



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

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: 12/4/2018

** = Mandatory, information must be provided*

or Procurement Director Award ☐

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

Arizona Secretary of State

***Project Title/Description:**

IGA with SOS re statewide VR system

***Purpose:**

to provide for maintenance and support for statewide voter registration database

***Procurement Method:**

This IGA is a non-Procurement contract and not subject to Procurement rules.

***Program Goals/Predicted Outcomes:**

continued maintenance of statewide voter registration database

***Public Benefit:**

accurate and available voter registration database

***Metrics Available to Measure Performance:**

Information regarding Pima County voters will be uploaded as mandated by Federal law to the statewide voter registration database

***Retroactive:**

Yes to July 1, 2018. Recorder has been working with the Arizona Secretary of State to finalize this agreement.

*To: BOB 11-20-18
rev. - 1
PJS - 7
(3)*

Contract / Award Information

Document Type: CT Department Code: RE Contract Number (i.e., 15-123): 19*256
Effective Date: 7/1/2018 Termination Date: 6/30/2019 Prior Contract Number (Synergen/CMS): _____
☒ **Expense Amount: \$*** 58,974.87 ☐ Revenue Amount: \$ _____

***Funding Source(s) required:** General Fund

Funding from General Fund? ☒ Yes ☐ No If Yes \$ 58,974.87 % _____

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 22-73.

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: Pamela Franklin

Department: Recorder Telephone: 520-724-4356

Department Director Signature/Date: [Signature] 11-19-18

Deputy County Administrator Signature/Date: _____

County Administrator Signature/Date: [Signature] 11/19/18
(Required for Board Agenda/Addendum Items)

KR18-1860

**Intergovernmental Agreement
between
Pima County and the Office of the Secretary of State
for
Voter Registration Services and Support**

This Intergovernmental Agreement ("IGA") is entered into by and between Pima County, a body politic and corporate of the State of Arizona ("County"), on behalf of the Pima County Recorder ("Recorder") and the Office of the Secretary of State ("Secretary") pursuant to A.R.S. § 11-952.

Recitals

- A. County and Secretary may contract for services and enter into agreements with one another for joint or cooperative action pursuant to A.R.S. § 11-951, *et seq.*
- B. Secretary is required by A.R.S. § 16-168(J) to maintain and administer a statewide voter registration database.
- C. Recorder is required by A.R.S. § 16-168(J) to electronically transmit voter registration data for inclusion in the statewide voter registration database and is authorized to access voter registration data from the statewide voter registration database.
- D. Both the Secretary and the Recorder have a duty towards the continued existence and maintenance of the statewide database of voter registration information required by A.R.S. § 16-168(J). The authorizing statutes and duties allow for the Secretary and the County to enter into a cooperative agreement for the purpose of compliance with A.R.S. § 16-168(J), the National Voter Registration Act, codified at 52 U.S.C. § 20503 *et seq.*, and the Help America Vote Act, codified at 52 U.S.C. § 20901 *et seq.* Additionally, the Secretary and the Recorder are jointly responsible for protecting access to the voter registration information that is contained in the database. A.R.S. § 16-168(I).

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

Agreement

- 1. **Purpose.** Given the Secretary's and the Recorder's joint duties with respect to the statewide voter registration information database, Recorder and Secretary desire to cooperate on using software and software maintenance services for the statewide voter registration database.

The purpose of this IGA is to support an agreement that Secretary entered into with Election Services & Software, Inc. ("ES&S") dated July 1, 2017 for software and software maintenance services for the statewide voter registration database ("ES&S Agreement"). A copy of the ES&S Agreement is attached as Exhibit One.

2. **Future Agreements.** The Secretary and County agree and acknowledge that Secretary has awarded a new contract with Sutherland Government Solutions, Inc that will replace the current ES&S contract. Secretary and County intend that the Recorder have the opportunity to access any such replacement software in substantially the same manner as the Recorder now accesses that software provided for in the ES&S Agreements.
3. **Financing.** Secretary and County have mutually determined that County's fair share of all costs associated with the ES&S Agreements is \$58,974.87 for services rendered in fiscal year 2019. Payment will be rendered once County receives an invoice from Secretary.
4. **Term.** The term of this IGA is from July 1, 2018 through June 30, 2019. This IGA will be effective on the date it is fully executed by both parties and will continue until June 30, 2019, unless it is, prior to the expiration of such period, extended or terminated by agreement of the parties.
5. **Disposal of Property.** Upon the termination of this IGA, all property involved will revert back to the owner. Termination will not relieve any party from liabilities or costs already incurred under this IGA, nor affect any ownership of property pursuant to this IGA.
6. **Indemnification.** Each party (as Indemnitor) agrees to indemnify, defend, and hold harmless the other party (as Indemnitee) from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") for bodily injury of any person (including death) or property damage, but only to the extent that such injury or damage is caused or alleged to be caused by a negligent or intentionally wrongful act or omission of the Indemnitor, or of any of its officers, officials, agents, employees, or volunteers.
7. **Insurance.** All parties to this agreement are government entities. Neither entity is required to procure special insurance coverage for their obligations under this IGA.
8. **Compliance with Laws.** The parties will comply with all federal, state and local laws, rules, regulations, standards, and Executive Orders. The laws and

regulations of the State of Arizona will govern the rights of the parties, the performance of this IGA, and any disputes. Any action relating to this IGA will be brought in a court in Maricopa County.

9. **Non-Discrimination.** The parties will 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 in the course of carrying out their duties under this IGA. The parties will comply with the provisions of Executive Order 75-5, as amended by Executive Order 2009-09, which is incorporated into this IGA by reference.
10. **ADA.** The parties will 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 C.F.R. Parts 35 and 36.
11. **Severability.** If any provision of this IGA, or any application of a provision to the parties or any person or circumstance, is found by a court to be invalid, that invalidity will not affect other provisions or applications of this IGA that can be given effect without the invalid provision or application.
12. **Conflict of Interest.** This contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated herein by reference.
13. **Non-Appropriation.** Notwithstanding any other provision in this IGA, every payment obligation of the parties under this Agreement is conditioned upon the availability of funds appropriated and allocated for the payment of such obligation. If funds are not appropriated, allocated and available or if the appropriation is changed by the appropriating body resulting in funds no longer being available for the continuance of this Agreement, this Agreement may be terminated by the affected party or any other affected agency of the County or State at the end of the period for which funds are available. No liability shall accrue to the affected party or any other affected agency of the County or State in the event this provision is exercised, and neither the affected party nor any other affected agency of the County or State shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
14. **Compliance requirements for A.R.S. § 41-4401—immigration laws and E-Verify requirement.**

- a. The parties warrant compliance with all Federal immigration laws and regulations relating to employees and warrant their compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads in part: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the e-verify program.")
 - b. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the party may be subject to penalties up to and including termination of the Agreement.
 - c. The parties retain the legal right to inspect the papers of any employee who works on the Agreement to ensure that the parties or any subcontractor is complying with the warranty.
15. **Worker's Compensation.** Each party will comply with the notice 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.
16. **No Joint Venture.** It is not intended by this IGA to, and nothing contained in this IGA will be construed to, create any partnership, joint venture, or employment relationship between the parties or create any employer-employee relationship between a party and the employees of the other party. Neither party will 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.
17. **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.
18. **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) :

SOS ESS IGA Pima County
FY19 Payment

County:

F. Ann Rodriguez
Pima County Recorder
240 N. Stone Avenue
Tucson, AZ 85701
Phone: 520-724-4356
Fax: 520-623-1785

Secretary:

Honorable Michele Reagan
Secretary of State
1700 West Washington Street
Floor 7
Phoenix AZ 85007-2808
Phone: (602) 542-4285

With copies to:

County Administrator

Chuck Huckelberry
130 W. Congress
10th Floor
Tucson, AZ 85701

Clerk of the Board

Julie Castañeda
130 W. Congress
5th Floor
Tucson, AZ 85701

19. Arbitration. The parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.

20. Entire Agreement. This document, and any exhibits attached to it, constitutes the entire agreement between the parties pertaining to the subject matter addressed, and all prior or contemporaneous agreements and understandings, oral or written, are superseded and merged into this IGA. This IGA may not be modified, amended, altered, or extended except through a written amendment signed by the parties.

THIS AGREEMENT MAY BE SIGNED IN COUNTERPARTS

IN WITNESS WHEREOF, the parties execute this Agreement:

Pima COUNTY BOARD OF SUPERVISORS

OFFICE OF THE SECRETARY OF STATE

Richard Elias, Chair

Michele Reagan, Secretary of State

Date

Date

ATTEST:

Julie Castañeda, Clerk of the Board of Supervisors

Date

APPROVED AS TO CONTENT:

 11-19-18

F. Ann Rodriguez, Pima County Recorder

The foregoing Intergovernmental Agreement between the Office of the Secretary of State, Pima County and the Pima County Recorder has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, who have determined that it is in the 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 their respective legal counsel.

On behalf of the Pima County Board of Supervisors and Pima County Recorder



Daniel Jurkowitz, Deputy County Attorney

On behalf of the Arizona Secretary of State (see attached approval as to form)



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
STATE GOVERNMENT DIVISION
AGENCY COUNSEL SECTION

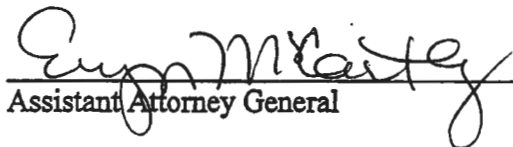
INTERGOVERNMENTAL AGREEMENT DETERMINATION

KR18-1860

Attorney General Contract No. _____ which is an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General, who has determined that it is in the proper form and is within the powers granted under the laws of the State of Arizona to those Parties to the Agreement represented by the Attorney General.

Dated this 31st day of October, 2018

MARK BRNOVICH
ATTORNEY GENERAL


Assistant Attorney General