2014-006244 IGA Page: 1 of 9
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CAPTION HEADING:

Intergovernmental Agreement

among

the Pima County School Superintendent,

the Maricopa County School Superintendent,

the Yavapai County School Superintendent,

the Gila County School Superintendent

and

the Navajo County School Superintendent

(dated 7-1-14)

DO NOT REMOVE

This is part of the official document

INTERGOVERNMENTAL AGREEMENT AMONG THE PIMA COUNTY SCHOOL SUPERINTENDENT, THE MARICOPA COUNTY SCHOOL SUPERINTENDENT, THE YAVAPAI COUNTY SCHOOL SUPERINTENDENT, THE GILA COUNTY SCHOOL SUPERINTENDENT AND THE NAVAJO COUNTY SCHOOL SUPERINTENDENT.

This is an Intergovernmental Agreement, hereinafter referred to as "IGA" entered into by and among Pima County, on behalf of the Pima County School Superintendent, Maricopa County, on behalf of the Maricopa County School Superintendent, Yavapai County, on behalf of the Yavapai County School Superintendent, Gila County, on behalf of the Gila County School Superintendent, and Navajo County, on behalf of the Navajo County School Superintendent.

1. **Recitals**
   The purpose of this IGA is to establish the Arizona Education and Technology Consortium ("Consortium") for the purpose of establishing, managing, and operating an interactive television system for the purpose of providing instructional services to students, professional development services to education professionals, and to assign a Fiscal Agent for the Consortium.

2. **Authority**
   The counties and county school superintendents have the authority to enter into this agreement pursuant to A.R.S. §§ 11-952 and 15-302(C).

3. **Regions Defined**
   A. For purposes of this IGA, the State of Arizona is divided into five (5) Regions defined as:

      i. East Central Regional Service Center (ECRSC) shall include Graham County, Greenlee County, Gila County, and Pinal County; and
      ii. Maricopa County Education Service Agency (MCESA) shall include Maricopa County;
      iii. Northeastern Arizona Regional Service (NEAZRC) shall include Apache County, Coconino County, and Navajo County;
      iv. Southern Arizona Regional Education Center (SAREC) shall include Cochise County, Pima County, and Santa Cruz County;
      v. West Central Regional Service Center (WCRSC) shall include La Paz County, Mohave County, Yavapai County, and Yuma County.

   B. The Lead County School Superintendent for each Region is:

      i. For ECRSC, the lead shall be Gila County
      ii. For MCESA, the lead shall be Maricopa County.

iii. For NEAZRC, the lead shall be Navajo County.
iv. For SAREC, the lead shall be Pima County
v. For WCRSC, the lead shall be Yavapai County

4. **Board of Directors**
   A. A 15-member Board of Directors ("Board") shall consist of three (3) representatives from each of the five Regions.
   B. Representatives from each Region shall be designated by the Lead County School Superintendent for that Region.
   C. Each Lead County School Superintendent shall confer with the other member counties in their Region in appointing or removing representatives to the Board. The representatives shall serve at the pleasure of the Lead County School Superintendent who appointed them.
   D. The Board shall:
      i. Recommend an Executive Director, employees, agents, or other persons necessary to carry out the purposes of the Consortium, and salaries and fringe benefits of employees
      ii. Approve a fee schedule for services provided
      iii. Establish bylaws for the operation of the Consortium consistent with this IGA.

5. **Designation of a Fiscal Agent**
   The five Lead County School Superintendents shall designate a county school superintendent as the Fiscal Agent for the operations of the Consortium. The Fiscal Agent shall:

   A. Follow the requirements of the Uniform System of Financial Records (USFR), described in A.R.S. § 15-271, for all necessary revenue and expenditure accounting and reporting.
   B. Hold, manage, and maintain funds, property purchased, leased or loaned to the Consortium.
   C. Establish the necessary funds to account for the deposit of all funds for the operation and administration of the Consortium.
   D. Prepare reports of all financial activity of the Consortium, at least on a monthly basis and at the request of the Board.
   E. Contract for services to be provided by vendors for the operations and administration of the Consortium.
   F. Distribute one-fifth of net proceeds to each Regional Center.
   G. Manage the implementation of an annual budget that is determined by the Consortium.
   H. Conduct all audits required by the Fiscal Agent, at the request of the Board, or as required by law.
   I. Ensure all records for the operation and administration of the Consortium are properly retained in accordance with applicable law.

J. Acquire by lease, purchase, construction, donation, or otherwise any property necessary for the purposes of the Consortium and transfer and dispose of such property as authorized by law.
K. Maintain a comprehensive inventory of all capital equipment and assets purchased on behalf of the Consortium.
L. Perform all duties that are required by the Fiscal Agent's County policies and procedures that ensure proper financial management of the Consortium.
M. Perform all necessary functions to employ the necessary personnel for the operations and administration of the Consortium.
N. Cooperate in the conduct of audits required by a political subdivision who is a party to this IGA, an agency of the State of Arizona, an agency of the Federal government, and the Board.

6. **Initial Funding**

Each Lead County School Superintendent will, within thirty (30) days after this IGA is fully executed, pay to the Fiscal Agent $29,000. These funds will be deposited in a special fund and used by the Fiscal Agent only for expenses related to operation of the Consortium, including quarterly reimbursement of Fiscal Agent for overhead costs reasonably allocated by the Fiscal Agent to performance of work for the Consortium, such as salaries and benefits and facilities costs.

7. **Disposition of Net Proceeds**

The Fiscal Agent will, no earlier than August 29th and no later than September 30th of each year, provide to the Board, and to the county school superintendent of each participating county, a report showing the Consortium's revenues and expenses for the previous fiscal year, reasonably summarized by category. There shall be no distribution of net proceeds during the first year of the Consortium. Beginning in the fiscal year ending June 30, 2016, if the Consortium's revenues exceeded its expenses for that year, the Fiscal Agent will, at the same time and upon direction of the Board, distribute 20% of any excess fund balance to each Lead County School Superintendent. An "excess fund balance," for purposes of this IGA, means the amount by which the Consortium's available funds, at the time of distribution, exceed an amount that the Board, in consultation with the Fiscal Agent, has determined is a reasonable starting fund balance for the next fiscal year, up to but not in excess of 25% of the previous year's net revenues. This distribution of net proceeds shall take place under the following conditions:

A. The annual financial report shall account for all revenues received and deposited, and all expenditures posted by the Fiscal Agent, for the previous fiscal year, by August 29th.
B. Any revenues or expenditures posted after August 29th shall not be included in the available balance of net proceeds eligible for distribution until the succeeding fiscal year.

C. No distribution shall be made earlier than August 29.
D. Each Lead County School Superintendent will retain any and all distributions until the initial contribution made pursuant to Section 6 above has been fully reimbursed. Thereafter, each Lead County School Superintendent will divide any distributions among the counties in that Region as those counties have agreed.

8. **Term, Renewal, Extensions**
   A. This IGA shall become effective on the date of final signature, and shall terminate on June 30, 2019.
   B. Any modification, or extension of the contract termination date, shall be by formal written amendment executed by parties hereto.
   C. Amendments to this IGA must be approved by the parties hereto before any work or deliverables commences under the Amendment.

9. **Withdrawals and Termination**
   A. Any party to this IGA may withdraw for any reason without further obligation except those obligations incurred prior to the effective date of the withdrawal. A written notice of withdrawal shall be provided to the Fiscal Agent at least thirty (30) days in advance. If necessary, the Board shall determine a pro-rata basis of distribution of net proceeds.
   B. The Board reserves the right to terminate this IGA at any time and without cause by serving upon each party a thirty (30) day advanced written notice of such intent to terminate. In the event of such termination, the Fiscal Agent's only obligation to Consortium shall be for payment of obligations incurred prior to the date of termination, the distribution of net proceeds to each county school superintendent, and any initial investment.

10. **Disposition of Property**
    Upon termination of this IGA, the Fiscal Agent may dispose of any property held by the Fiscal Agent on behalf of the Consortium in any manner authorized by law. The net proceeds of this disposal, together with any fund balance remaining after payment of all outstanding obligations incurred by Fiscal Agent on behalf of the Consortium, will be divided equally and distributed by Fiscal Agent to the various Lead County School Superintendents. Any disposal of property shall comply with property control policies of the Fiscal Agent and applicable federal and state laws, regulations, and policies.

11. **Non-Assignment**
    No party to this IGA shall assign its right to this IGA, in whole or in part, without prior written approval of the remaining parties. Approval may be withheld at the sole discretion of the Board of Directors, provided that such approval shall not be unreasonably withheld.

12. **Cancellation**
This IGA is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provision of which is incorporated into this IGA by reference.

13. **Entire Agreement**
This document constitutes the entire agreement between the parties to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This IGA may be modified, amended, altered, or extended only by a written amendment signed by the parties.

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

15. **Governing Law**
The laws and regulations of the State of Arizona shall govern the rights, performance and disputes of and between the parties. Any action relating to this IGA shall be brought in a court of the State of Arizona in the county of the Fiscal Agent. Any changes in the governing laws, rules, and regulations during an agreement shall apply, but do not require an amendment/revisions.

16. **Non-Discrimination**
Each party agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 **including flow down of all provisions and requirements to any subcontractors**. Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 and may be viewed and downloaded at the Governor of the State of Arizona's website http://www.azgovernor.gov/dms/upload/EO_2009_09.pdf which is hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, each party shall 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.

17. **Authority to Contract**
Each party warrants its right and power to enter into this IGA. If any court or administrative agency determines that any party does not have authority to enter into this IGA, the Consortium shall not be liable to party or any third party by reason of such determination or by reason of this IGA.

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

19. **Legal Arizona Workers Act Compliance**

Each party warrants compliance with all Federal immigration laws and regulations relating to the employees and warrants its compliance with A.R.S. §23-214(A). If this compliance requirement disqualifies any of the parties' key personnel or individuals working at the direction of any of the parties and no acceptable alternative is provided the Board may terminate this IGA.

A breach of warranty regarding compliance under this section shall be deemed a material breach of the IGA that is subject to penalties up to and including termination of the IGA.

The Board of Directors and the Fiscal Agent retain the legal right to audit and inspect the papers of any of the parties' employees or subcontractor's employees who work on the IGA to ensure that the parties' personnel and any person working at the direction of any party is complying with the warrant under this section.

20. **Indemnity**

Each party (as "Indemnitor") agrees to defend, indemnify, 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 referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which results in vicarious/derivative liability to the Indemnitee are caused by act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, agents, employees, or volunteers.

21. **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 sole responsibility for the payment of Worker's Compensation benefits or other fringe benefits of said employees.

22. **No Third Party Beneficiaries**

Nothing in the provisions of this IGA is intended to create duties or obligations to or rights in third parties not parties to this IGA or affect the legal liability of any party to the IGA by imposing any standard of care with respect to the maintenance of public facilities different from the standard of care imposed by law.

23. **Notices**

All official notices required by this IGA shall be mailed or personally delivered to the respective parties at the following addresses:

FOR GILA COUNTY
Dr. Linda O'Dell
Gila County School Superintendent
1400 E. Ash St
Globe, AZ 85501

FOR MARICOPA COUNTY
Dr. Don Covey
Maricopa County School Superintendent
4041 N. Central Ave., Suite 1200
Phoenix, AZ 85012

FOR NAVAJO COUNTY
Dr. Linda Morrow
Navajo County School Superintendent
PO Box 668
Holbrook, AZ 86025

FOR PIMA COUNTY
Dr. Linda Arzoumanian
Pima County School Superintendent
200 N. Stone Ave.
Tucson, AZ 85701

FOR YAVAPAI COUNTY
Mr. Tim Carter
Yavapai County School Superintendent
2970 Centerpointe East Dr.
Prescott, AZ 86301

24. **Fingerprinting**
The parties shall comply with all fingerprinting requirements pursuant to A.R.S. §§ 15-512 and15-534, as applicable, unless otherwise exempted.

25. **Counterparts**
This IGA may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

In Witness Whereof, the parties hereby have executed this IGA by signing below.

GILA COUNTY:

_____ 7-1-2014
CHAIR, BOARD OF SUPERVISORS **DATE**

ATTEST:

_____ 7-1-2014
CLERK, BOARD OF SUPERVISORS **DATE**

APPROVED AS TO CONTENT:

_____ 6-27-2014
COUNTY SCHOOL SUPERINTENDENT **DATE**

The foregoing IGA has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, who has 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 IGA represented by the undersigned.

_____ 7-1-2014
DEPUTY ATTORNEY ~~PRINCIPAL~~ **DATE**