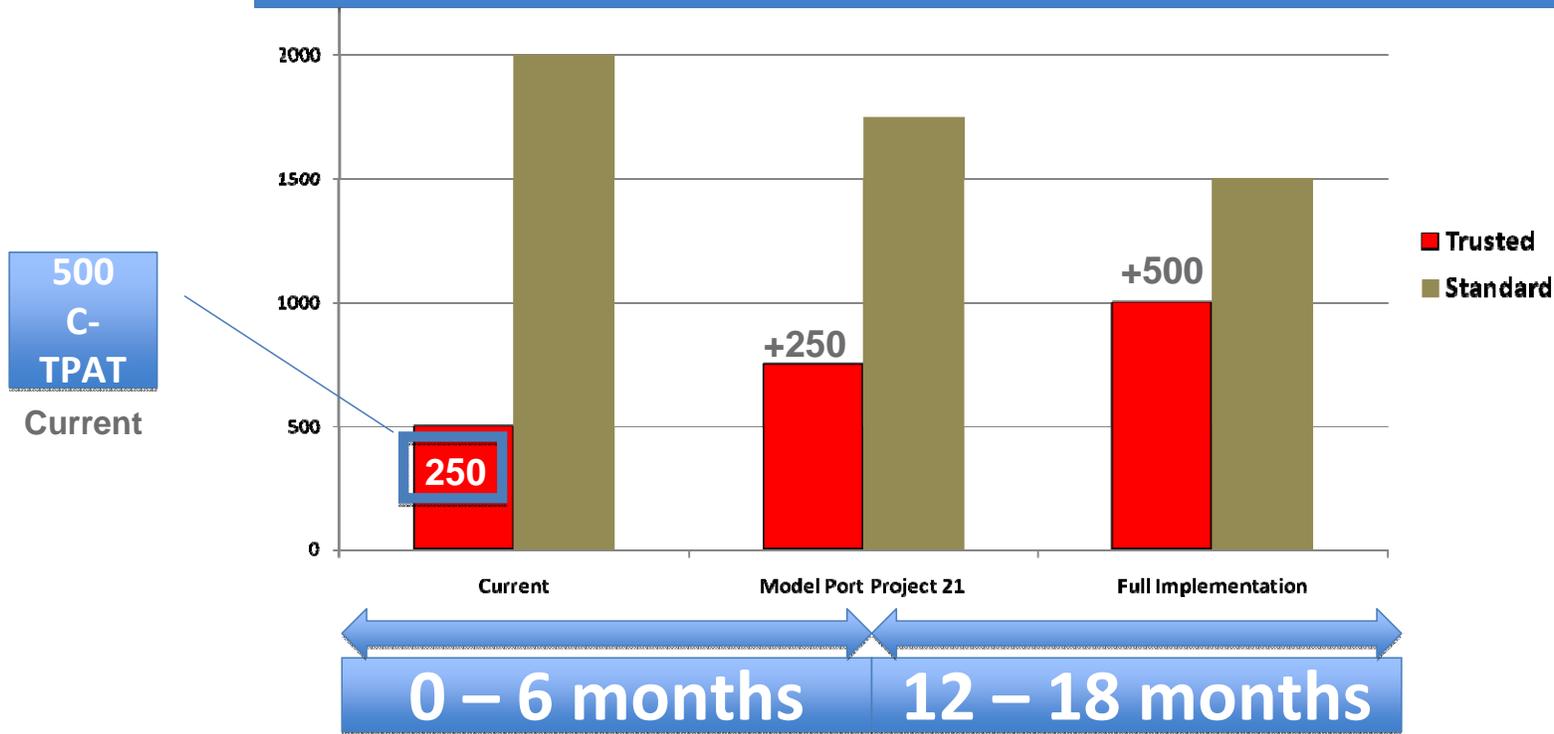
Benefits

- Dramatic Reduction in wait times for trusted shippers
- Improved Regional Market Dynamics
- Improved Risk Segmentation
- Reduce Border Emissions
- Improve Traffic Safety
- More Efficient Processing of Cross-border Shipments
- Increased City Revenues

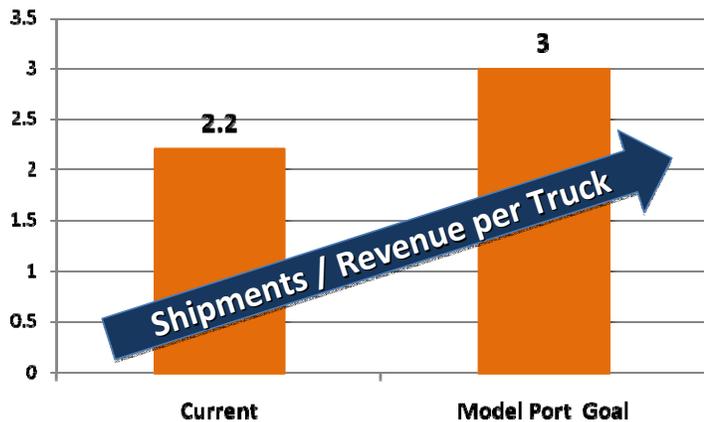


Project Goals

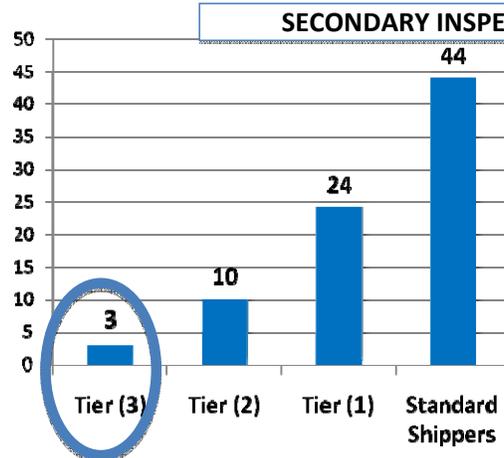
Increased Participation in Trusted Shippers



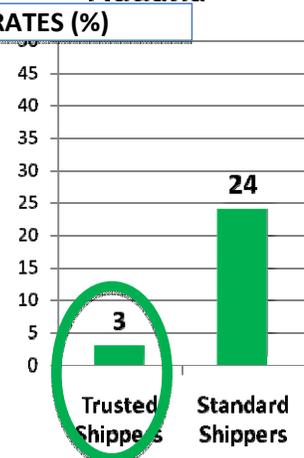
Increased Daily Shipments Per Truck



CBP

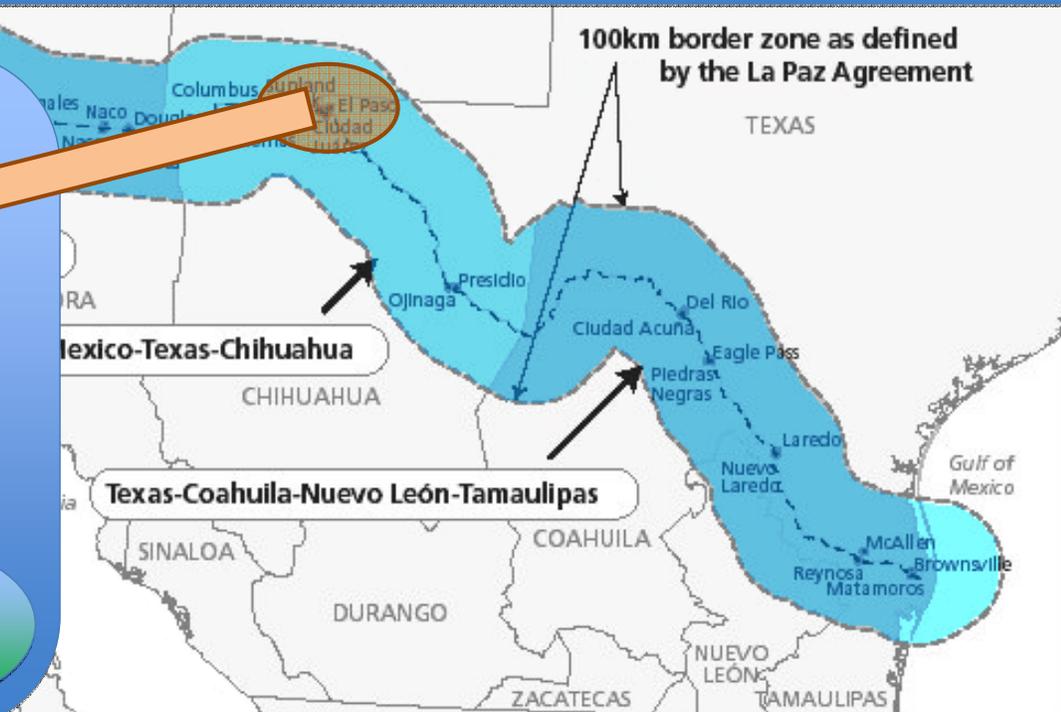
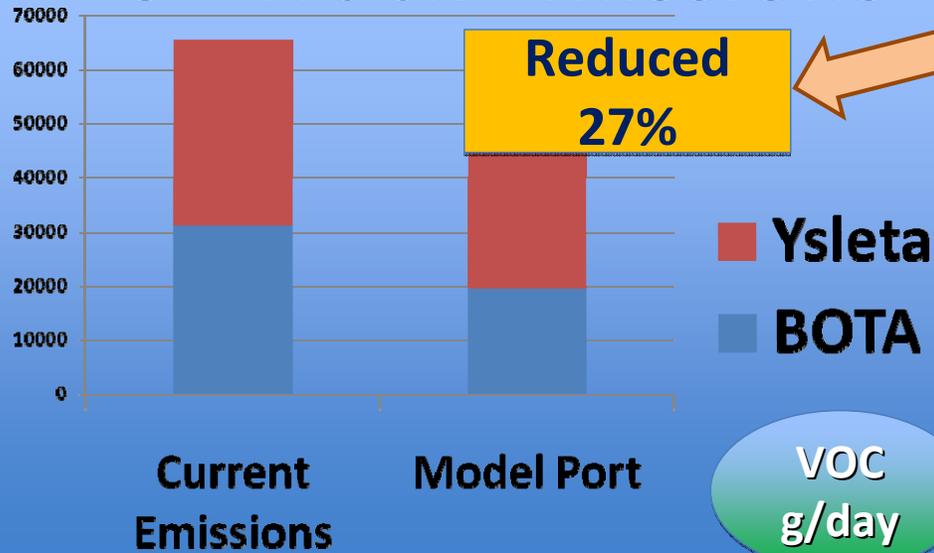


Aduana



Frontera-21 Included in EPA Border 2020 Action Plan

PoE Truck Emissions



Frontera-21 FAST Lane

- Major Air Quality Benefits
- *HAZMAT Monitoring*
- International Command Center – for Emergency Response

★ UNITED STATES ★



**Cross-Dock & Distribution
Best Practices**

Finished Goods
Delivery



**North Bound
Live Electronic Escort**
Electronic
Monitoring
Finished Goods
Shipments

**24/7/365
OPERATIONS
COMMAND
CENTER**

Secure Fiber
Communication

Secure Fiber
Communications

SITUATION AWARENESS
• Wait Times
• Route Adherence
• Container Integrity
• Event Monitoring
• Disruptions



INFORMATION ASSURANCE
• Separation
• Secure Fiber
• Communications

U.S./Mexico International Boundary



**Foreign Manufacturing
Best Practices**

Verify Trusted
Manufacturers
Procedures

**Begin North Bound
Shipment Monitoring**
Verify Trusted
Shipment
Procedures



**Begin South Bound
Shipment Monitoring**

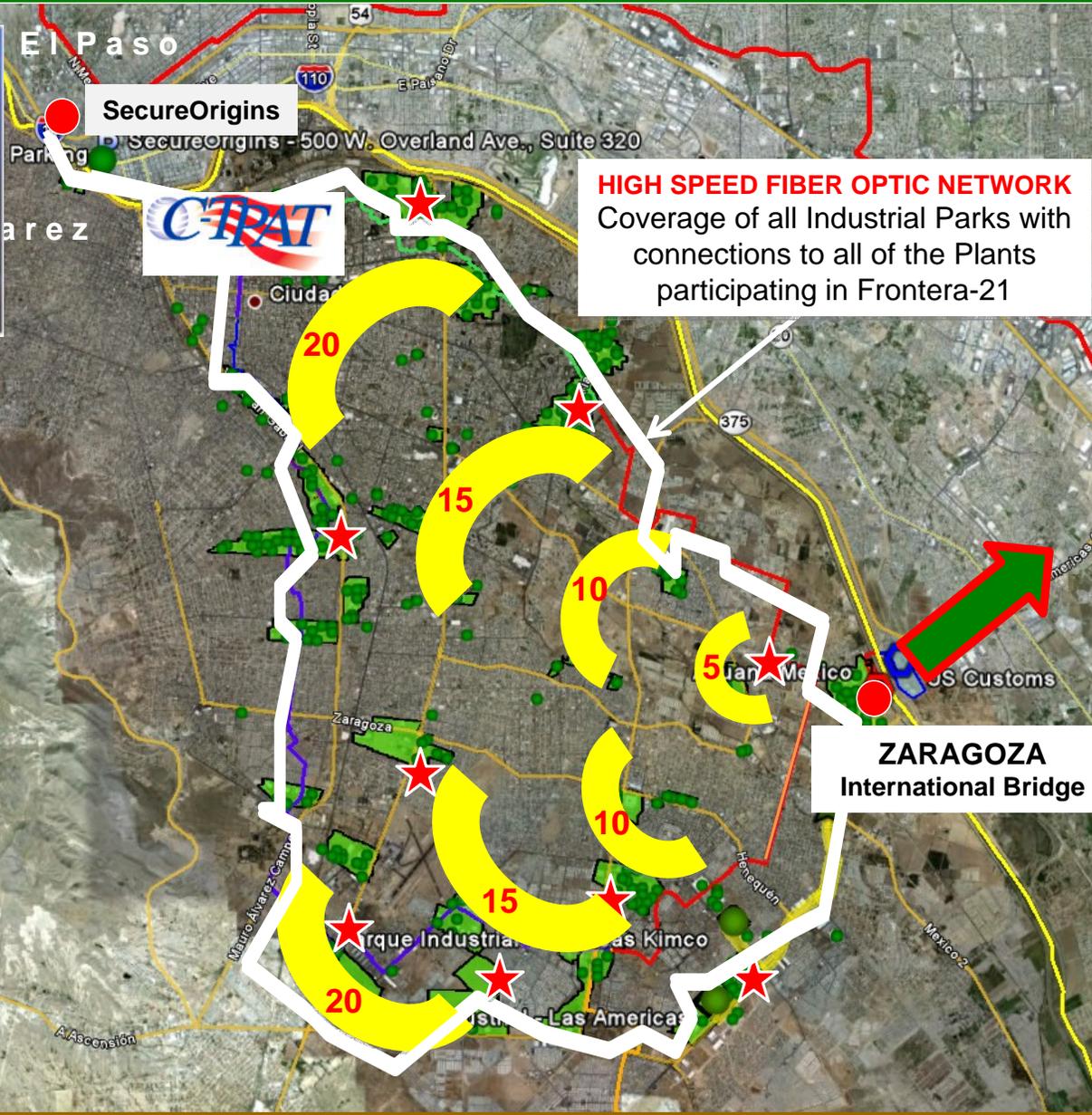
- ▼ Conveyance Information
- ▼ Systems Verification
- ▼ Monitor Loading Process

Live Electronic Escort

Electronic
Monitoring
Supply Shipments



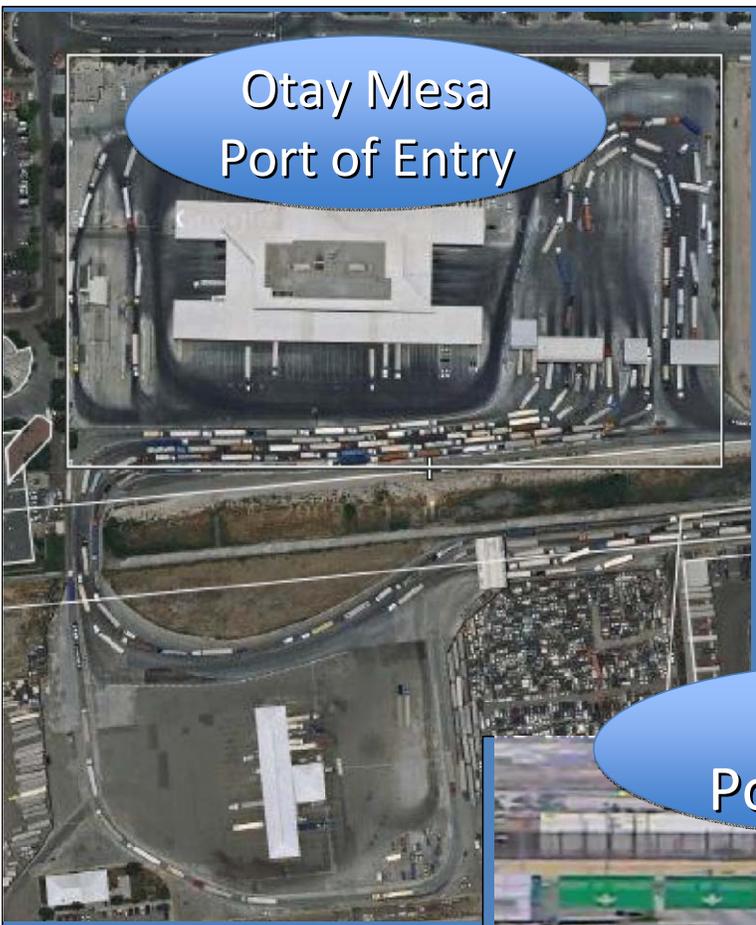
FRONTERA-21 BEGINS WITH PLANTS CERTIFIED IN C-PAT/FAST



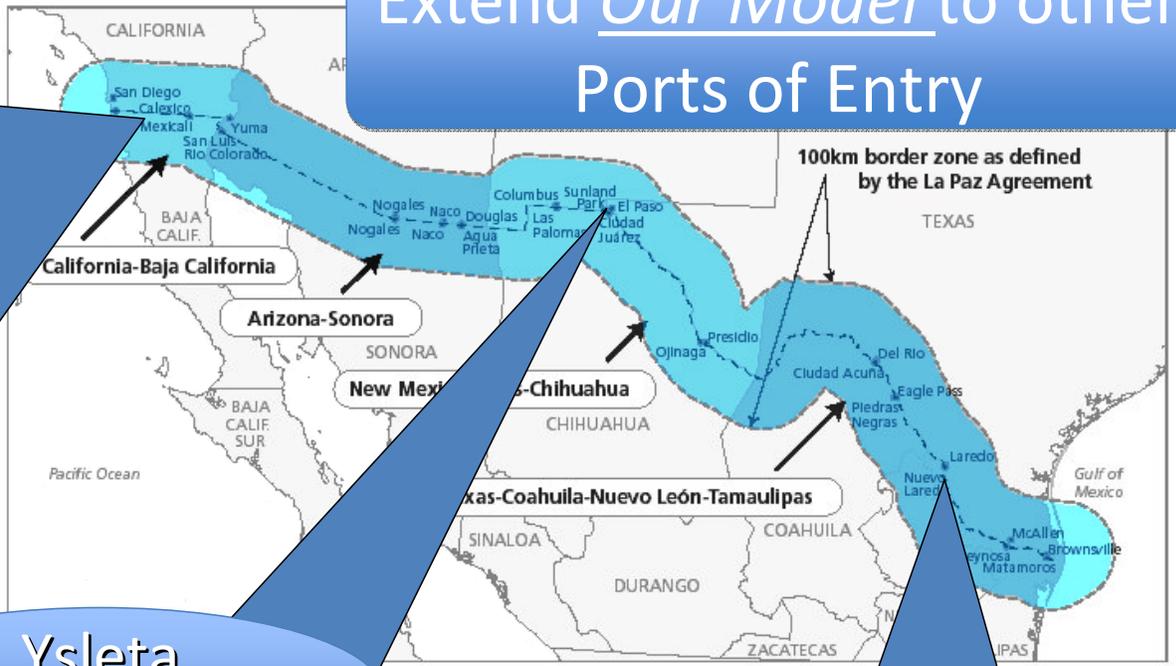
Dedicated Hi-Speed Communications Fiber Along the Entire Border and Mexico's Manufacturing Corridors



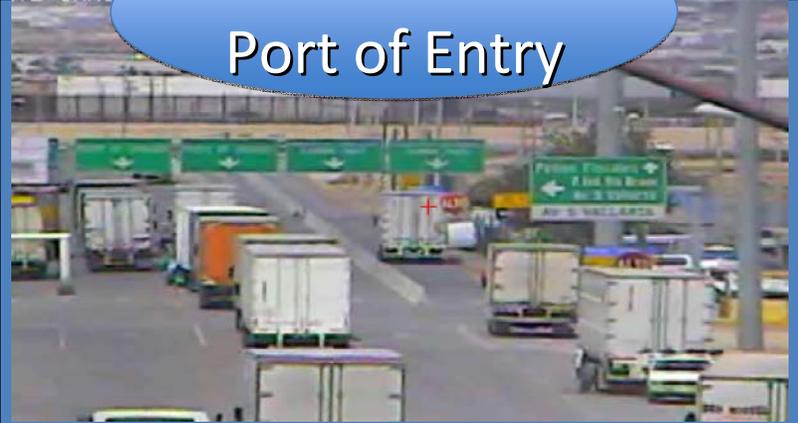
Otay Mesa
Port of Entry



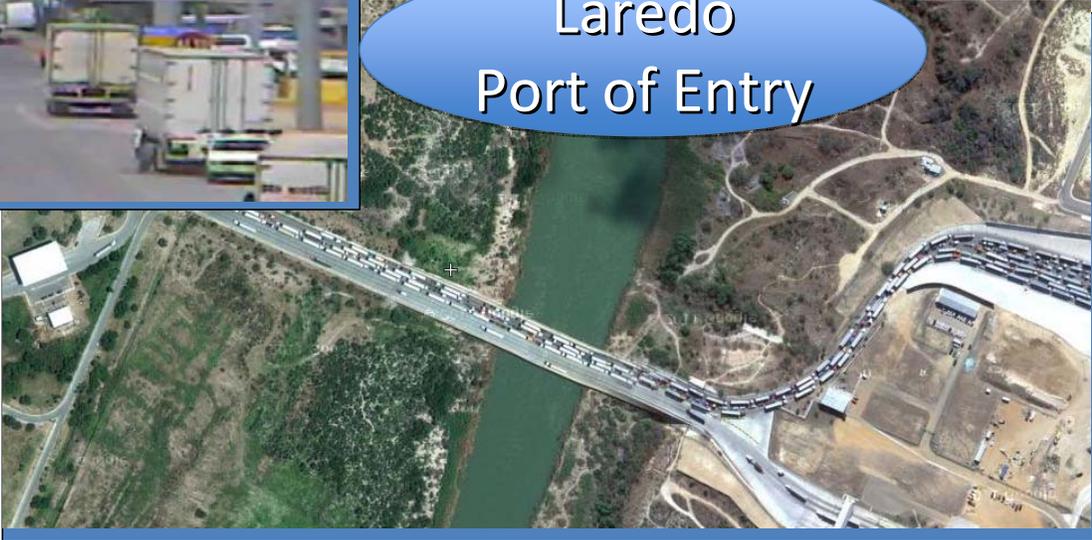
Extend Our Model to other
Ports of Entry



Ysleta
Port of Entry



Laredo
Port of Entry





Current
Conditions



Live

Playback

Setup



Model
Port of Entry