MEMORANDUM

Date: August 28, 2019

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry,
County Administrator

Re: **El Tour de Tucson Agreement between Pima County and Perimeter Bicycling Association of America, Inc.**

The September 3, 2019 Board of Supervisors Addendum contains a repayment agreement between Pima County and Perimeter Bicycling Association of America, Inc. (Perimeter). The agreement provides terms for Pima County to procure barricade equipment and services as occurred for the 2018 El Tour de Tucson. The agreement requires Perimeter to repay Pima County up to $250,000 for the actual cost of the contracted services and an additional $30,000 for route design consulting assistance contracted by Perimeter.

Perimeter has gone through a restructuring of their organization including the hiring of a new Executive Director and appointment of new members to their Board of Directors. They have also brought in outside expertise of Medalist Sports, Inc., that conducts large bicycling events elsewhere in the country and has a demonstrated track record of success. I recently met with Charlene Grabowski, Executive Director, to discuss the new vision and direction for El Tour de Tucson and I am pleased with the progress that they are making to rebrand the organization and to attract sustainable sponsorship and funding for the event.

As you may have seen, the El Tour de Tucson has successfully attracted new sponsorship partners for the 2019 bicycling event. A recent announcement was made that Banner Healthcare will be the title sponsor for the 2019 bike race and has committed $175,000 to the event. Likewise, the Rio Nuevo Board of Directors at their meeting yesterday committed to provide $150,000 in sponsorship to the 2019 El Tour event.

As Perimeter continues to implementing organizational and operational improvements, I expect the event will become increasingly successful and sustainable for future years to come. The El Tour de Tucson provides an economic benefit to the region by attracting out of state cyclists, in addition to local participants, to participate in the activities. The visiting participants not only stay in local lodging, dine in restaurants and purchase local goods and services, but may also decide to return to the community for future travels or to become residents within the Pima County region.

Given the benefits to the Pima County region, the County's continued involvement in the El Tour even during this transitional period remains an important component. As such, County assistance with procuring barricade services, to be repaid by Perimeter is appropriate. I look forward to the continued collaboration with Perimeter and the other regional jurisdictions to insure that the El Tour de Tucson remains viable long into the future.

CHH/lab

Attachment

c: Carmine DeBonis, Jr., Deputy County Administrator for Public Works
Ana Olivares, Director, Transportation Department

BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

○ Award ◉ Contract ○ Grant

Requested Board Meeting Date: 9/3/19

= Mandatory, information must be provided

or Procurement Director Award ☐

***Contractor/Vendor Name/Grantor (DBA):**
Perimeter Bicycling Association of America, Inc.

***Project Title/Description:**
Reimbursement of Traffic Control Expenses: El Tour de Tucson

***Purpose:**
Perimeter organizes and conducts the annual El Tour de Tucson bike ride and historically they have procured the traffic control for the event through a number of vendors. Pima County routinely procures traffic control during the course of its work and determined it would be beneficial for Pima County to procure the traffic control for El Tour and have Perimeter reimburse the County for the service for an amount that will not exceed $250,000. Pima County will also provide $30,000 toward expenses incurred for private third-party consultant services for route layout. Perimeter will reimburse Pima County for the cost of Consultant Services in the amount of $30,000 in addition to the not to exceed amount for the traffic control contract.

***Procurement Method:**
This Revenue Contract is a non-Procurement Contract and not subject to Procurement rules.

***Program Goals/Predicted Outcomes:**
A single procurement for traffic control for the El Tour event.

***Public Benefit:**
Utilizing a single procurement for all traffic control for the El Tour event will provide consistent traffic control equipment and services to ensure the safety of the traveling motorists and bicyclists.

***Metrics Available to Measure Performance:**
A safe and successful El Tour event.

***Retroactive:**
No

Contract / Award Information

Document Type: CTN Department Code: TR Contract Number (i.e.,15-123): 20*044

Effective Date: 9/3/19 Termination Date: 6/30/20 Prior Contract Number (Synergen/CMS): _____

☐ **Expense Amount: $*** _____ ☒ Revenue Amount: $ 280,000

***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 22-73.

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: Robert Lane

Department: Transportation Telephone: 724-2381

Department Director Signature/Date: Ana M. Alvarez 8/27/19

Deputy County Administrator Signature/Date: [signature] 8/27/19

County Administrator Signature/Date: [signature] 8/27/19

(Required for Board Agenda/Addendum Items)

Pima County Department of Transportation

Project: Reimbursement of Traffic Control Expenses: El Tour de Tucson

Contractor: Perimeter Bicycling Association of America, Inc.

Amount: $280,000

Contract No.: CT-TR-20*044

Funding: Contractor Reimbursement

CONTRACT [Board of Supervisors]

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 Perimeter Bicycling Association of America, Inc. ("Contractor").

1.2. Background and Purpose.

1.2.1. Contractor organizes and conducts the annual El Tour de Tucson bike ride in and around the metro Tucson area (El Tour), which will be held this year on Saturday, November 23, 2019 (the Event Date).

1.2.2. As part of its organization and conduct of El Tour, Contractor historically has been responsible for securing temporary traffic control equipment and services.

1.2.3. County is responsible for the safe operation of roads within unincorporated Pima County and routinely contracts for traffic control equipment and services to ensure the safety of traveling motorists, bicyclists, and pedestrians utilizing the transportation network.

1.2.4. In anticipation of the 2019 El Tour, Contractor and County desire to have County procure traffic control equipment and services through a single procurement, and the Contractor has agreed to reimburse County for such equipment and services.

1.2.5. County has completed its procurement process and is prepared to enter into an agreement with a vendor on behalf of Contractor to provide temporary traffic control plans and equipment for the 2019 El Tour (Traffic Control Contract); provided however, Contractor contractually commits to reimburse County its costs associated with the Traffic Control Contract.

2. **Term.**

2.1. Term. This Contract is effective upon execution by the Parties and will terminate on June 30, 2020 or when County receives full reimbursement of its expenses associated with the Traffic Control Contract as described in Section 3 below whichever is later.

3. **Agreement, Compensation, and Payment.**

3.1. Traffic Control Contract. County will enter into the Traffic Control Contract for an amount that will not exceed $250,000 (the "Not to Exceed Amount"). County will submit detailed invoices to Contractor for all costs it incurs by entering into the Traffic Control Contract and Contractor will reimburse all of County's costs, obligations, and expenses incurred in awarding and entering into that contract up to, but not in excess of, the Not to Exceed Amount.

3.2. Consultant Services. Upon Contractor's request and submittal of supporting invoices, County will also provide Contractor $30,000 towards expenses incurred for private third-party consultant services (the "Consultant Services") for route evaluation and finalization of the 2019 El Tour route layout, and in association with the Traffic Control Plan that will be the basis of the Traffic Control Contract. Contractor will reimburse County for the cost of Consultant Services in the amount of $30,000 in addition to the Not to Exceed Amount for the Traffic Control Contract.

3.3. Payment Schedule. Contractor's payments under Sections 3.1 and 3.2 will be made to County no later than 180 days following the Event Date or following Contractor's receipt of the final invoice from County, whichever is later.

4. Insurance and Indemnification. **Contractor will procure and maintain at its own expense insurance policies and will indemnify County, all as required by County in its separate agreement/license with Contractor regarding the use of County's public roads and rights-of-way by El Tour cyclists and other El Tour participants. Laws and Regulations**.

4.1. Compliance with Laws. Contractor will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders.

4.2. 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.

5. **Independent Contractor**. Contractor is an independent contractor. Neither Contractor, nor any of Contractor's officers, agents or employees will be considered an employee of Pima County for any purpose or be entitled to receive any employment-related benefits, or assert any protections, under the Pima County Merit System. Contractor is responsible for paying all federal, state and local taxes on the compensation received by Contractor under this Contract and will indemnify and hold County harmless from any and all liability that County may incur because of Contractor's failure to pay such taxes.

6. **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.

7. **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.

8. **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.

9. **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.

10. **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.

11. **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.

12. **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.

13. **Termination by County**.

    13.1. 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. County will not, however, terminate this contract without cause between September 4 and November 24, 2018.

    13.2. 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.

    13.3. 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.

14. **Notice**. Any notice required or permitted to be given under this Contract must be in writing and be served by personal delivery or by certified mail upon the other party as follows:

County:

Robert Lane, PE, PTOE
Civil Engineering Manager
Maintenance & ROW Management Division
Pima County Dept. of Transportation
1313 S. Mission Rd., Building 10
Tucson AZ 85713
520-724-2381

Contractor:

Charlene Grabowski
Executive Director
Perimeter Bicycling Association of America, Inc. 2609 E. Broadway Blvd.
Tucson, AZ 85716

15. **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.

16. **Severability**. Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law will be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

17. **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.

18. **Public Records**.

    18.1. Disclosure. Pursuant to A.R.S. § 39-121 et seq., 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.

    18.2. Records Marked Confidential; Notice and Protective Order. If Contractor reasonably believes that some of those records contain proprietary, trade-secret or otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL." 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. 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.

19. **Legal Arizona Workers Act Compliance.**

19.1. 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.

19.2. Books & Records. County has the right at any time to inspect the books and records of Contractor in order to verify such party's compliance with the State and Federal Immigration Laws.

19.3. Remedies for Breach of Warranty. Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. However, if the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, and Contractor takes such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion, then this Contract will not be terminated. Any additional costs attributable directly or indirectly to such remedial action are the responsibility of Contractor.

19.4. Subcontractors. Contractor will advise each subcontractor of County's rights, and the subcontractor's obligations, under this Section 20 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 ensure 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."

20. **Israel Boycott Certification**. To the extent applicable, Contractor hereby certifies that it is not currently engaged in, and will not for the duration of this Contract engage in, a boycott of goods or services Israel as defined by A.R.S. § 35-393.01.

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

22. **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.

23. **Counterparts.** This Contract may be signed in counterparts.

PIMA COUNTY

Chairman, Board of Supervisors

Date

ATTEST

Clerk of the Board

Date

CONTRACTOR

Charlene Grabowski CEO

Authorized Officer Signature

CEO - Perimeter Bicycling Assoc. Am

Printed Name and Title 2L Tour de Tucson

CHARLENE GRABOWSKI

Date

Aug 26, 2019

APPROVED AS TO FORM

Deputy County Attorney

KELL OLSON

Print DCA Name

8/27/19

Date

APPROVED AS TO CONTENT

Ana M. Olivares

Ana Olivares, P.E., Director,
Pima County Dept. of Transportation

8/27/19

Date