

THIS AGREEMENT is entered into between Pima County, a body politic and corporate of the State of Arizona, hereinafter called COUNTY, and The Ashton Company, Inc., Borderland Construction Company, Inc., Granite Construction Company, KE&G Construction, Inc., and Southern Arizona Paving & Construction Company, as more fully described in Attachment 1, and hereinafter called CONTRACTOR in the singular, CONTRACTORS in the plural, and all collectively, including COUNTY, referred to as "the Parties."

## **JOB ORDER MASTER AGREEMENT**

**WHEREAS**, COUNTY has a need to establish an Agreement with five Job Order Contractors for Traffic Signal, Road Intersection, Paving and Drainage Improvements; and

**WHEREAS**, COUNTY therefore conducted a competitive qualifications-based procurement for Job Order Contractors under folder #8652; and

**WHEREAS**, based on an evaluation of the respondents' representations of their qualifications and necessary due diligence, COUNTY selected the five highest qualified contractors as Job Order Contractors; and

**WHEREAS**, the Job Order Contractors have agreed to be bound by and adhere to the requirements of this Agreement.

**NOW, THEREFORE**, the parties hereto agree as follows:

## ARTICLE I – BASIC TERMS

This Master Agreement (Agreement), as approved by the Board of Supervisors on November 1, 2011, shall commence on December 22, 2011 and shall terminate on December 21, 2012, unless sooner terminated or further extended pursuant to the provisions of this Agreement. This Agreement establishes the terms under which the Job Order Contractors will be assigned and perform tasks and projects under this Agreement. COUNTY, at its sole discretion, may extend up to four (4) additional one-year terms or add funding to this Agreement at any time without the approval or consent of the Job Order Contractors.

Individual job orders will be implemented by issuing a Delivery Order (DO) to the selected job order Contractor to perform the work. Each DO will be an independent contract that will incorporate and be subject to the terms of this Agreement. The terms "DO", "Job Order", and "Contract" are used interchangeably in this Agreement. Contractor selection will be based on the following:

For projects less than \$100,000.00, the Department may select a Contractor based on availability, specialty, or such other basis or bases as the Department may determine in its sole discretion.

For projects of \$100,000.00 or more, the Contractors will compete on the basis of price or price and schedule through a simplified quoting procedure. Price may be either fixed price or a guaranteed maximum price.

No individual Job Order may exceed \$1,000,000.00.

The County has established a Small Business Enterprise goal of six percent for this Agreement. This goal applies to each Job Order Contractor individually.

Construction completion time for job orders shall be as stated in the individual job order. Liquidated damages may be assessed based upon the construction completion time, if so specified in a Job Order.

Each CONTRACTOR shall select subcontractors in accordance with CONTRACTOR'S Subcontractor Selection Plan, incorporated herein by reference

#### **ARTICLE II - SCOPE OF SERVICES**

CONTRACTOR shall provide for COUNTY all labor, materials and equipment necessary to complete the work identified in individual Job Orders awarded to CONTRACTOR under this Agreement. The scope of work under this Agreement is more fully set forth in the Scope of Work, Attachment 1 to this Master Agreement. All work shall be done per specifications called for in Job Orders and this Agreement, including all four Parts of this Agreement and other incorporated documents, all made a part hereof. In the event any provision of this Agreement is inconsistent with those of any other document, the Agreement provisions will prevail.

#### **ARTICLE III - COMPENSATION AND PAYMENT**

CONTRACTOR shall provide detailed documentation in support of requested payment. Any payments under this Article shall not prevent the COUNTY from objecting to charges after payment therefor in appropriate cases, or from seeking reimbursement for any such charges. Payment shall be made in accordance with ARS § 34-607.

For the period of record retention required under Article XXII – BOOKS AND RECORDS, COUNTY reserves the right to question any payment made under this article and to require reimbursement therefor, by setoff or otherwise, for payments determined to be improper or contrary to the Agreement or law.

#### **ARTICLE IV - INSURANCE**

CONTRACTOR shall obtain and maintain at its own expense, during the entire term of this Agreement the following type(s) and amounts of insurance:

- a) Commercial General Liability Insurance at least as broad as ISO's Standard CG 00 01 Form, and including Products/Completed Operations, in an amount not less than \$1,000,000.00 combined single limit Bodily Injury and Property Damage. Pima County is to be named as an additional insured for all operations performed within the scope of the Agreement between COUNTY and CONTRACTOR;
- b) Commercial or Business Automobile Liability Insurance at least as broad as ISO's Standard CA 00 01 Form, for owned, non-owned and hired vehicles used in the performance of this Agreement with limits not less than \$1,000,000.00 combined single limit, or \$1,000,000.00 bodily injury and \$1,000,000.00 property damage; and,
- c) Statutory Workers' Compensation, including not less than \$1,000,000.00 Employers Liability Coverage.

CONTRACTOR shall provide COUNTY with current certificates of insurance. All certificates must provide for guaranteed 30 days written notice of material change, non-renewal or cancellation.

## **ARTICLE V - INDEMNIFICATION**

To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any error, omission, fault or negligence by the CONTRACTOR, its agents, employees, subcontractors, or anyone under its direction or control in connection with performance of this Agreement. The obligations under this Article shall not extend to the negligence of COUNTY, its agents, employees or indemnitees. Upon request, CONTRACTOR shall indemnify and hold harmless any private property owner granting a right of entry to CONTRACTOR for the purpose of completing the project.

## **ARTICLE VI - COMPLIANCE WITH LAWS**

CONTRACTOR shall comply with all federal, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Agreement and Job Orders, and any disputes under either. Any action relating to this Agreement or any Job Order issued hereunder shall be brought in Superior Court in Pima County. Any changes in the governing laws, rules, and regulations during the terms of this Agreement shall apply, but do not require an amendment.

## **ARTICLE VII - INDEPENDENT CONTRACTOR STATUS**

The status of CONTRACTOR shall be that of an independent Contractor. Neither CONTRACTOR nor CONTRACTOR's officers, agents or employees shall be considered an employee of Pima County or be entitled to receive any employment-related fringe benefits under the Pima County Merit System. CONTRACTOR shall be responsible for payment of all federal, state, and local taxes associated with compensation received pursuant to this Agreement and shall indemnify and hold COUNTY harmless from any and all liability which COUNTY may incur because of CONTRACTOR's failure to pay such taxes.

## **ARTICLE VIII - CONTRACTOR/SUBCONTRACTOR PERFORMANCE**

CONTRACTOR shall perform the work in a workmanlike manner with the degree of care and skill which a licensed Contractor in Arizona would exercise under similar conditions, and in accordance with the terms of the Agreement and with prevailing industry methods and standards. CONTRACTOR shall employ suitably trained and skilled personnel to perform all services under this Agreement.

CONTRACTOR shall ensure that all subcontractors have the appropriate and current license issued by the Arizona Registrar of Contractors for work they perform under this Agreement. CONTRACTOR shall not permit any subcontractor to perform work that does not fall within the scope of the Subcontractor's license, except as may be permitted under the rules of the Registrar of Contractors. The CONTRACTOR is responsible to bind every subcontractor to the terms of this Agreement.

CONTRACTOR will be fully responsible for all acts and omissions of its subcontractor(s) and of persons directly or indirectly employed by said subcontractor(s) and of persons for whose acts any of them may be liable to the same extent that CONTRACTOR is responsible for the acts and omissions of persons directly employed by it. Nothing in this Agreement shall create 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.

## **ARTICLE IX - ASSIGNMENT**

CONTRACTOR shall not assign its rights to this Agreement, in whole or in part, without prior written approval of the COUNTY. Approval may be withheld at the sole discretion of the COUNTY, provided that such approval shall not be unreasonably withheld.

## **ARTICLE X - NON-DISCRIMINATION**

CONTRACTOR 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](http://www.azgovernor.gov/dms/upload/EO_2009_09.pdf) which is hereby incorporated into this Agreement as if set forth in full herein. During the performance of this Agreement, CONTRACTOR 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.

## **ARTICLE XI - AMERICANS WITH DISABILITIES ACT (ADA)**

CONTRACTOR shall 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. If CONTRACTOR is carrying out government programs or services on behalf of COUNTY, then CONTRACTOR shall maintain accessibility to the program to the same extent and degree that would be required of the COUNTY under 28 CFR Sections 35.130, 35.133, 35.149 through 35.151, 35.160, 35.161 and 35.163. Failure to do so could result in the termination of this Agreement.

## **ARTICLE XII - AUTHORITY TO CONTRACT**

CONTRACTOR warrants its right and power to enter into this Agreement and any Job Orders hereunder. If any court or administrative agency determines that COUNTY does not have authority to enter into this Agreement, COUNTY shall not be liable to CONTRACTOR or any third party by reason of such determination or by reason of this Agreement.

## **ARTICLE XIII - FULL AND COMPLETE PERFORMANCE**

The failure of either party to insist in one or more instances upon full and complete compliance with any of the terms or provisions of this Agreement or any Job Order hereunder to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as 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 shall not be construed as an accord and satisfaction.

## **ARTICLE XIV - CANCELLATION FOR CONFLICT OF INTEREST**

This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Agreement by reference.

## **ARTICLE XV - TERMINATION OF AGREEMENT OR JOB ORDER FOR DEFAULT**

A. Upon a failure by CONTRACTOR to cure a default under this Agreement or any job order issued under this Agreement within 10 days of receipt of notice from COUNTY of the default, COUNTY may, in its sole discretion, terminate this Agreement or the job order, as applicable, for default by written notice to CONTRACTOR. In this event, COUNTY may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, or plant on the work site necessary for completing the work. The CONTRACTOR and its sureties shall be liable for any damage to COUNTY resulting from CONTRACTOR's default, including any increased costs incurred by COUNTY in completing the work.

B. The occurrence of any of the following shall constitute an event of default:

1. Abandonment of or refusal or failure to prosecute the work or any separable part thereof with the diligence that will insure completion within the time specified in this Agreement, including any extension, or a failure to complete the work (or the separable part of the work) within the specified time;

2. Persistent or repeated refusal or failure to supply enough properly skilled workmen or materials to perform the work on schedule;
3. Failure to provide competent supervision at the site;
4. Failure to take down, rebuild, repair, alter or amend any defective or deficient work, or remove any defective or deficient Material
5. Failure to make prompt payment to subcontractors or suppliers for material or labor;
6. Loss of Contractor, business or other required license or authority, or any curtailment or cessation for any reason of business or business operations that would substantially impair or preclude CONTRACTOR's performance of this Agreement;
7. Disregard of laws, ordinances, or the instructions of COUNTY or its representatives, or any otherwise substantial violation of any provision of the Agreement; or
8. If a voluntary or involuntary action for bankruptcy is commenced with respect to CONTRACTOR, or CONTRACTOR becomes insolvent, makes a general assignment for the benefit of creditors, or has a receiver or liquidator appointed in respect of its assets.

C. In the event of a termination for default:

1. All finished and unfinished as-builts, shop drawings, documents, data, studies, surveys, drawings, photographs, reports and other information in whatever form, including electronic, acquired or prepared by CONTRACTOR for the terminated project shall become COUNTY's property and shall be delivered to COUNTY not later than five (5) business days after the effective date of the termination;
2. COUNTY may withhold payments to CONTRACTOR arising under this or any other Agreement for the purpose of set-off until such time as the exact amount of damage due COUNTY from CONTRACTOR is determined; and
3. Subject to the immediately preceding subparagraph (2), COUNTY's liability to CONTRACTOR shall not exceed the reasonable value of work satisfactorily performed prior to the date of termination for which payment has not been previously made.

D. Neither this Agreement nor any job order issued under this Agreement will be terminated for default or the CONTRACTOR responsible for damages under this Article, if—

- (1) Excepting item (8) in paragraph B above, the event of default or delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR. Examples of such causes include—
  - (i) Acts of God or of the public enemy,
  - (ii) Acts of the COUNTY in either its sovereign or Contractual capacity,
  - (iii) Acts of another Contractor in the performance of an Agreement with the COUNTY,
  - (iv) Fires,
  - (v) Floods,
  - (vi) Epidemics,
  - (vii) Quarantine restrictions,
  - (viii) Strikes,
  - (ix) Freight embargoes,
  - (x) Unusually severe weather, or
  - (xi) Delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the CONTRACTOR and the subcontractor(s) or supplier(s); and
- (2) The CONTRACTOR, within three (3) days from the beginning of any event of default or delay (unless extended by COUNTY), notifies the COUNTY in writing of the cause(s) therefor. In this circumstance, the COUNTY shall ascertain the facts and the extent of the resulting delay. If, in the judgment of COUNTY, the findings warrant such action, the time for completing the work may be extended.

E. For the purposes of paragraph A above, "receipt of notice" shall include receipt by hand by CONTRACTOR's onsite project manager, facsimile transmission, or under the Notices clause of this Agreement.

F. If, after termination of the Agreement or job order for default, it is determined that the CONTRACTOR was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the COUNTY.

G. The rights and remedies of COUNTY in this Article are cumulative and in addition to any other rights and remedies provided by law or under this Agreement.

#### **ARTICLE XVI - TERMINATION FOR CONVENIENCE OF COUNTY**

COUNTY may terminate this Agreement at any time by giving written notice to CONTRACTOR(s) of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials shall, at the option of the COUNTY, become its property. If the Agreement is terminated by COUNTY as provided herein, CONTRACTOR shall be paid an amount based on the time and expenses incurred by CONTRACTOR prior to the termination date, however, no payment shall be allowed for anticipated profit on unperformed services.

Notwithstanding any other provision of this Agreement, this Agreement may be terminated 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 Agreement. In such circumstance, COUNTY shall have no further obligation to CONTRACTOR, other than to pay for services rendered prior to termination.

#### **ARTICLE XVII - FEDERAL FUNDING**

COUNTY and CONTRACTOR understand that some Job Orders under this Agreement may be funded partially or entirely through a federal grant or other source of federal funding and that additional requirements may attach to the use of such funding. In such event, the additional requirements shall be attached to and be a part of the Job Order. CONTRACTOR agrees to be bound by all such requirements and to comply therewith, including the payment of prevailing wages, if required.

CONTRACTOR shall not subcontract with any firm or person listed in the Excluded Parties List System ([www.epls.gov](http://www.epls.gov)) on any federally-funded Job Order.

#### **ARTICLE XVIII - NON-EXCLUSIVE AGREEMENT**

CONTRACTOR understands that this Agreement is Non-Exclusive and is for the sole convenience of COUNTY. COUNTY reserves the right to obtain like services from other sources for any reason.

#### **ARTICLE XIX - AGREEMENT DOCUMENTS**

**A. INCORPORATION OF DOCUMENTS:** This Job Order Master Agreement is comprised of this Agreement, the Scope of Work (Appendix "A"), the General Conditions (Appendix "B"), Special Conditions – Multiple Award Job Order Agreement (Appendix "C"), Special Provisions (Appendix "D"), Supplemental Provisions for Federal-Aid Construction Contracts (Appendix "E"), Supplemental Provisions for Regional Transportation Authority (RTA) Funded Construction Contracts (Appendix "F"), and other documents incorporated by reference, job orders and modifications thereto, all drawings and specifications referenced in this Agreement or included in such job orders as may be issued under this Agreement, and the solicitation under which this Agreement was established, excepting that the last incorporation does not apply if this Agreement replaces individual Job Order Contracts. These documents are hereby incorporated into and made part of this Agreement as if set forth in full herein. The Contractors respective Subcontractor Selection Plans are incorporated by reference; each Contractor shall be bound by the terms of its own Subcontractor Selection Plan. The Supplemental Provisions for Federal and RTA funding shall apply only in the event of complete or partial funding from their respective sources.

**B. ORDER OF PRECEDENCE:** In the event of a conflict or inconsistency between or among the documents incorporated into this Agreement, the Agreement Documents shall take precedence in the following order:

- 1) This Agreement
- 2) Special Conditions – Multiple Award Job Order Agreement
- 3) General Conditions
- 4) Special Provisions
- 5) Subcontractor Selection Plan
- 6) Job Orders
- 7) Technical Specifications
- 8) Solicitation
- 9) Contractor Response to the Solicitation

In the event of a conflict between any Agreement or Job Order document on a Federally-funded job order, the federal requirement shall take precedence. The parties may, by written agreement, deviate from this order of precedence in resolving inconsistencies between or among Agreement documents. Any such Agreement interpreting the Agreement shall be incorporated into the Agreement by Amendment.

#### **ARTICLE XX - BONDING REQUIREMENTS**

CONTRACTOR shall file payment and performance bonds with COUNTY, as required by A.R.S. § 34-610, 611, no later than the time of agreement on the price (or Guaranteed Maximum Price) for any construction under this Agreement. Bonds may be submitted on an annual basis for the full value of all construction reasonably anticipated during the Agreement year or may be provided on a job-order by job-order basis; in the latter case, CONTRACTOR may anticipate additional job orders and provide bonds in reasonable increments. At no time shall the cumulative value of the bonds be less than the total value of the construction performed by CONTRACTOR under this Agreement, including job orders awarded to CONTRACTOR but not yet completed. If bonds are secured on a job-order by job-order basis, the Administering Department will obtain the appropriate bonds from CONTRACTOR upon issuance of a Job Order and release of the Contract for the project.

#### **ARTICLE XXI - OWNERSHIP OF DOCUMENTS and MODELS**

All original drawings, boring logs, field data, estimates, field notes, plans, specifications, documents, reports, calculations, maps and models, and other information developed by CONTRACTOR under this Agreement shall vest in and become the property of the COUNTY and shall be delivered to COUNTY upon completion or termination of the services, but CONTRACTOR may retain record copies thereof.

In the event CONTRACTOR develops or generates a building information model (or equivalent) of the Project, CONTRACTOR will provide one electronic copy of the final model on permanent media to COUNTY. CONTRACTOR's delivery of the model to COUNTY shall constitute a grant to COUNTY of an irrevocable, paid-up, nonexclusive license to copy, use, display, disclose, or modify the model for any reasonable purpose exclusively for this Project. CONTRACTOR agrees that the rights granted to COUNTY include the ability to provide a copy of the model to any subsequent contractor retained to maintain, modify or expand the Project in any way. COUNTY agrees that, as between COUNTY and CONTRACTOR only, any modifications to the model by or for COUNTY after final completion and acceptance of this Project shall be at COUNTY's sole risk and responsibility unless such modifications are performed by CONTRACTOR.

#### **ARTICLE XXII – BOOKS AND RECORDS**

CONTRACTOR shall keep and maintain proper and complete books, records and accounts, which shall be open at all reasonable times for inspection and audit by duly authorized representatives of COUNTY.

CONTRACTOR shall retain all records relating to this Agreement at least five (5) years after its termination or cancellation or until any related pending proceeding or litigation has been closed, if later.

### **ARTICLE XXIII - REMEDIES**

Either party may pursue any remedies provided by law for the breach of this Agreement. 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 Agreement. This section does not relieve the Contractor of any statutory requirement relating to the presentation of claims to the Board of Supervisors of Pima County as a condition precedent to filing suit against the County. Contractor will continue performance, notwithstanding any claim, demand, dispute, controversy or difference that may arise between the parties as a result of or in connection with this Agreement or any Job Order.

### **ARTICLE XXIV - PUBLIC INFORMATION**

Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-604(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all information submitted in response to this solicitation that underlies this Agreement, including, but not limited to, pricing, product specifications, work plans, and any supporting data becomes public information and upon request, is subject to release and/or review by the general public including competitors.

Any records submitted in response to the solicitation that underlies this Agreement that respondent believes constitute proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as CONFIDENTIAL by respondent prior to the close of the solicitation.

Notwithstanding the above provisions, in the event records marked CONFIDENTIAL are requested for public release pursuant to A.R.S. § 39-121 et seq., County shall release records marked CONFIDENTIAL ten (10) business days after the date of notice to the respondent of the request for release, unless respondent has, within the ten day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the records. For the purposes of this paragraph, the day of the request for release shall not be counted in the time calculation. Respondent shall be notified of any request for such release on the same day of the request for public release or as soon thereafter as practicable.

County shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked CONFIDENTIAL, nor shall County be in any way financially responsible for any costs associated with securing such an order.

### **ARTICLE XXV - LEGAL ARIZONA WORKER'S ACT COMPLIANCE**

CONTRACTOR hereby warrants that it will at all times during the term of this Agreement comply with all federal immigration laws applicable to CONTRACTOR'S employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws").

CONTRACTOR shall further ensure that each subcontractor who performs any work for CONTRACTOR under this Agreement likewise complies with the State and Federal Immigration Laws.

COUNTY shall have 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.

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, shall be deemed to be a material breach of this Agreement subjecting CONTRACTOR to penalties up to and including suspension or termination of this Agreement. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, CONTRACTOR shall 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, (subject to COUNTY approval if SBE preferences apply) as soon as possible so as not to delay project completion.

CONTRACTOR 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 Agreement 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 Agreement subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this Agreement."

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

#### **ARTICLE XXVI- SCRUTINIZED BUSINESS OPERATIONS**

Pursuant to A.R.S. §§ 35-391.06 and 393.06, CONTRACTOR hereby certifies that it does not have scrutinized business operations in Iran or Sudan. The submission of a false certification by CONTRACTOR may result in action up to and including termination of this Agreement.

#### **ARTICLE XXVII - NOTICES**

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

##### **COUNTY:**

Priscilla S. Cornelio, P.E. - Director  
Pima County Department of Transportation  
201 North Stone Avenue – 4<sup>TH</sup> Floor  
Tucson, AZ 85701  
Phone: 520-740-6340  
Fax: 520-838-7347

##### **CONTRACTOR:**

As shown in Attachment 1

#### **ARTICLE XXVIII - SEVERABILITY**

Each provision of this Agreement in all of its parts stands alone, and any provision found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Agreement.

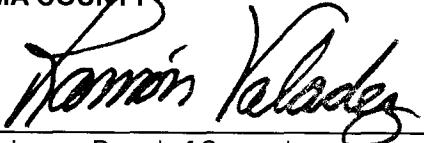
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### ARTICLE XXIX - ENTIRE AGREEMENT

This document, in all its parts, together with Attachments and documents incorporated by reference 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. Except as otherwise specifically provided in Article I, this Agreement may be modified, amended, altered or extended only by a written Amendment signed by the parties.

IN WITNESS WHEREOF, the CONTRACTORS have affixed their signatures to the attached Letters of Commitment and the COUNTY has affixed its signatures to this Agreement on the dates written below.

PIMA COUNTY

  
Tomás Valadez  
Chairman, Board of Supervisors  
Date NOV, 01, 2011

ATTEST:

  
Robin Brigade  
Clerk, Board of Supervisors  
Date NOV, 01, 2011

APPROVED AS TO FORM:

  
Sue Bellmore  
Deputy County Attorney  
Date 12/ 02/ 2011