



BOARD OF SUPERVISORS AGENDA ITEM REPORT AWARDS / CONTRACTS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: May 3, 2022

* = Mandatory, information must be provided

or Procurement Director Award: ☐

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

Southern New Hampshire University

***Project Title/Description:**

Fifth Amendment -Lease Termination 97 E. Congress St.

***Purpose:**

To terminate Lease agreement with Southern New Hampshire University ("SNHU") for 97 E. Congress St and accept one-time, upfront payment of a Termination Fee of \$900,000.00. SNHU entered into a lease just prior to COVID-19 pandemic. Over the course of the last two years, SNHU was required to re-evaluate its work model and ultimately, after surveying its workforce in Tucson and Manchester, NH, made the decision to adopt a remote work model going forward. An early termination clause, which was in place in case SNHU outgrew the facility, obligates them for base rent and parking through August 31, 2024. Although the pandemic altered their work model, SNHU wishes to honor its agreement with the County by providing Termination Fee.

***Procurement Method:**

Exempt per section 11.04.020

***Program Goals/Predicted Outcomes:**

Terminate SHNU Lease on May 31, 2022 and accept one-time, upfront payment of \$900,000.00 as a Termination Fee. Facilitate a smooth transition for County workforce to nearby location during building renovations. Realize cost savings related to FF&E, IT infrastructure and security modification associated with renovation project.

***Public Benefit:**

Mitigate loss of lease/parking revenue to County from impact of COVID-19 pandemic. Provide temporary space at 97 E. Congress to house a portion of County's workforce during renovation project so County can continue to provide all services to the public in an efficient and cost effective manner. County saves additional funds related to move by reducing the number of locations, and will no longer need to build a separate data closet to accommodate telecommunications and install security modifications.

***Metrics Available to Measure Performance:**

Mitigation of loss of lease/parking revenue related to COVID-19 pandemic. County saves additional funds related to move by reducing the number of locations, and will no longer need to build a separate data closet to accommodate telecommunication or install security modifications.

***Retroactive:**

No.

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TO: COB 4-27-22
vers: 6
pgs: 3
ADDENDUM

04-27 '22 PM03:56

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: _____ Department Code: _____ Contract Number (i.e., 15-123): _____
 Commencement Date: _____ Termination Date: _____ Prior Contract Number (Synergen/CMS): _____
☐ Expense Amount \$ _____ * ☐ Revenue Amount: \$ _____

***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: CTN Department Code: FM Contract Number (i.e., 15-123): 20-032
 Amendment No.: 5 AMS Version No.: 6
 Commencement Date: 5/3/2022 New Termination Date: 5/31/2022
 Prior Contract No. (Synergen/CMS): _____

☐ Expense ☒ Revenue ☐ Increase ☒ Decrease

Amount This Amendment: \$ (5,000,947.33)

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: Kevin Button

Department: Facilities Management

Telephone: 520-724-8230

Department Director Signature: 

Date: 4/27/2022

Deputy County Administrator Signature: 

Date: _____

County Administrator Signature: _____

Date: 4/27/2022

PIMA COUNTY DEPARTMENT OF FACILITIES MANAGEMENT

Project: Fifth Amendment –Lease Termination 97 E. Congress St.

Tenant: Southern New Hampshire University

Lease Contract No.: CTN-FM-20-032

Lease Amendment No.: Five (5)

ORIGINAL LEASE TERM:	08/19/2019 to 08/31/2029	ORIG. LEASE AMOUNT:	\$ 9,630,898.69
TERMINATION DATE PRIOR AMENDMENT:	08/31/2029	PRIOR AMENDMENTS:	\$ (767,282.39)
TERMINATION THIS AMENDMENT	5/31/2022	AMOUNT THIS AMEND.:	\$ (5,000,947.33)
		REVISED LEASE AMOUNT:	\$ 3,862,668.97

**FIFTH AMENDMENT
LEASE TERMINATION**

1. Background and Purpose.

- 1.1. Pima County, a political subdivision of the State of Arizona (“**County**”) owns a building (the “**Building**”) located at 97 E. Congress Street, Tucson Arizona, which contains approximately 44,341 gross square feet of interior space as well as an exterior landscaped courtyard area (the “**Premises**”).
- 1.2. County previously entered into a lease agreement (“**Lease**”), with an effective date of August 19, 2019, leasing the Premises to Southern New Hampshire University (“**SNHU**”), a New Hampshire non-profit Corporation.
- 1.3. With the First Amendment, fully executed on November 19, 2019, County and SNHU (“**Parties**”) amended the Lease allowing for Pima County Facilities Management Department (“**FM**”) staff to contract for and oversee the certain improvements allowed under Section 4 of the Lease, with reimbursement from SNHU.
- 1.4. With the Second Amendment, fully executed on February 4, 2020, Parties amended the Lease to increase HVAC hours, modify rental rate accordingly and add a section related to “Alarm Monitoring Service and Notification”.
- 1.5. With the Third Amendment, fully executed on September 21, 2021, the Parties revised the terms described in Section 6 of the Lease, and effectively reduced the number of parking spaces allocated to SNHU in the Scott Avenue Garage from 230 to 150 spaces.
- 1.6. With the Fourth Amendment, fully executed on April 19, 2022, SNHU temporarily reduced its on-premises workforce and vacated floors 2 and 3 to accommodate County’s needs during a building renovation project. SNHU had a reduced need for on-premise space due to the impact of the Covid-19 pandemic and could accommodate County’s needs. Additionally, County agreed to reduce the HVAC hours previously increased by the Second Amendment

and further reduce the number of parking spaces allocated to SHNU in the Scott Avenue Garage from 150 to 75 spaces.

- 1.7. The Third and Fourth Amendments were made in response to the Covid-19 pandemic, which forced SNHU to reevaluate its business model and pivot from on-premises to remote work.
- 1.8. Due to the continued impact of the Covid-19 pandemic and associated shift in workforce needs and patterns, SNHU now wishes to terminate the Lease.

Therefore, in consideration of covenants and agreements hereafter set forth, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

2. **Lease Termination.** County and SNHU hereby agree that the Lease will be deemed for all purposes, other than payment as provided below, to terminate on May 31, 2022 (the “**Termination Date**”).
3. **Lease Termination Fee.** In consideration for SNHU being relieved of all of its obligations under the Lease from and after Termination Date, SNHU agrees to pay County the lump sum of \$900,000.00 (the “**Termination Fee**”).
4. **Payment of Termination Fee.** SNHU will make Termination Fee payment on or before May 31, 2022, to Pima County Government, Finance-Revenue Management Division, 33 N. Stone, 6th Floor, Mail Stop DT-BAB6-404, Tucson, Arizona 85701.
5. **Surrender of the Premises.** County and SNHU will conduct a final walk-through no later than May 31, 2022. If Premises are returned in satisfactory condition in accordance with the Lease, County will provide SNHU a letter from FM Director, or their designee, confirming the condition and acceptance of the Premises. Parties agree that SHNU will have no further right of possession, and County may use, modify and lease the Premises as it may see fit, after the Termination Date.
 - 5.1. **Keys/Security.** On or before May 31, 2022, SNHU will provide any relevant keys, access and security information for the Premises to County.
 - 5.2. **Furniture, Fixture, and Equipment.** On the Termination Date, SNHU agrees to transfer and convey the all furniture, fixtures and equipment remaining within the premises to County. After the Termination Date, County may, following five-days’ notice to SNHU, without payment of any compensation to SHNU, sell, destroy or dispose of any personal property or equipment left or abandoned in or on the Premises after SNHU vacates, with no liability to County or SNHU.
6. **Mutual Release.** Upon SHNU satisfying the obligations set forth in the Lease, as amended, County releases, discharges and waives any claims, known or unknown, against SNHU, its successors, assigns, officers or directors, arising out of, or in any way connected with, the Lease, and SNHU releases, discharges and waives any claims, known or unknown, against County, its successors, assigns, officers or directors, arising out of, or in any way connected with, the Lease.

7. **Remaining Lease Terms Unchanged.** All other terms and conditions of the Lease not specifically modified by this Fifth Amendment will remain in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment on the day, month and year written below.

LANDLORD:

PIMA COUNTY, a political subdivision of
the State of Arizona

By: _____

Date: _____

TENANT:

SOUTHERN NEW HAMPSHIRE UNIVERSITY,
New Hampshire nonprofit corporation

By: _____

Date: _____

ATTEST:

By: _____

Melissa Manriquez, Clerk of the Board of Supervisors

Date: _____

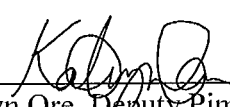
APPROVED AS TO CONTENT:

By: _____

Lisa Josker, Director, Facilities Management Department

Date:  _____

APPROVED AS TO FORM:

By:  _____

Kathryn Ore, Deputy Pima County Attorney

Date: 04/25/2022