



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

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: September 15, 2020

* = *Mandatory, information must be provided*

or Procurement Director Award ☐

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

Pima Community College

***Project Title/Description:**

Intergovernmental Agreement for Election Services Between Pima Community College and Pima County.

***Purpose:**

To provide Pima Community College with election services for their November 3, 2020 Permanent Base Expenditure Limit Adjustment Election.

***Procurement Method:**

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

***Program Goals/Predicted Outcomes:**

To contract with Pima Community College to conduct their November 3, 2020 Election. This will result in revenue for the County.

***Public Benefit:**

Through the IGA process, Pima Community College contracts with Pima County to conduct their election.

***Metrics Available to Measure Performance:**

Over many years, numerous jurisdictions throughout Pima County have successfully contracted with the Elections Department to conduct elections.

***Retroactive:**

No

To: COB- 8.28.20
Ver. - 1
pgs. 5 (2)

Contract / Award Information

Document Type: CTN Department Code: EL Contract Number (i.e.,15-123): 21*0009
Commencement Date: 9/15/2020 Termination Date: 1/31/2021 Prior Contract Number (Synergen/CMS): _____
☐ Expense Amount: \$* _____ ☒ Revenue Amount: \$ Approximately \$442,417.00

***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: _____ Department Code: _____ Contract Number (i.e.,15-123): _____
Amendment No.: _____ AMS Version No.: _____
Commencement 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): _____
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: Mary Martinson
Department: Elections Telephone: 724-6867
Department Director Signature/Date: [Signature]
Deputy County Administrator Signature/Date: [Signature] 8-17-2020
County Administrator Signature/Date: [Signature] 8/26/20
(Required for Board Agenda/Addendum Items)

INTERGOVERNMENTAL AGREEMENT

For Election Services

Among the Pima Community College and Pima County

PIMA COUNTY CONTRACT NUMBER: CTN-EL-21-009

This Intergovernmental Agreement (IGA) is by and among PIMA COMMUNITY COLLEGE OF PIMA COUNTY, ARIZONA, a subdivision of the State of Arizona ("College") and PIMA COUNTY, a political subdivision of the State of Arizona ("County"), on behalf of the PIMA COUNTY ELECTIONS DEPARTMENT (the "Elections Department").

WHEREAS, the County of Pima has a comprehensive voting system and certified elections officials; and

WHEREAS, Pima Community College, an Arizona political subdivision, seeks Pima County's assistance in the preparation and conduct of the Pima Community College Election on November 3, 2020.

NOW, THEREFORE, IT IS AGREED by and between the County, on behalf of its Elections Department, and Pima Community College, pursuant to A.R.S. §§ 16-205(C), 16-450, 11-251(3), and 11-951, *et. seq.*, as follows:

1. **Purpose.** The purpose of this IGA is to provide election services to the Pima Community College for the College's November 3, 2020 Election.
2. **County Obligations.** County shall:
 - A. Provide election services at \$.75 a registered voter for placing ballot language on the Pima County ballot, except translation of Publicity Pamphlet information. Translation is billed at actual cost.
 - B. Provide for all of the following services:
 - Poll Worker recruitment, training and service
 - Polling Place acquisition and use
 - Sample Ballot printing and postage
 - Translation services (Ballot Language only)
 - Early and Provisional Ballot processing
 - Supply delivery and pickup
 - Law Enforcement
 - Election night processing and tabulation
 - C. Prepare and deliver a single itemized invoice to the College from the Elections Department for the total cost of the election, pursuant to this IGA, within forty-five (45) days after the date of the November 3, 2020 election. The invoice should be based on the voter registration data provided by the Pima County Recorder as of

the October 3, 2020 voter registration cut-off. The invoice shall be calculated based on \$.75 a registered voter plus the actual cost of translation.

3. **College Obligations.** College shall:

- A. Assure that any translations required by the Voting Rights Act are provided.
- B. Should the election be challenged or questioned for any reason whatsoever, College shall be responsible for defense. This duty shall survive the expiration of the IGA, provided that County shall cooperate with College in making relevant information and witnesses available upon reasonable request.
- C. Within 30 days of date of the invoice, College shall reimburse County, in full, for invoiced costs of election at the rates set forth in Section 2.

4. **Manner of Financing and Budgeting.** College warrants that it has sufficient funds available and budgeted to discharge the finding obligation imposed by this IGA.

5. **Term.** This IGA must be approved and signed by both parties. This IGA shall terminate on January 31, 2021. Any modification or time extension of this IGA shall be by formal written amendment and executed by the parties hereto.

6. **Hold Harmless Clause.** 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 or any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees or volunteers.

7. **Compliance with Applicable 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 IGA. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this IGA and any disputes hereunder. Any action relating to this IGA shall be brought in an Arizona court in Pima County. Any changes in the governing laws, rules and regulations during the terms of this IGA shall apply but do not require an amendment.

8. **Non-Discrimination.** Neither party will discriminate against the other party's employee, client or any other individual in any way involved with, the other party, because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out College's duties pursuant to this IGA. Both parties agree to comply with the provisions of A.R.S. § 41-1463 and of Executive Order 75-5, as amended by Executive Order 2009-09, which are incorporated into this IGA by reference, as is set forth in full herein.

9. **Americans With Disabilities Act.** This IGA is subject to 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.

10. **Severability.** If any provision of this IGA or any application thereof to the County, College or any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this IGA which can be given effect, without the invalid provision or application and to this end the provisions of this IGA are declared to be severable.
11. **Conflict of Interest.** This IGA is subject to the cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated herein by reference.
12. **Non-Appropriation.** Notwithstanding any other provision in this IGA, this IGA may be terminated if for any reason the County Board of Supervisors or College does not appropriate sufficient monies for the purpose of maintaining this IGA. In the event of such cancellation, County or College shall have no further obligation other than for payment for services rendered prior to cancellation.
13. **Legal Authority.** Neither party warrants to the other its legal authority to enter into this IGA. If a court, at the request of a third person, declares that either 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 either party against the other for lack of performance or otherwise.
14. **Worker's Compensation.** 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 said party shall have the sole responsibility of the payment of Worker's Compensation benefits or other fringe benefits of said employees.
15. **No Joint Venture.** It is not intended by this IGA to, and nothing contained in this IGA shall be construed to, create any partnership, joint venture or employment relationship between the parties or create any employer-employee relationship between County and any College employees, or between the College and any County employees. Neither party shall be liable for any debts, accounts, obligations nor other liabilities whatsoever of the other party, including (without limitation) any other party's obligation to withhold Social Security and income taxes for itself or any of its employees.
16. **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 to 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.
17. **Resolution of Conflicting Needs.** In the event conflict arises between the County and College over the use of voting equipment, vote tallying equipment, or County elections personnel, County shall have priority, but shall make reasonable efforts to reconcile conflicts so that neither party will suffer as a consequence of conflict.
18. 18. **Notice.** Any notice required pursuant to this IGA shall be given to:

County:

Chuck H. Huckelberry
County Administrator
130 W. Congress St., 10th Floor
Tucson, AZ 85701
Phone: (520) 724-8661
Fax: (520) 724-8171

Brad R. Nelson
Elections Director
6550 S. Country Club
Tucson, AZ 85756
Phone: (520) 724-6830
Fax: (520) 724-6870

Julie Castaneda
Clerk of the Board of Supervisors
130 W. Congress St., 5th Floor
Tucson, AZ 85701
Phone: (520) 724-8449
Fax: (520) 222-0448

College:

David Bea
Executive Vice Chancellor for Finance and Administration
4905C E. Broadway Blvd
Tucson, AZ 85709
Phone: (520) 206-4519
Fax: (520) 206-4990

19. **Termination.** Either party may terminate this IGA at any time by giving written notice of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In the event of termination, any real or personal property belonging to either party and furnished pursuant to this IGA, shall be returned to the furnishing party. Any funds of College paid to County in accordance with this IGA and not encumbered at the time of termination shall be refunded to College and, if College terminates, College shall pay any and all costs of County incurred up to the date of termination or as a result of termination.
20. **Immigration.** A.R.S. § 41-4401 prohibits government entities from entering into an agreement with any other government entity contractor or subcontractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, each party agrees that:
 1. Party and each subcontractor it uses warrants its compliance with all federal immigration laws and regulations that relate to its employees and its compliance with § 23-214, subsection A.
 2. A breach of a warranty under paragraph 1 shall be deemed a material breach of the Agreement and is subject to penalties up to and including termination of the Agreement.
 3. Each Party retains the legal right to inspect the papers of the Party or subcontractor employee(s) who work(s) on this Agreement to ensure that Party or subcontractor is complying with the warranty under paragraph 1.
21. **Insurance.** Each party will obtain and maintain at its own expense, during the entire term of this IGA the following type(s) and amounts of insurance:

Commercial General Liability in the amount of \$2,000,000.00 combined single limit Bodily Injury and Property Damage.

Commercial or Business automobile liability coverage for owned, non-owned and hired vehicles used in the performance of this Contract with limits in the amount of \$1,000,000.00 combined single limit or \$1,000,000.00 Bodily Injury, \$1,000,000.00 Property Damage.

If this Contract involves professional services, professional liability insurance in the amount of \$1,000,000.00.

If required by law, workers' compensation coverage including employees' liability coverage.

Each party will provide thirty (30) days written notice to the other party of cancellation, non-renewal or material change of coverage.

The above requirement may be alternatively met through self-insurance pursuant to A.R.S. §§ 11-261 and 11-981 (or if a school district, § 15-382) or participation in an insurance risk pool under A.R.S. § 11-952.01 (if a school district, § 15-382), at no less than the minimum coverage levels set forth in this article.

22. **Entire IGA.** 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.

IN WITNESS WHEREOF, the parties hereby have executed this Agreement on this 15 day of September, 2020.

PIMA COUNTY:

Chair, Board of Supervisors Date

ATTEST:

Clerk of the Board of Supervisors Date

APPROVED AS TO CONTENT:

Bradley Nelson 7-20
Elections Director Date

PIMA COMMUNITY COLLEGE:

David Bea 8/7/20
David Bea, Pima Community College Date

ATTEST:

NA
David Bea, Pima Community College Date

APPROVED AS TO CONTENT:

NA
Name Date

The foregoing Intergovernmental Agreement between the Pima Community College and Pima County 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:

Daniel Jurkowitz 7/15/2020
Deputy County Attorney Date
DANIEL JURKOWITZ

PIMA COMMUNITY COLLEGE:

Jeffrey P. Kelly 8/7/20
Pima Community College Attorney Date