



BOARD OF SUPERVISORS AGENDA ITEM REPORT
AWARDS / CONTRACTS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: 09/05/2023

* = Mandatory, information must be provided

or Procurement Director Award: ☐

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

Tohono O'odham Nation

***Project Title/Description:**

Intergovernmental Agreement Between the Tohono O'odham Nation and Pima County

***Purpose:**

Pima County and the Tohono O'odham Nation wish to utilize this IGA to coordinate the prompt processing, execution, and enforcement of state or tribal warrants, demands for extradition, and protection orders, and to authorize the appointment of a tribal prosecutor as a Special Deputy County Attorney.

***Procurement Method:**

This IGA is a non-Procurement agreement and is not subject to Procurement Rules.

***Program Goals/Predicted Outcomes:**

Pima County and the Tohono O'odham Nation will work together in good faith to manage and control immediate jurisdictional questions in the furtherance of justice and provide a model for state-tribal cooperative agreements in administering justice by consolidating key actors and centralizing decision making.

***Public Benefit:**

Partnership with the Tohono O'odham Nation to promptly process, execute, and enforce state and tribal warrants, demands for extraditions, and protection orders, as well as to appoint a tribal prosecutor as a Special Deputy County Attorney, to enhance public safety to protect persons and property within the Nation's reservation and Pima County.

***Metrics Available to Measure Performance:**

Pima County and the Tohono O'odham Nation of Arizona will successfully coordinate and work together to complete necessary goals in processing, execution, and enforcement of warrants, demands for extradition, and protection orders, as well as successfully appoint a tribal prosecutor as a Special Deputy County Attorney.

***Retroactive:**

No.

TO: COB 8-17-23 (1)
Vers. 1.1
pgs. 9

AUG16'23PM0301 PD

THE APPLICABLE SECTION(S) BELOW MUST BE COMPLETED

Click or tap the boxes to enter text. If not applicable, indicate "N/A". Make sure to complete mandatory (*) fields

Contract / Award Information

Document Type: CTN Department Code: PCA Contract Number (i.e., 15-123): 23*177
 Commencement Date: 09/05/2023 Termination Date: 09/04/2028 Prior Contract Number (Synergen/CMS): _____
☐ Expense Amount \$ _____ ☒ Revenue Amount: \$ 0.00

***Funding Source(s) required: N/A**

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.: _____
 Commencement Date: _____ New Termination Date: _____
 Prior Contract No. (Synergen/CMS): _____
☐ Expense ☐ 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): _____
 Commencement 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: Deimos Thorne

Department: PCAO Civil Division

Telephone: (520) 724-8274

Department Director Signature: _____

Date: 8.10.23

Deputy County Administrator Signature: _____

Date: _____

County Administrator Signature: _____

Date: 8/11/23

**Intergovernmental Agreement
Between the Tohono O'odham Nation and Pima County**

This Intergovernmental Agreement (hereinafter "IGA") is entered into between Pima County (hereinafter "County"), a political subdivision of the State of Arizona, on behalf of the Pima County Attorney's Office, and the Tohono O'odham Nation (hereinafter "Nation"), a federally recognized Indian tribe (collectively the "Parties").

Recitals

- A. WHEREAS the Parties desire to enter into this IGA to coordinate the prompt processing, execution, and enforcement of the State of Arizona or the Nation's warrants, demands for extradition, and protection orders, and to authorize the appointment of the Nation's prosecutors as Special Deputy County Attorneys; and
- B. WHEREAS the County may contract for services and enter into agreements with Indian tribes for joint or cooperative action, pursuant to A.R.S. § 11-952 *et seq.*; and
- C. WHEREAS, the Tohono O'odham Legislative Council is vested with the power "[t]o consult, negotiate and conclude agreements . . . on behalf of the Tohono O'odham Nation with . . . State and local governments . . . or their departments, agencies, or political subdivisions . . . on all matters within the authority of the Tohono O'odham Council," pursuant to the Constitution of the Tohono O'odham Nation, Article VI, Section 1(f); and
- D. WHEREAS, the Nation is committed to its partnership with the County and the State of Arizona to coordinate the prompt processing, execution, and enforcement of the State of Arizona and the Nation's laws, in a cooperative approach to law enforcement to enhance public safety to protect all persons and property within the Nation's lands and the County through the appointment of prosecutors in the Nation's Prosecutor's Office as Special Deputy County Attorneys in the Pima County Attorney's Office, pursuant to 20 T.O.C. Chapter 1, Sections 4 – 6; and
- E. WHEREAS, this IGA will facilitate a cooperative approach to law enforcement to enhance public safety to protect all persons and property within the Nation's lands and the County.

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

Agreement

I. Purpose

The purpose of this IGA is for the Parties to coordinate the prompt processing, execution, and enforcement of the State of Arizona and the Nation's warrants, demands for extradition, and protection orders, and to authorize the appointment of prosecutors in the Nation's Prosecutor's Office as Special Deputy County Attorneys in the Pima County Attorney's Office.

II. Scope

The Parties, through their respective law enforcement agencies, shall work together in good faith to:

- A. Provide prompt processing and removal of criminal defendants from the jurisdiction of the other Party in accordance with written demands for extradition, pursuant to A.R.S. § 13-3869 (extradition of persons to and from Indian jurisdiction); 7 T.O.C. Chapter 2; Rule 12.4 of the Tohono O'odham Rules of Court, Rules of Criminal and Traffic Procedure; and Rule 10.5 of the Tohono O'odham Rules of Court, Rules of Children's Court.
- B. Provide prompt assistance in the execution of arrest or search warrants upon request from the other Party, and promptly and fully enforce orders of protection duly filed with the clerk of the appropriate court, pursuant to A.R.S. § 12-1702; Rule 12.3 of the Tohono O'odham Rules of Court, Rules of Criminal and Traffic Procedure; and Rule 10.4 of the Tohono O'odham Rules of Court, Rules of Children's Court.
- C. Provide training, at their own expense, to their respective law enforcement agencies, necessary to fully comply with the terms of this IGA.

The Parties shall also work together in good faith to arrange for the appointment of prosecutor(s) in the Nation's Prosecutor's Office as Special Deputy County Attorneys in the Pima County Attorney's Office. Special Deputy County Attorneys shall, at the direction and under the supervision of the Pima County Attorney, facilitate the prosecution of certain criminal offenses that occur on the Nation's lands, against Nation members as victims, or against Nation members as perpetrators for those certain crimes that occur outside of the Nation that are either victimless or do not involve tribal members, for which the State of Arizona has concurrent jurisdiction by express agreement of the Nation or exclusive jurisdiction, in Pima County Consolidated Justice Court or Pima County Superior Court, or any other court of competent jurisdiction as appropriate. While performing duties under this IGA, Special Deputy County Attorneys will remain employees of the Nation, which will be solely responsible for payment of wages, workers' compensation benefits, if applicable, and any other fringe benefits of said employees.

Special Deputy County Attorneys shall be licensed by the State of Arizona to practice law and subject to the Arizona Rules of Professional Conduct as promulgated by the State Bar of Arizona and with any local governing agency that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys.

III. Term

This IGA shall be for an initial term of five (5) years. The Parties shall have the option to extend the term of this IGA in accordance with A.R.S. § 11-952(G). Any modification or time extension of this IGA shall be by formal written amendment executed by the Parties hereto.

IV. Financing

This Agreement is neither a fiscal nor a funds obligation document. All terms related to funding and to any exchange of moneys between the Parties with respect to each Party's provision of services under this Agreement will be negotiated and entered into by separate agreements, and signed by each Party's authorized signatory, describing the terms of the arrangement including, as applicable: the scope of work, deliverables, budget, payment schedule, and other obligations. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the Parties to this Agreement will be handled in accordance with each Party's applicable laws, regulations, and procedures.

V. Insurance

Each party warrants that it is self-insured or otherwise maintains adequate insurance to fully cover its liability under this IGA.

VI. Termination

Either Party may terminate this IGA with no less than sixty (60) days' written notice to the other Party.

VII. Indemnification

To the extent permitted by law, each Party agrees to indemnify, defend and hold harmless, the other party and its officers, directors, employees, agents and affiliates (collectively "the Indemnitees") from and against any and all claims, demands, actions, judgments, costs and expenses, incurred by any of the Indemnitees caused by or arising from the negligence, gross negligence or intentional misconduct of the Indemnifying party, its officers, directors, employees, agents or contractors. Nothing in this provision waives, modifies, or compromises the Nation's sovereign immunity from suit.

VIII. Compliance with Laws

The Parties shall comply with all applicable federal, Nation's, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this IGA. As to the Nation, an Executive Order shall only be deemed to be applicable if it specifically names "Indian tribes" as being within the scope of the order and is lawfully binding upon Indian tribes. The laws and regulations of the State of Arizona shall govern the rights of the Parties, the performance of this IGA and any disputes hereunder. Any action relating to this IGA shall be brought in any court of competent jurisdiction.

IX. Non-Discrimination

The Parties shall not discriminate against any County or Nation employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this IGA. The County shall comply with the provisions of Executive Order 75-5, as amended by Executive Order 99-4, which is incorporated into this IGA by reference, as if set forth in full herein. The Nation shall comply with all anti-discrimination laws and ordinances specifically made applicable to the Nation by law.

X. ADA

The Parties shall comply with all applicable provisions of the Americans with Disabilities Act (P.L. 101-336, 42 U.S.C. §§ 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

XI. Non-Appropriation

Notwithstanding any other provision in this IGA, this IGA may be terminated if for any reason the Pima County Board of Supervisors or the Tohono O'odham Legislative Council does not appropriate sufficient monies for the purpose of maintaining this IGA. In the event of such cancellation, the Parties will have no further obligations under this IGA other than for payment for services rendered prior to cancellation.

XII. Public Records

Pursuant to A.R.S. § 39-121 et seq., this IGA and all documents submitted to the County are public records. As such, those documents are subject to release and/or review by the general public upon request. Except as set forth above, if the Nation reasonably believes that any of the documents submitted to the County contain proprietary, trade-secret or otherwise-confidential information, the Nation must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to the County for records marked "CONFIDENTIAL," or otherwise designated confidential, the County will notify the Nation of the request as soon as reasonably possible. The County will release the records 10 business days after the date of that notice, unless the Nation has, within that period, secured an appropriate order from a court of competent

jurisdiction, enjoining the release of the records. The County will not, under any circumstances, be responsible for securing such an order, nor will the County be in any way financially responsible for any costs associated with securing such an order.

XIII. Worker's Compensation

As applicable, each Party will comply with the notice requirements of A.R.S. § 23-1022 (E). For purposes of A.R.S. § 23-1022, irrespective of the operations protocol in place, each Party is solely responsible for the payment of Worker's Compensation benefits for its employees.

XIV. Severability

If any provision of this IGA, or any application thereof to the Parties or any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this IGA which can be given effect without the invalid provision or application, and, to this end, the provisions of this IGA are declared to be severable.

XV. Conflict of Interest

This IGA is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated by reference.

XVI. No Joint Venture

It is not intended by this IGA to, and nothing contained in this IGA shall be construed to, create any partnership, joint venture or employment relationship between the Parties or create any employer-employee relationship between one Party's employees and the other Party hereunder. No 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.

XVII. No Third-Party Beneficiaries

Nothing in this IGA is intended to create duties or obligations to or rights in third parties not parties to this IGA or affect the legal liability of either Party to the IGA by imposing any standard of care

with respect to the maintenance of public facilities different from the standard of care imposed by law.

XVIII. Notice

Any notice required or permitted to be given under this IGA must be in writing and served by delivery or by certified mail upon the other Party as follows (or at such other address as may be identified by a party in writing to the other party):

County:

Pima County Attorney
Attn: Chief Civil Deputy Attorney
32 N. Stone Ave. #1900
Tucson, AZ 85701

Nation:

Chief Prosecutor
Office of the Prosecutor
Tohono O'odham Nation
P.O. Box 837
Sells, AZ 85634

XIX. Sovereign Immunity

Nothing in this IGA shall be construed as an express or implied waiver of the sovereign immunity of any party in any forum or jurisdiction.

XX. Legal Authority

Neither Party warrants to the other its legal authority to enter into this IGA. If a court, at the request of a third person, should declare that either Party lacks authority to enter into this IGA, or any part of it, then the IGA, or parts of it affected by such order, will be null and void, and no recovery may be had by either Party against the other for lack of performance or otherwise

XXI. Entire Agreement

This document constitutes the entire agreement between the County and the Nation pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein.

XXII. Effective Date

This IGA will become effective when all Parties have signed it. The effective date of the IGA will be the date this IGA is signed by the last Party (as indicated by the date associated with that Party's signature).

IN WITNESS WHEREOF, each Party has caused this IGA to be executed by a representative of its governing body, and attested by its clerk, upon resolution of its governing body.

TOHONO O'ODHAM NATION

 05/05/2023

Ned Norris, Jr., Chairman Date

 05/03/2023

Kelly Daranyi, Chief Prosecutor Date

PIMA COUNTY:

ATTEST:

Adelita Grijalva Date
Chair, Board of Supervisors

Melissa Manriquez Date
Clerk of the Board

 8/16/23

Laura Conover Date
Pima County Attorney

Intergovernmental Agreement Determination

The foregoing Intergovernmental Agreement has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Intergovernmental Agreement represented by the undersigned.

TOHONO O'ODHAM NATION



Howard Shanker, Attorney General

PIMA COUNTY



Bobby Yu, Deputy County Attorney