



Tommie C. Martin, District I
P.O. Box 2297 Payson, AZ. 85547
(928) 474-2029

Michael A. Pastor, District II
1400 E. Ash St. Globe, AZ. 85501
(928) 425-3231 Ext. 8753

Shirley L. Dawson, District III
1400 E. Ash St. Globe, AZ. 85501
(928) 425-3231 Ext. 8753



Don E. McDaniel Jr., County Manager
Phone (928) 425-3231 Ext.8761

Joe Heatherly, Finance Director
Phone (928) 425-3231 Ext. 8743

FAX (928) 425-0319
TTY: 7-1-1

GILA COUNTY

www.gilacountyaz.gov

PROFESSIONAL CONSULTING SERVICES CONTRACT NO. 2010/100

GILA COUNTY DIVISION OF ELECTIONS GLOBE, ARIZONA

THIS AGREEMENT, made and entered into this 16th day of November, 2010, by and between the Gila County Board of Supervisors, a political subdivision of the State of Arizona, hereinafter designated the **COUNTY**, and Federal Compliance Consulting LLC, of the City of Potomac, County of Montgomery, State of Maryland, hereinafter designated the **CONSULTANT**.

WITNESSETH: That the Consultant, for and in consideration of the sum to be paid him by the County, in the manner and at the time hereinafter provided, and of the other covenants and agreements herein contained, hereby agrees, for himself, his heirs, administrators, successors, and assigns as follows:

ARTICLE I – SCOPE OF SERVICES: Consultant shall perform or cause to be performed Redistricting and Department of Justice Bailout services in a timely and professional manner. In coordination with County staff and a possible redistricting committee, Consultant shall develop a precise calendar of events for all phases of Redistricting and Bailout services in order to complete the following activities:

REDISTRICTING SERVICES:

Preliminary Research and Reporting. Start date - November, 2010:

1. Create a detailed demographic atlas; examine the physical and demographic makeup of the entire jurisdiction.
2. Identify communities of interest
3. Create and digitize boundary maps of supervisory districts, precincts, school districts, and other jurisdictional subdivisions
4. Develop voting model of Gila County electorate

5. Identify and analyze minority voting and all candidates who ran for office whether they were elected or not. Examine the magnitude and geographic extent of any racially polarized voting.
6. Examine recent state, county and city elections, at the voting precinct level – voter turnout, numbers of candidates, race or ethnicity of candidates, winners' vote margins.
7. Assemble a directory of contacts
8. Develop a process plan
9. Utilize statistical regression to assess racially polarized voting
10. Document all pre-Redistricting activities
11. Conduct a preclearance hazards review
12. Provide summary and report to Board of Supervisors and staff

Outreach to Community Leaders. Start date - January, 2011

13. Meet with key community leaders in business and civic organizations to explain the process
14. Determine community leaders' expectations and seek suggestions about the process
15. Develop a mailing list of people and organizations suggested by key community leaders to notify and invite to participate in the process

Preparation of Materials for Meetings. Start date - January 2011

16. Prepare all materials for Public Meetings
17. Prepare maps illustrating topics examined in preliminary studies including: thematic maps of Census data and past election results; GIS boundary maps and legal descriptions of supervisory districts, precincts, school districts, and other jurisdictional subdivisions; maps identifying neighborhoods, homeowners' associations and civic 'blockwatch' areas; maps of natural and man-made barriers.
18. Prepare public information handouts on various representation and process options

Meetings with Elected Officials and staff. Start date - May, 2011

19. Conduct work-study session(s) for the Board, staff, and other elected officials and district representatives. Consultant will describe the process including the legal setting, redistricting principles, district design criteria, redistricting committee creation, etc. Consultant shall assist stakeholders in identifying the jurisdictional priorities.
20. The consultant team will meet individually with elected officials and their staffs to seek input on possible or preferred configurations of districts.

First Series of Open House Meetings. Start date - May, 2011

21. Consultant and County staff will coordinate a process to widely advertise the times, locations, purpose and importance of a series of public meetings to be held on the topic of districting/redistricting. Consultant will conduct and facilitate the public meetings. Consultant shall provide appropriate presentations on the scope, purpose, process, timelines, and legal issues involved in redistricting. Consultant shall request input from the public at these meetings and consultant shall document such input.
22. Distill input from Public, Key Community Leaders, and Elected Officials and prepare appropriate reports which summarize the data and which will satisfy Department of Justice requirements.
23. Analyze partial and whole plans submitted by residents

First Summary Report and Plan Preparation. Start Date - June, 2011

24. Prepare alternate plans based on combinations of recurrent themes heard from participants or observed on resident-submitted plans.
25. Publish Alternate Plans including newspaper ads showing alternate plans to be considered at public meetings. Include a public comment form in the advertisement. Ensure ads are published in minority race or language newspapers as applicable.
26. Invite and compile public comments

Publish Alternate Plans. Start date - June, 2011

27. Widely advertise the times, locations, and purpose of public meetings to be held to display proposed alternate districting plans being considered

Second Series of Open House Meetings. Start date - July, 2011

28. Conduct public meetings in an open house setting and present the process up to that point, the features of each alternate plan, and the extent to which the plans incorporate ideas gathered in the various public input settings.

Prepare Final Plans. Start date - August, 2011

29. Prepare proposed Final Plan(s) for consideration by Elected Officials
30. Prepare a second report summarizing the process to that point and containing an analysis of public reaction to the alternate plans
31. Prepare a Final Plan with one or two possible variations for consideration

Publish Final Plans. Start date - September, 2011

32. Publish the Final Plan in newspaper ads which show the final districting plan(s) being considered by the jurisdiction. Invite public comment through letters, email, telephone, or by attendance and testimony at the adoption hearing.

Adoption of Plan and Assistance with Preclearance Application - Start date - September, 2011

33. Coordinate a special meeting at which time the Board will consider adoption of the Final Plan
34. Coordinate preparation of required submission(s)

Additional Redistricting Services

35. Provide County officials with specialized, individual briefing about redistricting. Start Date - December, 2010
36. Conduct specialized review of County records to determine the existence of any unprecleared Section 5 voting changes that could negatively impact the County's efforts to preclear its 2010 Board of Supervisors redistricting plan. Start Date - January, 2011
37. Assist the County in preparing Section 5 submissions to Department of Justice concerning any unprecleared voting changes discovered and assist County in further communicating with Department of Justice to discuss any such unprecleared voting changes. Start Date - Ongoing as necessary



38. Assist the County with any redistricting related communications or meetings with Department of Justice. Start Date - Ongoing as necessary

Redistricting deliverables will include:

1. Provide detailed requirements for Gila County to successfully prepare and implement the redistricting process
2. Provide detailed timeline for all requirements of the project
3. Identify all legal requirements and the means in which to accomplish each step in the process
4. Coordinate all public meetings
5. Prepare all redistricting plans and media to advertise meetings and final adoption of the plan
6. Assist in preparation of submissions to Department of Justice concerning any unprecleared voting changes
7. Coordinate the creation of final GIS boundary maps and legal descriptions for all supervisory districts, precincts, school districts, and other jurisdictional subdivisions
8. Provide best efforts to ensure successful approval of the plan from the Department of Justice.

DEPARTMENT OF JUSTICE BAILOUT

Stage 1 Start Date - January, 2011

1. Conduct investigation concerning Gila County's prospects for bailing out of its Section 5 Voting Rights Act obligations. This stage entails review of all relevant County documents, meeting minutes, and records for approximately ten years prior to the start of the new year.
2. Review similar records of all County political subdivisions, such as municipalities, school districts, and special districts that hold elections.
3. Evaluate previous Section 5 compliance by all affected jurisdictions.

Deliverable

Report explaining the status of Gila County's Section 5 compliance and recommendations for proceeding with a bailout application to the

Stage 2 Start date dependent upon whether County wishes to proceed with bailout in 2011

1. Prepare bailout application and assist the County with Department of Justice's investigation of its application
2. Assist the county in communicating with Department of Justice and meet with Department of Justice as necessary

Deliverable

U.S. bailout application

Stage 3 Start Date dependent upon Department of Justice approval of County's bailout application)

1. Assist the County with preparing and filing a joint, consensual bailout lawsuit with the U.S. District Court for the District of Columbia.

2. If Department of Justice does not approve the County's bailout application, discuss options with the County

Deliverable

Consensual bailout lawsuit documents

ARTICLE II – INDEMNIFICATION CLAUSE: Consultant shall indemnify, defend, save and hold harmless the County of Gila and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Consultant or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Consultant to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Consultant from and against any and all claims. It is agreed that the Consultant will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Consultant agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Consultant for the County.

ARTICLE III - INSURANCE REQUIREMENTS: Consultant and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The County in no way warrants that the minimum limits contained herein are sufficient to protect the Consultant from liabilities that might arise out of the performance of the work under this contract by the Consultant, his agents, representatives, employees or subcontractors and Consultant is free to purchase additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Consultant shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000



- Each Occurrence \$1,000,000
- a. The policy shall be endorsed to include the following additional insured language: "**The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Consultant**".

2. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- a. Policy shall contain a **waiver of subrogation** against the County of Gila.

3. **Professional Liability (Errors and Omissions Liability)**

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Consultant warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the County of Gila is named as an additional insured, the County of Gila shall be an additional insured to the full limits of liability purchased by the Consultant even if those limits of liability are in excess of those required by this Contract.
2. The Consultant's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
3. Coverage provided by the Consultant shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the County. Such notice shall be sent directly to Birdie DeNero, 1400 E. Ash St., Globe, AZ 85501 and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Consultant from potential insurer insolvency.





- E. **VERIFICATION OF COVERAGE:** Consultant shall furnish the County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the County before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to Birdie DeNero, 1400 E. Ash St., Globe, AZ 85501. The County project/contract number and project description shall be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

- F. **SUBCONTRACTORS:** Consultants' certificate(s) shall include all subcontractors as additional insured's under its policies or Consultant shall furnish to the County separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.
- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the County Attorney, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

ARTICLE IV – LEGAL ARIZONA WORKERS ACT COMPLIANCE: Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Consultant's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Consultant shall further ensure that each subcontractor who performs any work for Consultant under this contract likewise complies with the State and Federal Immigration Laws.

County shall have the right at any time to inspect the books and records of Consultant and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Consultant's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting Consultant to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontractor is suspended or terminated as a result, Consultant shall be required to take 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.

Consultant shall advise each subcontractor of County's rights, and the subcontractor's obligations, under this Article 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 will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of Consultant. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of Consultant's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which Consultant shall be entitled to an extension of time, but not costs.

ARTICLE V – LAWS AND ORDINANCES: This agreement shall be enforced under the laws of the State of Arizona. Consultant shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Consultant. The Consultant shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

ARTICLE VI – A.R.S. §35-397: Pursuant to A.R.S. §35-397 the Contractor certifies that it does not have scrutinized business operations in Iran or Sudan.

ARTICLE VII – CANCELLATION: This agreement is subject to cancellation pursuant to **A.R.S. § 38-511**. If this Agreement is terminated, the County shall be liable only for payment for services rendered and accepted material received by the County before the effective date of termination. The Consultant shall be considered in default of this contract and such default will be considered as cause to terminate the contract for any of the following reasons if the Consultant:

- a. Fails to perform the work under the contract within the time specified in the "Notice to Proceed"; or
- b. Fails to perform the work or fails to provide sufficient workers, equipment or data to assure completion of work in accordance with the terms of the contract; or
- c. Performs the work unsuitably or neglects or refuses to follow the Scope of Work; or
- d. Discontinues the prosecution of the work; or
- e. Fails to resume work which as been discontinued within a reasonable time after notice to do so; or
- f. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency; or
- g. Makes assignment for the benefit of creditors.
- h. If it is found that gratuities were offered or given by the Consultant or any agent or representative of the Consultant, to any officer or employee of the County.

ARTICLE VIII – TERM: Contract shall begin immediately upon approval by the Gila County Board of Supervisors. The term of this contract shall be for twenty months, November 16, 2011 through June 30, 2012.



ARTICLE IX – PAYMENT: The Scope of Services as outlined above will be performed on a lump sum basis with a not-to-exceed without written authorization budget of **\$105,000**. Additional work, as authorized, will be performed on a Time and Materials basis per a mutually agreed upon fee between the County and the Consultant. Compensation shall follow the guidelines of A.R.S. §34-221. Each invoice must include itemized tasks and dollar figure for each task completed. Each invoice must show a signature by the County representative confirming services rendered and authorizing payment.

IN WITNESS WHEREOF, three (3) identical counterparts of this contract, each which shall include original signatures and for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the date and year first above written.

PROFESSIONAL CONSULTING SERVICES CONTRACT NO. 2010/100

GILA COUNTY DIVISION OF ELECTIONS
GLOBE, ARIZONA

GILA COUNTY BOARD OF SUPERVISORS

FEDERAL COMPLIANCE CONSULTING LLC



Michael A. Pastor
Chairman



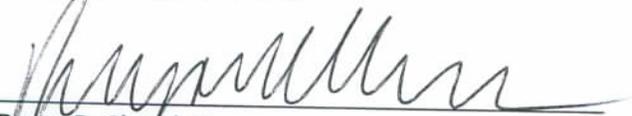
Bruce L. Adelson
CEO/Attorney at Law

ATTEST:



Marian Sheppard
Deputy Clerk of the Board

APPROVED AS TO FORM:



Bryan B. Chambers
Chief Deputy County Attorney

