



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: April 21, 2020

* = Mandatory, information must be provided

or Procurement Director Award ☐

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

Pascua Yaqui Tribe

***Project Title/Description:**

Intergovernmental Agreement (IGA) between Pima County and Pascua Yaqui Tribe for Animal Sheltering and Veterinary Services. The contract can be found in OnBase by searching 20-137.

***Purpose:**

The new IGA will extend the partnership between Pima Animal Care Center (PACC) and Pascua Yaqui Tribe for a three-year contract cycle with the opportunity for one additional two-year extension. This IGA reflects an ongoing partnership between the Pascua Yaqui Tribe and PACC for animal sheltering and veterinary services. Pima County will provide assistance with animal care services to dogs and cats coming from within the geographic boundaries of the tribal territory. This may include such services as veterinary care, sheltering and humane care of surrendered and stray animals.

***Procurement Method:**

This IGA is a non-procurement contract, and is exempt from the standard procurement rules.

***Program Goals/Predicted Outcomes:**

Increase the safety and health of animals, reduction in stray and dangerous animals.

***Public Benefit:**

By providing cost-effective, humane, animal sheltering and related veterinary services to dogs and cats from the Pascua Yaqui Tribe, Pima County helps protect the health and safety of residents and visitors, and their companion animals.

***Metrics Available to Measure Performance:**

The Pima Animal Care Center (PACC) on behalf of the County will provide monthly, quarterly and fiscal year end reports that include:

- Services provided such number of animals processed, cared for and placed in the community.
- Financial reports that include the costs associated with those services.

***Retroactive:**

Yes. This agreement has been voted and signed by Pascua Yaqui Tribe on February 24th, 2020.

To: COB - 4-1-2020
Ver. - 1
Pg - 10 (1)

Contract / Award Information

Document Type: CTN Department Code: PAC Contract Number (i.e., 15-123): 20-137
Effective Date: 07/01/2019 Termination Date: 06/30/2022 Prior Contract Number (Synergen/CMS): _____
☐ Expense Amount: \$* _____ ☒ Revenue Amount: \$ 186,422.00

***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: _____ Department Code: _____ Contract Number (i.e., 15-123): _____
Amendment No.: _____ AMS Version No.: _____
Effective Date: _____ New Termination Date: _____
Prior Contract No. (Synergen/CMS): _____
☐ Expense or ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ _____

Is 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: Melissa Rios

Department: Pima Animal Care Center

Telephone: 724-7967

Department Director Signature/Date: _____

3/24/2020

Deputy County Administrator Signature/Date: _____

30 March 20

County Administrator Signature/Date: _____

C. D. D. 3/31/2020

(Required for Board Agenda/Addendum Items)

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
PIMA COUNTY AND THE PASCUA YAQUI TRIBE
FOR ANIMAL SHELTERING AND VETERINARY SERVICES**

This Intergovernmental Agreement (hereinafter "Agreement") is entered into pursuant to A.R.S. § 11-952 and Article VI, Section 1(a) of the Constitution of the Pascua Yaqui Tribe by and between the Pascua Yaqui Tribe (hereinafter "the Tribe"), a sovereign Tribe, and Pima County (hereinafter "the County"), a political subdivision of the State of Arizona.

RECITALS

WHEREAS, the Tribe desires to enter into an agreement with the County for the provision of sheltering and veterinary services for pets originating within the exterior boundaries of the Pascua Yaqui Reservation. The Tribe has its own legal requirements and laws that govern rabies vaccination, leash use, sheltering and humane care of surrendered and stray animals, animal cruelty and neglect, dangerous animals, diseased animals, biting animals, animal waste, and excessive noise; and

WHEREAS, pursuant to A.R.S. § 11-1013, the County operates the Pima Animal Care Center for the intake and sheltering of stray and surrendered animals; and

WHEREAS, the County has the experience and expertise to engage in activities relating to vaccination, rabies control, and stray and surrendered animal intake and sheltering; and

WHEREAS, the County may contract for services and enter into agreements with the Tribe for joint and cooperative action pursuant to A.R.S. § 11-951, et seq, and the Tribe may contract for services and enter into agreements with the County for joint and cooperative action pursuant to Article VI, Section 1(a) of the Tribe's Constitution;

NOW, THEREFORE, the Tribe and the County, pursuant to the above and in consideration of the matters and things set forth herein, do mutually agree as follows:

AGREEMENT

- 1.0 Purpose.** The purpose of this Agreement is to set forth the responsibilities of the parties for the provision of animal sheltering and humane care of surrendered and stray animals originating from the geographical jurisdiction of the Tribe.
- 2.0 Term/Effective Date.** This Agreement is effective for three (3) years from July 1, 2019 through June 30, 2022. The Parties shall have the option to extend this Agreement for up to one (1) additional two (2) year period or any portion thereof. Any modification, termination, or extension shall be made by formal written amendment executed by the Parties.

3.0 Scope of Services.

- 3.1.1 The County shall staff, equip, furnish, support and maintain the Pima Animal Care Center, and provide all facilities and vehicles, including replacements, maintenance, repair, gasoline, and oil as necessary for the operation of the Pima Animal Care Center.
- 3.1.2 Humane treatment of all animals housed at the Pima Animal Care Center shall be provided, including provision of adequate food, water, shelter, exercise, and timely and appropriate veterinary care in accordance with nationally accepted shelter care standards. The Pima Animal Care Center shall develop a strategy and procedures to further reduce euthanasia through effective adoption and rescue programs. If necessary, animals shall be euthanized in such a manner that provides for humane treatment of the animal and in accordance with the most recent standards set forth by the American Veterinary Medical Association Guidelines for the Euthanasia of Animals. Efforts shall be made to decrease shelter intake through but not limited to owner education and community wide spay/neuter programs.
- 3.1.3 All animals presented for sheltering and care to PACC become the property of PACC upon delivery.
- 3.1.4 Animal Welfare Community Outreach. The Pima Animal Care Center shall refine and increase outreach and educational efforts at schools, neighborhood association meetings, etc. in order to increase public awareness of health and safety issues related to animals, to promote responsible ownership/companion animal guardianship, and to disseminate information regarding vaccination clinics, spaying and neutering, and care of animals. All outreach and educational efforts occurring within the exterior boundaries of the Pascua Yaqui Reservation shall be coordinated with the Pascua Yaqui Police Department; and entry upon the Tribe's lands shall require prior approval of the Pascua Yaqui Chief of Police.

4.0 Payment.

- 4.1 The Tribe will pay the County \$61,729.00 for Fiscal Year 2019-2020, \$61,729.00 for Fiscal Year 2020-2021, and \$62,964.00 for Fiscal Year 2021-2022 (the "Service Charge"), to be billed monthly in 12 equal amounts.
- 4.2 If this Agreement is extended pursuant to Section 2.0, the Service Charge will continue to increase by 2.0% each fiscal year, except that if there is a variance of 10% or more between the Service Charge and actual costs incurred by County in any fiscal year for services provided under this Agreement, either party may request that the Service Charge for future years be renegotiated.

5.0 Reporting.

5.1 The County will provide the Tribe the following information:

5.1.1 Monthly Reporting:

5.1.1.1 Monthly 'Data Summary and Animal Services Report' reflecting total PACC statistical volumes

5.1.2 Bi-Annual Reporting:

5.1.2.1 By jurisdiction, a statement of period-end and year-to-date financials

5.1.2.2 PACC Statistical Volumes by Jurisdiction:

5.1.2.2.1 Shelter Statistics: Number of animals processed at the shelter, number of animals adopted and / or fostered; number and type of education and outreach activities in the community

5.1.2.2.2 Veterinary Statistics: Number and type of surgeries performed on PACC pets and at PACC, number of surgeries performed in the community, number of animals spayed and neutered, number of animals that were euthanized or died in the shelter

5.1.2.3 The Tribe will designate a representative to attend bi-annual meetings with representatives from Pima County Administration, Pima Animal Care Center and each jurisdiction with which the County has an Intergovernmental Agreement to provide PACC services.

5.1.3 Fiscal Year End: The County shall prepare a final financial report for each Fiscal Year that includes the following information:

5.1.3.1 By jurisdiction, a statement of period-end and year-to-end financials.

5.1.3.2 PACC Statistical Volumes by Jurisdiction Year End Report:

5.1.3.2.1 Shelter Statistics: Number of animals processed at the shelter, number of animals adopted and / or fostered; number and type of education and outreach activities in the community

5.1.3.2.2 Veterinary Statistics: Number and type of surgeries performed on PACC pets and at PACC, number of surgeries performed in the community, number of animals spayed and neutered, number of animals that were euthanized or died in the shelter

5.1.3.3 Other ad-hoc reporting determined necessary by either Tribe or County

- 6.0 Legal Jurisdiction.** Nothing in this Agreement shall be construed as either limiting or extending the legal jurisdiction of the Tribe or the County. This Agreement and all obligations upon the Tribe or County arising therefrom shall be subject to any limitations of budget law or other applicable local law or regulations.
- 7.0 Audit.** The Tribe shall have the right to audit the books of the County relating to the Pima Animal Care Center and to the collection of fees related to the services being provided.
- 8.0 Termination.** Either party may terminate this Agreement by giving written notice to the other party not less than six (6) months prior to the termination date. In the event of termination, the Tribe shall be liable for all monthly invoices through the date of termination.
- 9.0 Assignment of Rights.** Neither party to this Agreement shall assign its rights under this Agreement to any other party without written permission from the other party to this Agreement.
- 10.0 Construction of Agreement.**
- 10.1 Construction and interpretation. All provisions of this Agreement shall be construed to be consistent with the intention of the parties as expressed in the Recitals hereof.
- 10.2 Captions and headings. The headings used in this Agreement are for convenience only and are not intended to affect the meaning of any provision of this Agreement.
- 11.0 Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511, the pertinent provisions of which are incorporated herein by reference.
- 12.0 Severability.** In the event that any provision of this Agreement or the application thereof is declared invalid or void by statute or judicial decision, such action shall have no effect on other provisions and their application, which can be given effect without the invalid or void provision or application, and to this extent the provisions of the Agreement are severable. In the event that any provision of this Agreement is declared invalid or void, the parties agree to meet promptly upon request of the other party in an attempt to reach an agreement on a substitute provision.
- 13.0 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 the Tribe and any County employees or between the County and any Tribe employees. Neither party shall be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other party's obligation to withhold Social Security and income taxes for itself or any of its employees.
- 14.0 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 to

affect the legal liability of either party to the Agreement by imposing any standard of care different from the standard of care imposed by law.

15.0 Compliance with Laws. The parties shall comply with all applicable federal, state, and local laws, rules, regulations, standards, and executive orders, without limitation to those designated within this Agreement.

15.1 Anti-Discrimination. To the extent applicable to each party, the provisions of A.R.S. § 41-1463 and Executive Order Number 2009-09 issued by the Governor of the State of Arizona are incorporated by this reference as a part of this Agreement.

15.2 Americans with Disabilities Act. This Agreement is subject to 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.

16.0 Non-Waiver. The failure of either Party to insist upon the complete performance of any of the terms and provisions of this Agreement to be performed on the part of the other, or to take any action permitted as a result thereof, shall not constitute a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by County of sums less than may be due and owing it at any time shall not constitute an accord and satisfaction.

17.0 Force Majeure. A party shall not be in default under this Agreement if it does not fulfill any of its obligations under this Agreement because it is prevented or delayed in doing so by reason of uncontrollable forces. The term "uncontrollable forces" shall mean, for the purpose of this Agreement, any cause beyond the control of the party affected, including but not limited to, failure of facilities, breakage or accident to machinery or transmission facilities, weather conditions, flood, earthquake, lightning, fire, epidemic, war, riot, civil disturbance, sabotage, strike, lockout, labor dispute, boycott, material or energy shortage, casualty loss, acts of God, or action or non-action by governmental bodies in approving or failing to act upon applications for approvals or permits which are not due to the negligence or willful action of the parties, order of any government officer or court (excluding orders promulgated by the parties themselves), and declared local, state, or national emergency, which, by exercise of due diligence and foresight, such party could not reasonably have been expected to avoid. Either party rendered unable to fulfill any obligations by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

18.0 Notification. All notices or demands upon any party to this Agreement shall be in writing, unless other forms are designated elsewhere, and shall be delivered in person or sent by mail addressed as follows:

Pima County:

Francisco Garcia, MD, MPH

Pima County Assistant County Administrator

130 W. Congress

Tucson, Arizona 85701

Pascua Yaqui Tribe:

Pascua Yaqui PD

Attn: Chief Michael A. Valenzuela

7474 S. Camino De Oeste

Tucson, Arizona 85746

Kristen Hassen-Auerbach
Pima Animal Care Center Director
4000 N. Silverbell Road
Tucson, Arizona 85745

Pascua Yaqui Tribe
Office of the Attorney General
7777 S. Camino Huivisim, Bldg C
Tucson, Arizona 85757

19.0 Remedies. Either party may pursue any remedies provided by law for the breach of this Agreement. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or in equity or by virtue of this Agreement.

20.0 Indemnification. To the extent permitted by law, each party (as “indemnitor”) agrees to indemnify, defend and hold harmless, the other party (as “indemnatee”) 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 the 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 indemnatee, and are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.

21.0 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterpart may be removed from such counterpart and attached to a single instrument.

22.0 Legal Arizona Workers Act.

22.1 Tribe hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Tribe’s employment of its employees, and with all applicable requirements of A.R.S. § 23-214 (A) (together the “State and Federal Immigration Laws”). Tribe shall further ensure that each subcontractor who performs any work for Tribe under this Contract likewise complies with the State and Federal Immigration Laws.

22.2 Pursuant to A.R.S. § 41-4401, County shall have the right at any time to inspect the books and records of the Tribe and any subcontractor, as they pertain to this Contract, in order to verify such party’s compliance with all applicable State and Federal Immigration Laws.

22.3 To inspect the Tribe’s books and records specified in subsection 22.2 above, the County shall send a request to the Tribe pursuant to Section 18 herein. The Tribe may then choose to allow a courtesy inspection of the relevant books and records at a time and date of the Tribe’s choosing in recognition of the County’s obligations under A.R.S. § 41-4401.

22.4 Any breach of the Tribe’s or any subcontractor’s warranty of compliance with applicable State and Federal Immigration Laws shall be deemed a material breach of

this Contract which can result in the termination of this Contract.

22.5 The Tribe's failure to provide a courtesy inspection of its relevant books and records shall not be deemed a material breach of this Contract, but may result in termination of this Contract at County's election.

22.6 Tribe shall advise each subcontractor of County's rights, and the subcontractor's obligations, under this Section by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214(A), as applicable. Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract."

Should a subcontract be suspended or terminated due to subcontractor's material breach, at Tribe's election, Tribe shall retain a replacement subcontractor as soon as possible so as not to delay project completion or may self-perform the services that would have been provided under the subcontract.

23.0 Entire agreement. This instrument 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. Any exhibits to this Agreement are incorporated herein by this reference.

24.0 Sovereign Immunity. Nothing herein constitutes an express or implied waiver of the Tribe's immunity from suit in any forum or in any jurisdiction.


IN WITNESS WHEREOF, the County has caused this Agreement to be executed by the Pima County Board of Supervisors, as attested to by the Clerk of the Board, and the Tribe has caused this Agreement to be executed by the Chairman of the Tribe, upon resolution of the Council, attested to by the Tribe's Secretary.

PIMA COUNTY:

PASCUA YAQUI TRIBE:

Chairman, Board of Supervisors

Date



Robert Valencia, Chairman

Date

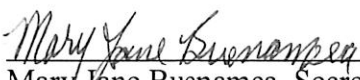
FEB 26 2020

ATTEST

ATTEST

Clerk of the Board

Date




Mary Jane Buenamea, Secretary

2/26/20

Date

APPROVED AS TO CONTENT



Department Director or designee


2-19-20

Date

ATTORNEY CERTIFICATION

The foregoing Agreement between Pima County and the Pascua Yaqui Tribe has been reviewed by the undersigned, each of whom have determined for their respective parties that the Agreement is:

Approved as to Form:

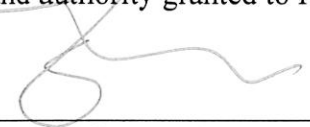


Laura Berglan, Attorney General
Pascua Yaqui Tribe

2/24/20

Date

Pursuant to A.R.S. § 11-952, the foregoing Agreement is in proper form and within the powers and authority granted to Pima County under the laws of the State of Arizona:



Deputy County Attorney

3/16/2020

Date

PASCUA YAQUI TRIBE

RESOLUTION NO. C02-41-20

RESOLUTION APPROVING INTERGOVERNMENTAL AGREEMENT BETWEEN THE PASCUA YAQUI TRIBE AND PIMA COUNTY FOR ANIMAL SHELTERING AND VETERINARY SERVICES



WHEREAS, the Tribal Council is the governing body of the Pascua Yaqui Tribe and has the authority to negotiate and enter into agreements with federal, state, and local governments on behalf of the Tribe (Article VI, Section 1(a) of the Constitution of the Pascua Yaqui Tribe); and

WHEREAS, the Pascua Yaqui Police Department has determined that it would be in the best interests of the Tribe and its members to enter into an agreement with Pima County for the provision of sheltering and veterinary services for pets originating within the exterior boundaries of the Pascua Yaqui Reservation; and

WHEREAS, the Pascua Yaqui Police Department recommends that the Tribe enter into an intergovernmental agreement (“IGA”) with Pima County for the provision of animal sheltering and veterinary services through the Pima Animal Care Center; and

WHEREAS, the Office of the Attorney General approves to form an IGA (incorporated herein by this reference) to govern the Tribe’s relationship with Pima County and the Pima Animal Care Center, which shall be for the period from July 1, 2019 through June 30, 2022, and which shall be extendable for up to one (1) additional two (2) year period; and

WHEREAS, the Tribal Council has determined that it would be in the best interests of the Tribe to enter into an IGA with Pima County for the provision of animal sheltering and veterinary services through the Pima Animal Care Center.

NOW THEREFORE BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE PASCUA YAQUI TRIBE that the Tribal Council hereby (1) approves the IGA with Pima County, substantially in the form attached hereto, for the provision of animal sheltering and veterinary services, effective July 1, 2019 through June 30, 2022; (2) authorizes the Chairman to execute the IGA and any extensions or amendments thereto that extend funding or make non-substantive changes to the IGA on behalf of the Tribe; and (3) authorizes the Chairman to take necessary and proper action to execute, implement, and enforce the IGA and this Resolution.

CERTIFICATION

THE FOREGOING was on **February 12, 2020** duly adopted by a vote of **NINE** in favor, **ZERO** opposed, and **ZERO** abstaining, by the Tribal Council of the Pascua Yaqui Tribe pursuant to authority vested in it by Article VI, Section 1 (a) of the Constitution of the Pascua Yaqui Tribe, , as adopted on January 26, 1988 and approved by the Secretary of the Interior of February 8, 1988 pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).



VICE-CHAIRMAN OF THE PASCUA YAQUI TRIBE



SECRETARY OF THE PASCUA YAQUI TRIBE

