



**BOARD OF SUPERVISORS AGENDA ITEM REPORT  
CONTRACTS / AWARDS / GRANTS**

Requested Board Meeting Date: June 20, 2017

or Procurement Director Award

**Contractor/Vendor Name (DBA):** YMCA of Southern Arizona

**Project Title/Description:**

First Contract Amendment to the Operating Agreement with the YMCA of Southern Arizona for the Mulcahy YMCA located at 2805 E. Ajo Way.

**Purpose:**

As a result of increased operating costs due to the increase in the minimum wage and free swim lessons, the Mulcahy YMCA is operating in a deficit. This First Contract Amendment modifies the terms of the Operating Agreement so the responsibility for payment of all utilities is transferred from the Mulcahy YMCA to Pima County. In addition, in accordance with Section 6.1 of the Operating Agreement, Pima County will continue to pay an annual Operating Fee to the YMCA of Southern Arizona. The amount of the Operating Fee will not exceed \$175,000.00 each year for five years.

**Procurement Method:**

Arizona Revised Statute 11-932.

**Program Goals/Predicted Outcomes:**

The YMCA of Southern will continue to provide youth and adult recreational facilities and programs, affordable child care and after-school programs to the surrounding community.

**Public Benefit:**

The uninterrupted access to recreation facilities, exercise equipment, child care, swimming lessons and chronic disease prevention and support programs, which includes a diabetes prevention program for adults diagnosed with pre-diabetes, provides both recreational and health benefits to children and adults in Pima County.

**Metrics Available to Measure Performance:**

Improve the health and well being of County residents which coincides with the Health Department's vision of "A Health Pima County - Everyone. Everywhere. Everyday."

**Retroactive:**

Yes. Terms of the the First Amendment language were agreed to by both parties after April 15, 2017.

To: COB 6-7-17 (1)  
JJS - 3

Procure Dept 06/07/17 PM12:06

**Original Information**

Document Type: CT Department Code: FM Contract Number (i.e.,15-123): 17\*391  
Effective Date: 4/15/2017 Termination Date: 4/14/2037 Prior Contract Number (Synergen/CMS): CT CED 12\*2136  
 Expense Amount: \$ 875,000.00  Revenue Amount: \$ \_\_\_\_\_  
Funding Source(s): general fund

Cost to Pima County General Fund: \$875,000.00

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: Melissa Loeschen  
Department: Facilities Management Telephone: 724-8230  
Department Director Signature/Date: [Signature] 6/2/17  
Deputy County Administrator Signature/Date: [Signature] 6-7-17  
County Administrator Signature/Date: [Signature] 6/7/17  
*(Required for Board Agenda/Addendum Items)*

<p><b>Pima County Department:</b> Facilities Management</p> <p><b>Project:</b> Operation of Mulcahy YMCA</p> <p><b>Contractor:</b> YMCA of Southern Arizona</p> <p><b>Contract No.:</b> CT FM 17*391</p> <p><b>Contract Amendment No.:</b> One</p>	<div style="border: 2px solid red; padding: 5px; text-align: center;"> <p><b>CONTRACT</b></p> <p>NO. <u>CT-FM-17-391</u></p> <p>AMENDMENT NO. _____</p> <p style="font-size: small;">This number must appear on all invoices, correspondence and documents pertaining to this contract.</p> </div> <p>(STAMP HERE)</p>
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<b>Orig. Contract Term:</b> 04/15/2012 – 04/14/2037	<b>Orig. Amount:</b>	\$690,000.00
<b>Termination Date Prior Amendment:</b> N/A	<b>Prior Amendments Amount:</b>	N/A
<b>Termination Date This Amendment:</b> 04/14/2037	<b>This Amendment Amount:</b>	\$875,000.00
	<b>Revised Total Amount:</b>	\$1,565,000.00

**FIRST CONTRACT AMENDMENT**

1. Background and Purpose. Pima County ( "County" ) entered into an Operating Agreement (the "Agreement") with YMCA of Southern Arizona ("YMCA") dated April 3, 2012, in which YMCA agreed to operate a County-owned recreational facility located at 2805 E. Ajo Way (the "Center"), commencing on April 15, 2012 (the "Commencement Date").
  - a. Under the Agreement, County agreed to pay YMCA an Operating Fee, in decreasing maximum amounts, during the first 5 years of the Agreement term in order to help cover anticipated operating losses. YMCA has the right to terminate the Agreement once those payments end, with 6-month's prior notice to County. The parties included those provisions in the Agreement because they understood that successful operation of the Center, which is in an economically disadvantaged area, faces significant financial and operational challenges.
  - b. YMCA's operation of the Center as the Mulcahy YMCA has provided significant public social, recreational, and health benefits for County residents. YMCA has increased the hours of operation and the community's use of the Center. YMCA offers affordable childcare and after-school programs, and has developed a number of chronic disease prevention and support programs, including a diabetes prevention program for adults diagnosed with pre-diabetes. In addition, YMCA provides numerous membership and childcare "scholarships" to financially disadvantaged members of the surrounding community.
  - c. In spite of YMCA's best efforts, which County acknowledges, YMCA has experienced substantial operating deficits for the Center which are far in excess of other YMCA branches, and in excess of the Operating Fee. Funding from other charitable sources and organizations has decreased, while operating costs have increased significantly due to the increase in the minimum wage and other factors.
  - d. The first 5-year period of the Agreement ended April 15, 2017. YMCA Representatives have informed County representatives that YMCA will be forced to exercise its termination option



under the Agreement unless the County agrees to provide continued financial assistance to the YMCA.

- e. During the years before the County and YMCA entered into the Agreement, the County experienced increasing annual operating deficits, with the County's average annual operating deficit for the Center for the prior 5 years being approximately \$600,000.
  - f. Continuing to pay an Operating Fee to YMCA for the continued operation of the Center into the future saves the County money and other resources and expenses, and contributes to the health, safety, and economic wellbeing of County residents.
  - g. After exchange of information, review and discussion, both the County and the YMCA wish to continue their relationship under the Agreement, but with certain modifications thereto so as to provide for continued benefits with respect to the health and welfare, wellbeing, development and leisure pursuits of the residents of Pima County, Arizona.
  - h. Accordingly, the County and the YMCA wish to modify and amend the terms and provisions of the Agreement in accordance with the provisions hereof and to be bound by such modifications and amendments. As such, the County and the YMCA hereby agree as follows:
2. Utilities. From and after July 1st, 2017, the County will pay all costs and expenses of or pertaining to utilities for the Center, including, without limitation, for the Building, the Swimming Pool and all other improvements and undertakings associated with the Center and its operations other than data and communication services. YMCA will take reasonable steps to use utilities responsibly, in line with its practices during the first 5 years of the Agreement term, in order to avoid running up unnecessary charges. If the cost of utilities increases substantially, YMCA will work with the County to identify and implement additional reasonable cost-saving measures.
  3. Operating Fee. County will continue to pay an Operating Fee to the YMCA under Section 6.1 for a 5-year period commencing on April 15, 2017, up to a maximum amount of \$175,000.00 per year. County's first monthly installment payment to the YMCA of the Operating Fee shall include all amounts due for the period since April 15, 2017. YMCA may terminate this agreement as provided in Section 3.2 of the Agreement at any time after the 10<sup>th</sup> annual anniversary date of the Commencement Date, or earlier than such tenth (10<sup>th</sup>) annual anniversary date if the County fails to budget, appropriate or pay the Operating Fee as provided for herein or is otherwise in default of the Agreement.
  4. Programming. YMCA will continue to offer the programs described in the recitals and in the original Agreement, or provide other community programs with similar benefits.
  5. Compliance. Each of the parties hereby acknowledges and agrees that the other party is current with respect to all of its duties and obligations under the Agreement and has fully performed in favor of the other party through the current date.
  6. Amendment. The parties agree and accept the modifications, amendments and changes to the Agreement herein contained, and agree to be bound by them. The provisions hereof modify the Agreement only as to those matters expressly addressed herein. In the event of any conflict, inconsistency or incongruity between the provisions of this First Contract Amendment and any provision of the Agreement, the provisions of this First Contract Amendment shall govern and

control. However, both such documents shall, to the extent possible, be construed so as to be consistent. In all other respects, unless specifically modified herein, the terms, conditions, duties, obligations and provisions of the Agreement shall remain binding and in full force and effect.

7. Defined Terms. Unless otherwise defined herein, capitalized terms used herein shall have the same meaning as established and provided for in the Agreement.
8. Other Acts. The parties agree to execute and deliver all documents, and to do all things as may be required, necessary or appropriate, in order to give practical effect to this First Contract Amendment and to consummate the transaction contemplated hereby.
9. Further Amendments. No further modification or amendment of the Agreement shall be effective unless in writing and signed by all of the parties.
10. Counterparts. This First Contract Amendment may be executed in counterparts and by facsimile transmission by the parties, and all counterparts so executed shall together constitute one and the same agreement, and it shall not be necessary for all parties to execute the same counterpart hereof.

**PIMA COUNTY**

\_\_\_\_\_  
Sharon Bronson, Board of Supervisors  
Chair

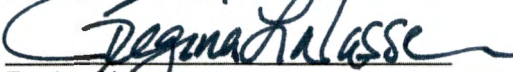
\_\_\_\_\_  
Date

ATTEST

\_\_\_\_\_  
Julie Castaneda, Clerk of the Board


\_\_\_\_\_  
Date

APPROVED AS TO FORM

  
\_\_\_\_\_  
Regina Nassen  
Deputy County Attorney


6/1/2017  
Date

APPROVED AS TO CONTENT

  
\_\_\_\_\_  
Lisa Josker  
Director, Facilities Management Department

YMCA 1<sup>st</sup> Amendment

**YMCA of Southern Arizona**

  
\_\_\_\_\_  
Kurtis Dawson, President/CEO

5/30/17  
Date