

Contract Number: CT-CD-14-225
Effective Date : 12-17-13
Term Date : 2-31-14
Cost : \$18,833.88
Revenue : _____
Total : _____ NTE: _____
Action
Renewal By : 5-1-14
Term : 7-31-14
Reviewed by: [Signature]

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: December 17, 2013

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

Authorization of contract CT-CD 1400000000000000225 between Avra Water Co-op, Inc. and Pima County Community Development and Neighborhood Conservation Department (CDNC) to approve the Contract award of \$18,833.88 for Drain Valve Assemblies Replacement expenses covered by the grant made available from the Tohono O'odham Nation Grant-in-Aid funds.

CONTRACT NUMBER (If applicable):

STAFF RECOMMENDATION(S):

Staff recommends approval by the Board of Supervisors

Procure Dept 11/27/13 AM 10:03

CORPORATE HEADQUARTERS: Tucson, Arizona

Page 1 of 2

Ver. 1

Vendor. 1

Pgs. 6

To: COB - 12-4-13
Agenda - 12-17-13
(3)

CLERK OF BOARD USE ONLY: BOS MTG. _____

ITEM NO. _____

PIMA COUNTY COST: 18,833.88 and/or REVENUE TO PIMA COUNTY: \$

FUNDING SOURCE(S): Tohono O'odham Nation Grant-in-Aid
(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

| | | | | |
|--|--|-----|---|----|
| | | YES | X | NO |
|--|--|-----|---|----|

Board of Supervisors District:

| | | | | | | | | | | | |
|---|--|---|--|---|--|---|--|---|--|-----|----|
| 1 | | 2 | | 3 | | 4 | | 5 | | All | XX |
|---|--|---|--|---|--|---|--|---|--|-----|----|

IMPACT:

IF APPROVED:

County shall authorize contract CT-CD 1400000000000000225 between Avra Water Co-op, Inc. and Pima County Community Development and Neighborhood Conservation Department (CDNC) to approve the Contract award of \$18,833.88.

IF DENIED:

County shall not authorize contract CT-CD 1400000000000000225 between Avra Water Co-op, Inc. and Pima County Community Development and Neighborhood Conservation Department (CDNC) to approve the Contract award of \$18,833.88.

DEPARTMENT NAME: Community Development and Neighborhood Conservation

CONTACT PERSON: Leslie Nixon TELEPHONE NO.: 243-6769

**Grant-in-Aid
Indian Gaming Revenue Funding Agreement
between
Pima County
And
Avra Water Co-op, Inc.**

| |
|---|
| CONTRACT |
| NO. <u>CT-CD-1400000 00000 00000 225</u> |
| AMENDMENT NO. _____ |
| <small>This number must appear on all invoices, correspondence and documents pertaining to this contract.</small> |

THIS Grant-in-Aid Indian Gaming Revenue Funding Agreement, ("Grant") is entered into as of _____, by and between Pima County, a political subdivision of the State of Arizona ("Pima County"), and Avra Water Co-op, Inc., a nonprofit corporation in the State of Arizona ("Grantee").

RECITALS

- A. Pursuant to A.R.S. §§ 11-254.04, 11-251(5) and 11-251(17), Pima County may appropriate and spend public monies for and in connection with activities that the Pima County Board of Supervisors finds and determines will assist in the improvement or enhancement of the economic welfare and health of Pima County inhabitants.
- B. Pursuant to A.R.S. § 5-601.02(H)(4), the Tohono O'odham Nation provided certain funds to Pima County to be used for services that benefit the general public and has designated Grantee to receive those funds distributed pursuant to this grant agreement to provide services to the public.
- C. Grantee is recognized as exempt from federal income tax. Grantee's Federal Identification Number is 86-0339046.
- D. Grantee is an organization that promotes community health and development and economic welfare.

Now, therefore, in consideration of the mutual promises contained herein, the parties agree as follows:

PROVISIONS

- 1. Purpose. The purpose of this Agreement is to set forth the rights and responsibilities of the parties with respect to the payment and distribution of the Contribution, which is a payment from the Tohono O'odham Nation to Pima County in the amount described in Exhibit "A." Neither Pima County nor Grantee may change the scope of the project or use the funds for a project other than that described in Exhibit "A" without the written consent of the Tohono O'odham Nation which may be issued in the form of a Resolution approving modifications to this Grant.
- 2. Disbursement of Contribution. In accordance with Pima County's policies and procedures, and as quickly as feasible after receipt of the Contribution payment from the Nation but no later than January 1, 2014, Pima County shall distribute the Contribution payment to Grantee.

3. Fees. Pima County shall not charge Grantee and shall waive any applicable administrative or other fees related to this Grant and shall not deduct any funds from the amount designated for contribution to the Grantee.
4. Dispute Resolution. The parties mutually agree that any disputes arising between them pursuant to this Grant shall be resolved through informal dispute resolution. In the event of a dispute, both Grantee and Pima County must notify the Nation within five business days. All disputes that cannot be resolved through informal dispute resolution shall be brought in a court of the State of Arizona in Pima County.
5. Reports. No later than July 15, 2014, Grantee shall provide a report to Pima County explaining how and when the funds provided under this Grant were used. This report may be in the form of an affidavit signed by an officer of Grantee and may be accompanied by supporting documentation. The report shall address changes in the scope of the project, purchases funded under this Grant, the total expenses under the project, a brief description of who has benefited from this Grant and Grantee's future plans with regard to the project and purchases made under this Grant.
6. Notices. Any notice, consent or other communication required or permitted under this Grant shall be in writing and shall be deemed received at the time it is personally delivered, on the day it is sent by facsimile transmission or electronic mail, on the second day after its deposit with any commercial air courier or express service, or if mailed, three (3) days after the notice is deposited in the United States mail. Addressed as follows:

If to Pima County: Margaret Kish, Director
Pima County Community Development
2797 E. Ajo Way
Tucson, Arizona 85713
Margaret.Kish@pima.gov
Fax: 520-243-6796

If to Grantee: Chris E. Ward, General Manager
Avra Water Co-op, Inc.
11821 West Picture Rocks Road
Tucson, Arizona 85743
chrisward@avrawater.com
FAX: 520-682-8933

Any period of time stated in a notice shall be computed from the time the notice is deemed received. Either party may change its mailing address or the person to receive notice by notifying the other parties as provided in this paragraph.

7. Term of Grant. The term of this Grant shall begin on the date of execution by all parties, and shall terminate on July 31, 2014, unless sooner terminated or extended pursuant to a written amendment signed by the Parties.
8. No Waiver. Except as otherwise expressly provided in this Grant, any failure or delay by any party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of

any such rights or remedies, or deprive any such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

9. Severability. If any provision of this Grant shall be found invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Grant shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.
10. Compliance with Laws. Grantee shall comply with all Federal, State, and Local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Grant. Any changes in the governing laws, rules and regulations during the terms of this Grant shall apply, but do not require an amendment.
11. Legal Arizona Workers Act Compliance. Grantee hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Grantee's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Grantee shall further ensure that each subcontractor who performs any work for Grantee under this contract likewise complies with the State and Federal Immigration Laws.
12. Independent Contractor. The status of the Grantee shall be that of an independent contractor. Neither Grantee, nor Grantee's officers, agents or employees shall be considered an employee of Pima County or be entitled to receive any employment-related fringe benefits under the Pima County Merit System. Grantee shall be responsible for payment of all federal, state and local taxes associated with the compensation received pursuant to this Grant and shall indemnify and hold Pima County harmless from any and all liability which Pima County may incur because of Grantee's failure to pay such taxes. Grantee shall be solely responsible for Program development and operation.
13. Subcontractor. Grantee will be fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor and of persons for whose acts any of them may be liable to the same extent that the Grantee is responsible for the acts and omissions for persons directly employed by it. Nothing in this Grant shall create any obligations on the part of Pima County to pay or see to the payment of any money due any subcontractor, except as may be required by law.
14. Assignment. Grantee shall not assign its rights to this Grant, in whole or in part, without prior written approval of Pima County. Approval may be withheld at the sole discretion of Pima County, provided that such approval shall not be unreasonably withheld.
15. Nondiscrimination. Grantee agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 **including flow down of all provisions and requirements to any subcontractors.** Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 and may be viewed and downloaded at the Governor of the State of Arizona's website http://www.azgovernor.gov/dms/upload/EO_2009_09.pdf which is hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, Grantee shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

16. Americans with Disabilities Act. Grantee shall comply with 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.
17. Authority to Contract. Grantee warrants its right and power to enter into this Grant. If any court or administrative agency determines that Pima County does not have authority to enter into this Grant, Pima County shall not be liable to Grantee or any third party by reason of such determination or by reason of this Grant.
18. Cancellation for Conflict of Interest. This Grant is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Grant by reference.
19. Indemnification. Grantee shall indemnify, defend, and hold harmless Pima County, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any act, omission, fault or negligence by the Grantee, its agents, employees or anyone under its direction or control or on its behalf in connection with performance of this Grant.
20. Remedies. Either of the parties may pursue any remedies provided by law for the breach of this Grant. 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 at equity or by virtue of this Grant.
21. Public Information. Pursuant to A.R.S. § 39-121 *et seq.*, all information submitted to County for purposes of obtaining this Grant is public information and upon request, is subject to release and/ or review by the general public. Pima County shall not, under any circumstances be responsible for securing a protective order or other relief enjoining the release of records of Grantee, nor shall Pima County be in any way financially responsible for any costs associated with securing such an order.
22. Non-Appropriation Notwithstanding any other provision in this Agreement, this Agreement may be terminated if for any reason there are not sufficient appropriated and available monies for the purpose of maintaining Pima County or other public entity obligations under this Agreement. In the event of such termination, Pima County shall have no further obligation to Grantee, other than for services rendered prior to termination.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

23. Entire Agreement This document 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. This Agreement may be modified, amended, altered or extended only by a written amendment signed by the parties.

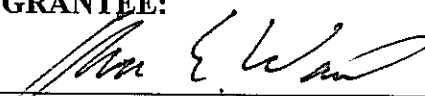
IN WITNESS THEREOF, the parties have affixed their signatures to this Agreement on the date written below.

PIMA COUNTY:

Chairman, Board of Supervisors

Date: _____

GRANTEE:




Chris E. Ward, General Manager
Avra Water Co-op, Inc.

Date: 11-1-13

ATTEST:

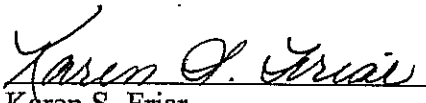
Clerk of the Board Date

Approved as to content:



Margaret Kish, Department Head

Approved as to form:



Karen S. Friar
Deputy County Attorney

EXHIBIT "A"

| <u>Program</u> | <u>Contribution</u> |
|--|-----------------------------|
| Avra Water Co-op, Inc. Drain Valve Assemblies Replacement | \$18,833.88 |
| | TOTAL \$18,833.88 |