



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: June 18, 2019

* = Mandatory, information must be provided

or Procurement Director Award ☐

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

United Way of Southern Arizona, Inc.

***Project Title/Description:**

Employee Combined Appeal Program (ECAP) 2019 Campaign

***Purpose:**

Requesting approval for United Way to provide assistance in operating the 2019 Employee Combined Appeal Program (ECAP) Campaign by providing employee education, staff training, collection, distribution and accounting services for payroll deductions from County employees for distribution to charitable organizations. After approval and processing, this contract can be found in OnBase by searching Contracts 19*401 in Doc_ID_AMS.

***Procurement Method:**

Pursuant to D 29.6.C., Direct Selection approved by County Administrator

***Program Goals/Predicted Outcomes:**

Contract will provide organization, publicity, associated informational services and fiscal administrative services for 2019 Defined Contribution Period.

Attachment: Contract Number CT-CED-19-401

***Public Benefit:**

Pima County residents will receive assistance from all charities/agencies that County employees contribute through cash contributions or through payroll deductions. The Ending Poverty Now initiative helps people to get ahead instead of just getting by in our community through its programs. Pima County has partnered with United Way and other community organizations and businesses to help break the cycle of poverty in our community to increase self-sufficiency for hard-working individuals and families throughout southern Arizona.

***Metrics Available to Measure Performance:**

Contractor produces quarterly, mid-year and year-end reports on the total amounts raised and pledged during the campaign year, names of charitable organizations, and amounts received by each organization.

***Retroactive:**

Yes, the final 2019 campaign contribution totals were confirmed February 2019, and staff oversight of previous contract calendar year expiration date, instead of a fiscal year expiration date.

JUN 13 15PM 248 PCD KFH
MLW

TO: COB 6-13-19 (1)
Vers.: 1
PSS.: 11
ADDENDUM

Procure Dept 06/12/19 PM 04:37

Contract / Award Information

Document Type: CT Department Code: CED Contract Number (i.e., 15-123): 19-401
Effective Date: 1/1/2019 Termination Date: 12/31/2019 Prior Contract Number (Synergen/CMS): _____
☒ Expense Amount: \$* 47,992.50 ☐ Revenue Amount: \$ _____

*Funding Source(s) required: General Fund - Community & Economic Development Administration

Funding from General Fund? ☒ Yes ☐ No If Yes \$ 47,992.50 % 100

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: Lisa Matthews for Jan Leshar

Department: Community & Economic Development Administration Telephone: 724-8396

Department Director Signature/Date: [Signature] 6/10/2019

Deputy County Administrator Signature/Date: [Signature] 6/10/2019

County Administrator Signature/Date: [Signature] 6/11/19
(Required for Board Agenda/Addendum Items)



MEMORANDUM

Date: June 10, 2019

To: C. H. Huckelberry
County Administrator

From: Jan Leshor *Jan Leshor*
Chief Deputy County Administrator


Re: Direct Selection – Employee Combined Appeal Program – 2019 ECAP Campaign

Pursuant to Pima County Board of Supervisors Policy D 29.6.C., Direct Selection, please approve the direct selection of United Way of Tucson and Southern Arizona as the appropriate agency to provide the services required for operating the 2019 Employee Combined Appeal Program

JKL:ism

Attachments

Approved / Not Approved

for 
C.H. Huckelberry
County Administrator

6/11/19
Date

Pima County Department of Community and Economic Development Administration

Project: EMPLOYEE COMBINED APPEAL PROGRAM (ECAP Campaign)

Contractor: UNITED WAY OF TUCSON AND SOUTHERN ARIZONA
330 N. Commerce Park Loop, Suite 201
Tucson, Arizona 85754

Amount: \$47,992.50

Contract No.: CT-CED-19-401

Funding: General Fund – Community & Economic Development Administration

PROFESSIONAL SERVICES CONTRACT

1. Parties, Background and Purpose.

- 1.1. Parties. This Contract is between Pima County, a body politic and corporate of the State of Arizona (“County”), and United Way of Tucson and Southern Arizona, Inc., a non-profit corporation (“Contractor”).
- 1.2. Authority. County selected Contractor pursuant to and consistent with Procurement Code 11.12.050 which allows County to “procure services without competition when there is only one source for the required service or if no reasonable alternative source exists.”
- 1.3. County employees have been making contributions, through payroll deductions during the 2019 calendar year for distribution to selected agencies.
- 1.4. Other County employees made cash contributions for charities between July 1, 2018 and December 31, 2018 for distribution to selected agencies.
- 1.5. County has determined that Contractor is the only agency in the community with the necessary experience and charitable agency network equipped to collect and distribute charitable contributions as designated by each County employee.

2. Glossary of Program Terms. The following terms apply to this Contract:

Contract Year	The Contract Year for the Initial Term of this Contract is January 1, 2019 through December 31, 2019.
ECAP	Employee Combined Appeal Program.
ECAP Campaign	Opportunity offered to County employees to contribute to charities of the employee’s choice through either a one-time cash contribution or through bi-weekly payroll deductions. For the Initial Term of this Contract, the 2019 ECAP CAMPAIGN is FY 2019 – 2020 = July 1, 2019 through June 30, 2020.
Defined Contribution Period	Calendar year for which Contractor administers the employee contributions and distributes those contributions to the charitable organizations designated by each County employee participating in the ECAP Campaign. The 2019 Defined Contribution Period is January 1, 2019 through December 31, 2019.

3. Term.

- 3.1. Original Term. This Contract is effective for a one-year period commencing on January 1, 2019 (the “Initial Term”). “Term,” when used in this Contract, means the Initial Term plus any exercised Extension Option(s).

- 3.2. Extension Options. County may renew this Contract for up to four (4) additional periods of up to one (1) year each (each an “Extension Option”). An Extension Option will be effective only upon execution by the Parties of a formal written amendment.

4. **Scope of Services.**

- 4.1. Overview. Contractor will provide organization, publicity, associated informational services and fiscal administrative services for the applicable **Defined Contribution Period**.

- 4.2. Campaign Organization and Implementation. For the applicable **ECAP Campaign**, Contractor will:

- 4.2.1. Employ suitable trained and skilled professional personnel and volunteers to perform all services under this Contract.

- 4.2.2. Develop and provide, no later than January 30 of the Contract Year, written information to County for distribution to County Board of Supervisors and employees. Information must include, but is not limited to:

- 4.2.2.1. Total contributions collected from each County Department;

- 4.2.2.2. Average contribution from employees of each County Department; and

- 4.2.2.3. List of all recipient agencies with total amount of contributions designated for each agency.

- 4.2.3. Organize the ECAP Campaign kick-off meeting and presentations to County departments on dates and times requested by County. These activities will:

- 4.2.3.1. Explain the process of charitable giving through ECAP and the importance of charitable giving to the community; and

- 4.2.3.2. Coordinate brief presentations by non-profit agencies and community service organizations regarding the services being provided within the community.

- 4.2.4. Work with non-profit agencies and community service organizations to develop information tables regarding services being provided within the community.

- 4.2.5. Provide the following items to County:

Promotional Material	Amount	Due to County no later than
ECAP posters with Pima County and ECAO logo only	450	August 29 of Contract Year
Agency Directories with Pima County and ECAO logo only	300	August 29 of Contract Year
Training Manuals Pima County and ECAO logo only	150	August 29 of Contract Year
Door prizes for ECAP Awards luncheon	10	April 10 of the year following the Contract Year
Solicitor, Coordinator and Department Certificates for Awards luncheon	As needed	April 10 of the year following the Contract Year

4.2.6. Provide the following reports to County:

Report	Contents	Dates Covered	Date Due
Quarterly	Distributions for each calendar quarter and year-to-date distributions, including the names of the charitable organizations, the amounts received by each organization, the investment earning received by Contractor and expenses incurred by Contractor	Jan.1 – March 31; April 1 – June 30; July 1 – Sept. 30; and Oct. 1 – Dec. 31 of Contract Year	Fifteen days from the end of the quarter
Mid-Year	Total amount of donations received by Contractor from <u>all sources</u> , including County	January 1 through June 30 of Contract Year	July 15 of Contract Year
	Total amount distributed by Contract to agencies within Pima County		
Year-End	Total amount of donations received by Contractor from <u>all sources</u> , including Pima County	January 1 through December 30 of Contract Year	January 30 of the year following the Contract Year
	Total amount distributed by Contract to agencies within Pima County		
	Details of each employees payroll deductions and contributions for the Defined Contribution Period		

4.3. Fiscal Administration. For the applicable **Defined Contribution Period**, Contractor will:

4.3.1. Establish and permanently maintain an electronic system that accurately records and tracks both the name of the charitable organization(s) and the amount of the contribution(s) designated by each employee.

4.3.2. Establish a bank account for Pima County ECAP cash contributions and employee payroll deductions that is separate and segregated from any other United Way transactions ("the Pima County ECAP Account") and:

4.3.2.1. Deposit all payroll and cash donations received from County into the Pima County ECAP Account.

4.3.2.2. Pay all bank and check fees associated with the Pima County ECAP Account

4.3.3. ~~Immediately upon receipt from County, distribute the cash contributions to the charitable organizations as designated by the employee that provided such contribution.~~

4.3.4. Within 15 days from the end of each calendar quarter distribute the funds donated ~~through payroll deductions~~ to the charitable organizations as designated by each employee.

4.3.5. Upon receipt of a verified request by an individual County employee, provide that employee with an accounting of his or her deductions and contributions.

5. **Key Personnel.** Prior to changing any key personnel, especially those key personnel County relied upon in making this Contract, Contractor will obtain the approval of County which will not be unreasonable withheld. The key personnel include the following staff:

R. Tony Penn, President/CEO (ex-officio)
United Way of Tucson and Southern Arizona

Bruce Ayers
United Way of Tucson and Southern Arizona
Phone: (520)903-3901

George Schlect, CPA, Controller
Phone (520)903-3945

6. Compensation and Payment.

6.1. In consideration for the services specified in this Contract, the County agrees to pay Contractor the maximum authorized amount to be calculated as set forth below:

6.1.1. Reasonable Contract Year bank and check fees (less interest earned by Contractor); **PLUS**

6.1.2. Fifteen-percent (15%) of the following **actual** County employee ECAP donations:

6.1.2.1. One-time cash donations made between September 1 and December 31 of the year prior to the current Contract Year; and

6.1.2.2. Payroll deductions collected and distributed between January 1 and December 31 of the Contract Year.

6.2. The estimated not-to-exceed amount is:

Contract Year/Contract Term	Estimated Payment to Contractor
January 1 – December 31, 2019	\$47,992.50

6.3. Period Payments. County will make payments to Contractor as follows:

6.3.1. First Payment: Within 30 days after execution of this Contract:

6.3.1.1. Seven and one-half percent (7.5%) of the amount pledged during the applicable **ECAP Campaign; PLUS**

6.3.1.2. Seven and one-half percent (7.5%) of the County employee ECAP payroll deductions actually collected and distributed in the first calendar quarter of the Contract Year; **PLUS**

6.3.1.3. All reasonable bank and check fees for that first calendar quarter of the Contract Year (LESS any interest earned by the Pima County ECAP Account during the quarter).

6.3.2. Second and Third Payments. Within 30 days after receipt of the reports describing activities for the first three quarters of the applicable **ECAP Campaign:**

6.3.2.1. Seven and one-half percent (7.5%) of the County employee ECAP payroll deductions actually collected and distributed in the second and third calendar quarters of the Contract Year; **PLUS**

6.3.2.2. All reasonable bank and check fees for the second and third calendar quarters of the Contract Year (LESS any interest earned by the Pima County ECAP Account during the quarters).

6.3.3. Final Payment. After review and reconciliation, and within 45 days after receipt of the final quarterly report and the annual reports:

6.3.3.1. Fifteen percent (15%) of all one-time cash donations made between September 1 and December 31 of the year prior to the Contract Year and payroll deductions actually collected and distributed during the Contract Year; **PLUS**

6.3.3.2. Reasonable bank and check fees for the fourth quarter of the Contract Year (LESS any interest earned by the Pima County ECAP Account during the quarter); **LESS**

6.3.3.3. Periodic payments made pursuant to paragraphs 6.3.1 and 6.3.2 above.

7. **Insurance.** Contractor will procure and maintain at its own expense insurance policies (the “Required Insurance”) satisfying the below requirements (the “Insurance Requirements”) until all of its obligations under this Contract have been met. The below Insurance Requirements are minimum requirements for this Contract and in no way limit Contractor’s indemnity obligations under this Contract. The County in no way warrants that the required insurance is sufficient to protect the Contractor for liabilities that may arise from or relate to this Contract. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the Insurance Requirements.

7.1. Insurance Coverages and Limits:

7.1.1. Commercial General Liability (CGL) – Occurrence Form covering liability arising from premises, independent contractors, personal injury, bodily injury, broad form contractual liability and products-completed operations with minimum limits not less than \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate.

7.1.2. Business Automobile Liability – Coverage for any owned, leased, hired, and/or non-owned autos assigned to or used in the performance of this Agreement with minimum limits not less than \$1,000,000 Each Accident.

7.1.3. Workers Compensation and Employers’ Liability:

7.1.3.1. Workers’ Compensation with Employers Liability limits of \$1,000,000 each accident and \$1,000,000 each employee – disease. Workers’ Compensation statutory coverage is compulsory for employers of one or more employees.

7.1.3.2. Note: The Workers’ Compensation requirement does not apply if Contractor is exempt under A.R.S. § 23-901, and has executed the appropriate Pima County Sole Proprietor (Independent Contractor) Waiver form.

7.2. Additional Insurance Requirements: The policies must include, or be endorsed to include, as required by this Contract, the following provisions:

7.2.1. Claims Made Coverage: If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Agreement, and Contractor must maintain such coverage for a period of not less than three (3) years following Agreement expiration, termination or cancellation.

7.2.2. Insurer Financial Ratings: Coverage must be placed with insurers acceptable to the County with A.M. Best rating of not less than A- VII, unless otherwise approved by the County.

- 7.2.3. Additional Insured: The General Liability policy must be endorsed to include Pima County and all its related special districts, elected officials, officers, agents, employees and volunteers (collectively "County and its Agents") as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor. The full policy limits and scope of protection must apply to the County and its Agents as an additional insured, even if they exceed the Insurance Requirements.
- 7.2.4. Waiver of Subrogation: Commercial General Liability and Workers' Compensation coverages must each contain a waiver of subrogation in favor of County and its Agents for losses arising from work performed by or on behalf of the Contractor.
- 7.2.5. Primary Insurance: The Required Insurance policies, with respect to any claims related to this Agreement, must be primary and must treat any insurance carried by County as excess and not contributory insurance. The Required Insurance policies may not obligate the County to pay any portion of a Contractor's deductible or Self Insurance Retention (SIR).
- 7.2.6. Subcontractors: Contractor must either (a) include all subcontractors as additional insureds under its Required Insurance policies, or (b) require each subcontractor to separately meet all Insurance Requirements and verify that each subcontractor has done so, Contractor must furnish, if requested by County, appropriate insurance certificates for each subcontractor. Contractor must obtain County's approval of any subcontractor request to modify the Insurance Requirements as to that subcontractor.
- 7.3. Verification of Coverage:
- 7.3.1. Insurer or Broker of Contractor must evidence compliance with the Insurance Requirements by furnishing certificates of insurance executed by a duly authorized representative of each insurer. Each certificate must include:
- 7.3.1.1. The Pima County tracking number for this Agreement, which is shown on the first page of the Agreement, and a project description, in the body of the Certificate,
- 7.3.1.2. A notation of policy deductibles or SIRs relating to the specific policy, and
- 7.3.1.3. Certificates must specify that the appropriate policies are endorsed to include additional insured and subrogation waiver endorsements for the County and its Agents.
- 7.3.2. Each Required Insurance policy and appropriate endorsements must be in effect not less than fifteen (15) days prior to commencement of work under this Agreement. A renewal certificate must be provided to County not less than fifteen (15) days prior to the policy's expiration date to include actual copies of the additional insured and waiver of subrogation endorsements. Failure to maintain the Required Insurance, or to provide evidence of renewal, is a material breach of this Agreement.
- 7.3.3. County reserves the right to, at any time, require complete copies of any or all Required Insurance policies.
- 7.3.4. Cancellation Notice: Contractor's insurance policies and endorsements shall not be permitted to expire, be cancelled, suspended or materially changed from the agreed upon Insurance Requirements for any reason without thirty (30) days advance written notice to the County of the policy cancellation, suspension or material

change. Contractor must provide written notice to County within two (2) business days of receipt of notice. For cancellation of non-payment, Insurer is to provide County with written notice ten (10) days prior to cancellation of policy.

- 7.4. Approval and Modifications: The Pima County Risk Manager may approve a modification of the Insurance Requirements without the necessity of a formal Agreement amendment, but the approval must be in writing. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

8. Indemnification.

- 8.1. To the fullest extent permitted by law, Contractor will defend, indemnify and hold harmless Pima County, and any related taxing district, and the officials and employees and each of them (collectively, "Indemnatee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorney fees)(collectively, "Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Contractor or any of Contractor's directors, officers, agents, employees, volunteers, or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnatee will, in all instances, except for Claims arising solely from the acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all claims. Contractor is responsible for primary loss investigation, defense and judgement costs for any claim to which indemnity applies. This indemnity will survive the expiration or termination of this Agreement.
- 8.2. Contractor warrants that services provided under this Agreement are non-infringing. Contractor will indemnify, defend and hold County harmless from any claim of infringement arising from services provided under this Agreement or from the provision, license, transfer or use for their intended purpose of any products provided under this Agreement.

9. Laws and Regulations.

- 9.1. Compliance with Laws. Contractor will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders.
- 9.2. Licensing. Contractor warrants that it is appropriately licensed to provide the services under this Contract and that its subcontractors will be appropriately licensed.
- 9.3. Choice of Law, Venue. The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Contract. Any action relating to this Contract must be filed and maintained in the appropriate court of the State of Arizona in Pima County.

10. Independent Contractor.

- 10.1. Contractor is an independent contractor. Neither Contractor nor any of Contractor's officers, agents, or employees will be considered an employee of Pima County or be entitled to receive any employment-related benefits, or assert any protections, under the Pima County Merit System.

- 10.2. Contractor is responsible for paying all federal, state and local taxes on the compensation by Contractor under this Agreement and will indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such taxes.
- 10.3. Contractor will be solely responsible for its program development, operation, and performance.
11. **Subcontractors.** Contractor is 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 Contractor is responsible for the acts and omissions of its own employees. Nothing in this Contract creates any obligation on the part of County to pay or see to the payment of any money due any subcontractor, except as may be required by law.
12. **Assignment.** Contractor may not assign its rights or obligations under this Contract, in whole or in part, without the County's prior written approval. County may withhold approval at its sole discretion.
13. **Non-Discrimination.** Contractor will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this contract, including flow-down of all provisions and requirements to any subcontractors. During the performance of this Contract, Contractor 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.
14. **Americans with Disabilities Act.** Contractor 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 CFR Parts 35 and 36.
15. **Authority to Contract.** Contractor warrants its right and power to enter into this Contract. If any court or administrative agency determines that County does not have authority to enter into this Contract, County will not be liable to Contractor or any third party by reason of such determination or by reason of this Contract.
16. **Full and Complete Performance.** The failure of either party to insist, in one or more instances, upon the other party's full and complete performance under this Contract, or to take any action based on the other party's failure to fully and completely perform, is not 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 is not an accord and satisfaction.
17. **Cancellation for 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 into this Contract by reference.
18. **Termination by County.**
- 18.1. Without Cause. County may terminate this Contract at any time, with or without cause, by serving a written notice upon Contractor at least 30 days before the effective date of the termination. In the event of such termination, County's only obligation to Contractor will be payment for services rendered prior to the date of termination.
- 18.2. With Cause. County may terminate this Contract at any time without advance notice and without further obligation to County when County finds Contractor to be in default of any provision of this Contract.

18.3. **Non-Appropriation.** Notwithstanding any other provision in this Contract, County may terminate this Contract if for any reason there are not sufficient appropriated and available monies for the purpose of maintaining County or other public entity obligations under this Contract. In the event of such termination, County will have no further obligation to Contractor, other than to pay for services rendered prior to termination.

19. **Notice.** Any notice required

County:

Ms. Jan Leshner
Chief Deputy County Administrator
Pima County Government
130 W. Congress, 10th Floor
Tucson, AZ 85701
(520)724-8997 Direct
(520) 724-8171 Fax

Contractor:

Mr. Tony Penn
President and CEO
United Way of Tucson & Southern Arizona, Inc.
330 N. Commerce Park Loop, Suite 200
Tucson, AZ 85754-7650
(520)903-9000 Direct
(520)903-9002 Fax

20. **Non-Exclusive Contract.** Contractor understands that this Contract is nonexclusive and is for the sole convenience of County. County reserves the right to obtain like services from other sources for any reason.

21. **Remedies.** Either party may pursue any remedies provided by law for the breach of this Contract. No right or remedy is intended to be exclusive of any other right or remedy and each is cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.

22. **Severability.** Either party may pursue any remedies provided by law for the breach of this Contract. No right or remedy is intended to be exclusive of any other right or remedy and each is cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.

23. **Books and Records.** Contractor will keep and maintain proper and complete books, records and accounts, which will be open at all reasonable times for inspection and audit by duly authorized representatives of County. In addition, Contractor will retain all records relating to this Contract for at least five (5) years after its expiration or termination or, if later, until any related pending proceeding or litigation has concluded.

24. **Public Records.**

24.1. **Disclosure.** Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all documents submitted in response to the solicitation resulting in award of this Contract, including, but not limited to, pricing schedules, product specifications, work plans, and any supporting documents, are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors.

24.2. **Records Marked Confidential; Notice and Protective Order.**

24.2.1. If Contractor reasonably believes that some of those records contain proprietary, trade-secret or otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL."

- 24.2.2. In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Contractor of the request as soon as reasonably possible.
- 24.2.3. County will release the records 10 business days after the date of that notice, unless Contractor has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.

25. Legal Arizona Workers Act Compliance.

- 25.1. Compliance with Immigration Laws. Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to its employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor will further ensure that each subcontractor who performs any work for Contractor under this Contract likewise complies with the State and Federal Immigration Laws.
- 25.2. Books and Records. County has the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.
- 25.3. Any additional costs attributable directly or indirectly to such remedial action are the responsibility of Contractor.
- 25.4. Subcontractors. Contractor will advise each subcontractor of County's rights, and the subcontractor's obligations, under this Section 24 by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor is a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

26. **Amendment.** The parties may modify, amend, alter or extend this Contract only by a written amendment signed by the parties.

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27. **Entire Agreement.** This document constitutes the entire agreement between the parties pertaining to the subject matter it addresses, and this Contract supersedes all prior or contemporaneous agreements and understandings, oral or written.

PIMA COUNTY

CONTRACTOR

Chairman, Board of Supervisors

Authorized Officer Signature

Date

Printed Name and Title

ATTEST:

Clerk of the Board

Date

Date

APPROVED AS TO CONTENT:




Jan Leshner, Chief Deputy County Administrator

6-10-2019

Date

APPROVED AS TO FORM:



Karen S. Friar, Deputy County Attorney