



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

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: 5/7/2019

\* = Mandatory, information must be provided

or Procurement Director Award ☐

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

City of Tucson

**\*Project Title/Description:**

IGA with the City of Tucson

**\*Purpose:**

election services for the City of Tucson for the Primary Election on August 27, 2019

**\*Procurement Method:**

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

**\*Program Goals/Predicted Outcomes:**

successful completion of the City of Tucson Primary election as authorized by ARS 11-251(3), 16-172, 16-205 (C), 16-405, 16-450 and 16-409

**\*Public Benefit:**

elections completed

**\*Metrics Available to Measure Performance:**

The Recorder's office will provide signature verification services for all ballot by mail ballots as requested.

**\*Retroactive:**

Yes - multiple drafts due to changes needed in IGA

To: CoB. 4-19-19  
Ver. - 1  
pgs 9  
(3)

**Contract / Award Information**

Document Type: CTN Department Code: RE Contract Number (i.e., 15-123): 19-161  
Effective Date: 4/30/19 Termination Date: 12/31/19 Prior Contract Number (Synergen/CMS): \_\_\_\_\_  
☐ Expense Amount: \$\* \_\_\_\_\_ ☒ Revenue Amount: \$ 90,000.00

**\*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 22-73.*

**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] 4-17-19

Deputy County Administrator Signature/Date: \_\_\_\_\_

County Administrator Signature/Date: [Signature] 4/18/19

(Required for Board Agenda/Addendum Items)

**Pima County Department : Recorder**

**Project: 2019 Primary Election Services with City of Tucson**

**Contractor: City of Tucson**  
**Roger Randolph, City Clerk**  
**255 W. Alameda**  
**Tucson, AZ 85701**

**Amount: \$90,000.00 (estimated revenue)**

**Contract No.: CTN-RE-19\*161**

**Funding: N/A**

## **INTERGOVERNMENTAL AGREEMENT**

**For Election Services**  
**Between The City of Tucson and Pima County**

This Intergovernmental Agreement (IGA) is by and between THE CITY OF TUCSON OF PIMA COUNTY, ARIZONA, a municipal subdivision of the State of Arizona ("the CITY") and PIMA COUNTY, a political subdivision of the State of Arizona ("the County"), on behalf of the PIMA COUNTY RECORDER ("the Recorder").

### **RECITALS**

1. The City, pursuant to its charter and A.R.S. §§ 9-231(A) and 16-409, will prepare for and conduct one election to be held on August 27, 2019. The primary election will be for mayor and council members.
2. A.R.S. §§ 11-251(3), 16-172, 16-205(C), 16-405 *et seq.*, and 16-450, and authorize the County to perform services for any political subdivision regarding elections.
3. A.R.S. § 16-172 authorizes any political subdivision conducting elections to utilize the County registration rolls upon reimbursement to the Recorder for actual expenses in furnishing voter registration data to the subdivision.
4. A.R.S. § 16-409 permits cities and school districts to conduct mail ballot elections.
5. The parties are authorized to enter into an intergovernmental agreement pursuant to A.R.S. §§ 11-952 *et seq.* and 16-205(C).
6. The CITY desires to utilize the Pima County registration rolls and other election-related services provided by the Recorder for the election to be held on August 27, 2019 for a citywide primary election for mayor and council members.
7. The CITY, the County and the Recorder have determined that it is in the best interest of the public for the CITY to use the services of the Recorder in conducting the election called for August 27, 2019.

**NOW, THEREFORE, the parties hereto agree as follows:**

The purpose of this IGA is to set forth the duties and responsibilities of the Recorder and the CITY with respect to the August 27, 2019 elections to be held by the CITY of Tucson.

## **ARTICLE I - TERM AND EXTENSION/RENEWAL/CHANGES**

- A. The term of this IGA shall be from April 30, 2019 through completion of all obligations and activities associated with the August 27, 2019 election contemplated by this IGA, provided that the term shall continue through final resolution of any legal challenge to the election. Any modifications or time extension of this IGA shall be by formal written amendment and executed by the parties.
- B. Amendments to the Agreement must be approved by the Board of Supervisors as required by the Pima County Procurement code, before any work or deliveries under the Amendment commences.

## **ARTICLE II – SCOPE OF SERVICES**

The CITY will have a primary election for mayor and council members on the ballot for voters in the CITY limits on August 27, 2019. The election will be conducted as a Ballot By Mail election and is a partisan primary election. This Agreement establishes the agreement under which the County will provide the CITY with Election services in accordance with the following:

### **A. County Recorder Services:** The Recorder shall:

- (1) Provide city-wide voter registration data files identifying all registered City of Tucson voters, including both active and inactive status, on the following dates:
  - a. April 29 cut-off – CITY to receive data electronically by May 3<sup>rd</sup>.
  - b. June 28 cut-off – CITY to receive data electronically by July 3<sup>rd</sup>.
  - c. July 29 cut-off – CITY to receive data electronically by August 5<sup>th</sup>.
- (2) Run the active voter registration records through the NCOA process prior to providing the April 29<sup>th</sup> data. A separate list will be provided of all CITY voters who were identified as moved by the NCOA process. The process will be repeated prior to the delivery of the June 28 cut off data.
- (3) Electronically transmit ballots to qualified Military and Overseas voters who are either members of a party with ballot status or who have selected a partisan ballot using the voter's preferred method of transmission including fax or email. Military and overseas ballots will be electronically transmitted no later than Saturday, July 13, 2019 provided the PDF versions of the ballots have been received from the CITY by the Recorder no later than July 8, 2019. The target date for transmission of the ballots is July 12, 2019.
- (4) Mail ballots to any eligible City of Tucson voter who is a participant in the Arizona Confidential Address Program and who is either registered with a political party with ballot status or who has designated a party for the election. These ballots will be mailed on July 31, 2019 as long as the PDF versions of the ballots have been received from the CITY by the Recorder no later than 3 days prior to that deadline. The Recorder will provide a list of ACP voters who were mailed ballots but the list will only include the voter's name and the party ballot mailed and will not include any address or precinct information.
- (5) Provide a list of Military and Overseas voters who were electronically sent ballots immediately following the transmission. Continue to transmit ballots electronically to any qualified Military and Overseas voter eligible to vote in the City of Tucson primary election up to 7:00 p.m. on Election Day.

- (6) Provide signature verification for all voted, returned ballots. Recorder will provide an inventory control report/turnover report for all ballots after completion of signature verification and prior to the ballots leaving the Recorder's Early Ballot Processing Center.
- (7) For all ballot affidavits where the Recorder's staff is unable to confirm a signature (hereafter referred to as "problem ballots") Recorder staff will follow their usual procedures to contact the voter to try to confirm the signature. Recorder will provide copies of the affidavit and the problem ballot control form to the CITY each day. If the tracking form is updated, an updated copy will be provided to the CITY. Recorder will maintain control of the problem ballots until they are resolved or the ballot disqualified.
- (8) Upon receipt of a voted ballot received electronically from a military or overseas voter, the electronic ballot will be printed on regular paper and immediately be sealed in a City ballot affidavit envelope. The electronically received signed affidavit will be taped to the outside of the envelope. The Recorder's staff will conduct signature verification on the signed affidavit in the same fashion as any other voted mailed ballot. Once the signature has been verified, the electronic ballot will be transferred to the City Clerk with the next batch of mailed ballots processed by the Recorder. To the extent possible, the Recorder's Office will provide a separate turnover inventory report listing the military and overseas ballots received electronically.
- (9) Conduct signature verification processes on ballots that are voted or dropped off at the voting locations as soon as possible on the day after Election Day. This includes any provisional ballots cast. Any voter who was notified of a problem with their mail ballot signature will have until 5:00 p.m. on the Friday after Election Day to contact the Recorder's Office concerning the problem.
- (10) If Recorder staff is unable to confirm a signature on a ballot affidavit envelope, Recorder staff will attempt to contact the voter by phone and/or by text or email message. If no contact is made directly with the voter, a letter will be sent by the Recorder. Letters will not be sent to any voter if the ballot affidavit containing the problem signature is received by the Recorder's Office later than 5:00 p.m. on the Monday immediately prior to Election day since there will be insufficient time for the voter to receive the letter prior to the deadline to respond. The Recorder staff will complete a "problem" ballot tracking form, and provide a copy to City Clerk staff. If the tracking form is updated, an additional copy showing the updated information will be provided to the City Clerk staff. Copies of these tracking forms will only be used to keep track of the status of each ballot when the ballots are secured at the Recorder's facility.
- (11) Prepare and deliver a single invoice to the CITY, no later than 21 days after the final election date, containing a detailed breakdown of all Recorder costs for these elections.
- (12) Provide secured storage facilities for CITY ballots at the Recorder's Early Ballot processing Center located at 6550 S. Country Club Road.

**B. CITY Obligations:** CITY shall:

- (1) Prepare and distribute any requisite translation, printing, and mailing of all publicity

pamphlets.

- (2) Process all mail ballot requests for the group known as "Other" (those voters not registered as Democrat, Republican, or Libertarian) for the Primary Election.
- (3) Process all requests for replacement ballots by mail. Any voter who contacts the Recorder seeking a replacement ballot will be referred to the City Clerk for all further processing.
- (4) Send electronic data to the Recorder for ballots requested by the "Other" voters in the Primary to include party choice information. This data should be uploaded daily.
- (5) Provide an electronic list to the Recorder of all City of Tucson voters who were mailed a ballot.
- (6) Handle transmission of ballot data to candidates and political parties including both mailed and returned data.
- (7) Provide PDF versions of all ballots used in the election to the Recorder no later than 50 days prior to the election date and provide both a PDF version of the ballot affidavit, and not less than 100 ballot affidavit envelopes. This information will be used for the transmission of electronic and faxed ballots to the Military and Overseas voters.
- (8) Mail ballots to any qualified Military and Overseas voter eligible to vote in the City elections who did not select an electronic method of ballot transmission. The CITY will provide information on how Military and Overseas voters can return their electronic or faxed ballots, in the event the voter decides to return their ballot electronically to the Recorder.
- (9) Provide a PDF version of the Notice of Election and the notices sent to non-partisan voters for the Primary Election to the Recorder's Office. The Recorder's Office will send those notices electronically to Military and Overseas voters registered to vote in the City of Tucson who have opted to receive their ballots by electronic transmission.
- (10) Deposit funds in advance of the services provided. The Recorder's Office will provide information to the City Clerk staff to allow funds to be transferred electronically. Recorder's Office staff will prepare invoices detailing the charges for services provided and will deduct those costs from the prepaid funds. These transactions will be tracked in an Excel spreadsheet format. The Recorder's Office will provide the City Clerk staff with an electronic copy of the spreadsheet at regular intervals during the election cycle.
- (11) Should the election be challenged or questioned for any reason whatsoever, then the CITY shall be solely responsible for defending, legally or otherwise, said elections. This duty shall survive the expiration of the IGA, provided that the County shall cooperate with the CITY in making relevant information and witnesses available upon reasonable request.
- (12) Within 30 days of the date of each invoice, the CITY shall reimburse the County, in full, for invoiced costs of election materials, supplies and equipment, and personnel required in direct support of the CITY election, as set forth below.
- (13) Arrange for and publish any and all notices of this election as required by law.

### **ARTICLE III – COMPENSATION AND PAYMENT**

Within thirty (30) days of the date of invoice, CITY will pay the Pima County Recorder:

- (1) The following charges will apply to all Primary Election ballots processed:
  - a. Signature Verification \$0.75 per signature
  - b. Problem Signature Ballots – inc. calling the voter, sending them a letter \$6.00 each
  - c. Copies of problem ballot forms and ballot affidavits \$0.35 each
- (2) Data Lists
  - a. Notice of Election list \$2,500.00
  - b. Lists for Primary Election \$2,500.00
- (3) Voter Registration Maintenance Fee-
  - Per Active Voter \$0.05
  - Per Inactive Voter \$0.05
- (4) Computer programming as required for additional voter data at \$50.00 per hour, one hour minimum.
- (5) Any other costs associated with services provided for the conduct of the Election(s), as set forth in Pima County Fee Ordinance 2016-10 which is attached hereto as Exhibit A.
- (6) Invoices not paid within 30 days of billing date will accrue interest at the rate of 10% per annum.

### **ARTICLE IV – INSURANCE**

All parties to this agreement are government entities. Neither entity is required to procure special insurance coverage for their obligations under this IGA.

### **ARTICLE V - 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") arising out of 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.

### **ARTICLE VI - COMPLIANCE WITH LAWS**

The parties shall comply with all federal, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this

Agreement and any disputes hereunder. Any action relating to this Agreement shall be brought in an Arizona court in Pima County. Any changes in the governing laws, rules and regulations during the terms of this Agreement shall apply but do not require an amendment.

#### **ARTICLE VII - INDEPENDENT CONTRACTOR**

Each party shall comply with the notice of A.R.S. § 23-1022(E). For purposes of A.R.S. § 23-1022, each party shall be considered the primary employer of all personnel currently or hereafter employed by that party, irrespective of the operations of protocol in place, and such party shall have the sole responsibility of the payment of Worker's Compensation benefits or other fringe benefits of said employees.

#### **ARTICLE VIII - ASSIGNMENT**

The CITY shall not assign its rights to this Agreement, in whole or in part, without prior written approval of the COUNTY. Approval may be withheld at the sole discretion of COUNTY, provided that such approval shall not be unreasonably withheld.

#### **ARTICLE IX - 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.

#### **ARTICLE X - AMERICANS WITH DISABILITIES ACT**

The parties 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.

#### **ARTICLE XI - AUTHORITY TO CONTRACT**

No party warrants to any other party its legal authority to enter into this IGA. If a court, at the request of a third person, should declare that any party lacks authority to enter into this IGA, or any part of it, then the IGA, or parts of it affected by such order, shall be null and void, and no recovery may be had by any party against the other for lack of performance or otherwise.

#### **ARTICLE XII - FULL AND COMPLETE PERFORMANCE**

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of this Agreement to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or



condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time shall not be construed as an accord and satisfaction.

### **ARTICLE XIII - CANCELLATION FOR CONFLICT OF INTEREST**

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

### **ARTICLE XIV – TERMINATION FOR CONVENIENCE**

Notwithstanding any other provision in this IGA, this IGA may be terminated if for any reason the County Board of Supervisors or the Tucson City Council does not appropriate sufficient monies for the purpose of maintaining this IGA. In the event of such cancellation, neither the County, nor the County Recorder shall have any further obligation to the CITY. In the event that the CITY cancels, the CITY shall be liable for any costs already incurred by the County or the County Recorder at the time of the notification of the cancellation.

### **ARTICLE XV - NOTICE**

Any notice required or permitted to be given under this Agreement shall be in writing and shall be served by personal delivery or by certified mail upon the other party as follows:

#### **PIMA COUNTY**

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

#### **CITY OF TUCSON**

Roger Randolph,  
City Clerk  
255 W. Alameda  
Tucson, AZ 85701  
(520) 791-4213  
Fax: (520) 791-4017

### **ARTICLE XVI - NO THIRD PARTY BENEFICIARIES**

Nothing in the provisions of 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 any party to the IGA by imposing any standard of care different from the standard of care imposed by law.

### **ARTICLE XVII – NO JOINT VENTURE**

This IGA is not intended to, and this IGA shall not be construed to, create any partnership, joint venture or employment relationship between the parties or create any employer-employee relationship between County or Recorder and any CITY employees, or between the CITY and any County employees. No party shall be liable for any debts, accounts, obligations nor other liabilities whatsoever of any other party, including (without limitation) any other party's obligation to withhold Social Security and income taxes for itself or any of its employees.

### **ARTICLE XVIII - REMEDIES**

Either party may pursue any remedies provided by law for the breach of this Agreement. 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 Agreement.

### **ARTICLE XIX - 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.

### **ARTICLE XX – LEGAL ARIZONA WORKERS ACT COMPLIANCE**

The COUNTY and CITY hereby warrant that they will at all times during the term of this Agreement comply with all federal immigration laws and with the requirements of A.R.S. § 23-214(A) (together the “State and Federal Immigration Laws”).

### **ARTICLE XXI - 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 IGA shall 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

CITY OF TUCSON

\_\_\_\_\_  
Richard Elías, Chairman

\_\_\_\_\_  
Jonathan Rothschild, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ATTEST:

ATTEST:

\_\_\_\_\_  
Julie Casteñada,  
Clerk of the Board of Supervisors

\_\_\_\_\_  
Roger Randolph, City Clerk

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
F. Ann Rodriguez, Pima County Recorder

The foregoing Intergovernmental Agreement between The City of Tucson, 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 the undersigned.

Pima County and Pima County Recorder

City of Tucson

  
\_\_\_\_\_  
Daniel Jurkowitz, Deputy County Attorney

\_\_\_\_\_  
Mike Rankin, City Attorney