



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

Requested Board Meeting Date: September 15, 2015

or Procurement Director Award ☐

**Contractor/Vendor Name (DBA):** La Ceramica LLC

**Project Title/Description:**

Artist Services for Cortaro Farms Road, Camino de Oeste to Thornydale Rd, W.O. 4CFCOT

**Purpose:**

Provide public art design and fabrication for roadway improvement project

**Procurement Method:**

Competitive selection compliant with Admin. Proc. 3-16 for Public Art

**Program Goals/Predicted Outcomes:**

Incorporate public art into roadway CIP project per BOS Policy C.3.3. and Admin Proc. 3-16.

**Public Benefit:**

Visual enhancement to roadway construction project.

**Metrics Available to Measure Performance:**

Public opinion as measured through calls, letters, newspaper editorials and other.

**Retroactive:**

NO

**Original Information**

Document Type: CT Department Code: TR Contract Number (i.e., 15-123): 15\*0575

Effective Date: 09/15/15 Termination Date: 08/30/17 Prior Contract Number (Synergen/CMS): NA

☒ Expense Amount: \$ 110,000.00 ☐ Revenue Amount: \$ \_\_\_\_\_

Funding Source(s): 97 Bond

Cost to Pima County General Fund: \$0

Contract is fully or partially funded with Federal Funds? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards

Were insurance or indemnity clauses modified? ☒ Yes ☐ No ☐ Not Applicable to Grant Awards

Vendor is using a Social Security Number? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards

If Yes, attach the required form per Administrative Procedure 22-73.

**Amendment Information**

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Contract Number (i.e., 15-123): \_\_\_\_\_

Amendment No.: \_\_\_\_\_ AMS Version No.: \_\_\_\_\_

Effective Date: \_\_\_\_\_ New Termination Date: \_\_\_\_\_

☐ Expense ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ \_\_\_\_\_

Funding Source(s): \_\_\_\_\_

Cost to Pima County General Fund: \_\_\_\_\_

AUG 26 15 PM 09:00 PC CLK OF RD

CoB: 9-2-15

Bos: 9-15-15

12pgs(2)

Procurement Dept 08/27/15 PM 11:59

Contact: Jonathan Crowe

Department: TR

Telephone: 724-6383

Department Director Signature/Date:



8/6/15

Deputy County Administrator Signature/Date:



8/11/15

County Administrator Signature/Date:



8/12/15

(Required for Board Agenda/Addendum Items)



CONTRACTOR shall perform the work in accordance with the terms of the Contract and to the best of CONTRACTOR'S ability. CONTRACTOR shall employ suitably trained and skilled professional personnel to perform all services under this Contract, subject to Article XXIV of this Contract and the Legal Arizona Worker's Act.

### **ARTICLE III – COMPENSATION AND PAYMENT**

In consideration of the services specified in this Contract, the COUNTY agrees to pay CONTRACTOR One hundred and ten thousand dollars (\$110,000.00) for design, fabrication and installation of ARTWORK. This amount shall be paid as provided in **EXHIBIT 'B': PAYMENT**.

### **ARTICLE IV - INSURANCE**

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

- a) Commercial General Liability in the amount of \$1,000,000.00 combined, single limit Bodily Injury and Property Damage. COUNTY is to be named as an additional insured for all operations performed within the scope of the Contract between COUNTY and CONTRACTOR. The coverage may be restricted to the period in which the CONTRACTOR is performing work at the PROJECT site.
- b) Commercial or Business Automobile Liability will be waived if CONTRACTOR agrees that, in consideration of the waiver of the Commercial Auto coverage, that travel will be limited to coming and going exclusively to and from the job site and/or meeting location, with no deviations. CONTRACTOR agrees that failure to comply with this requirement indemnifies the COUNTY against any bodily injury or property damage claims resulting from an accident.
- c) CONTRACTOR is performing work as an independent contractor for COUNTY. CONTRACTOR shall provide COUNTY with a completed Workers' Compensation Insurance Waiver Form prior to any work being performed by CONTRACTOR.

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

### **ARTICLE V - INDEMNIFICATION**

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 from, in connection with or caused by: (a) any personal injury or property damage caused, directly or indirectly, by any act or omission of CONTRACTOR; or (b) any infringement of patent, copyright, trademark, trade secret or other proprietary right caused by CONTRACTOR in connection with performance of this Contract.

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

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

## **ARTICLE VII - INDEPENDENT CONTRACTOR**

The status of the CONTRACTOR shall be that of an independent contractor. Neither CONTRACTOR, nor CONTRACTOR'S officers, agents, nor employees shall be considered an employee of 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 the compensation received pursuant to this Contract, and shall indemnify and hold COUNTY harmless from any and all liability that COUNTY may incur because of CONTRACTOR'S failure to pay such taxes. CONTRACTOR shall be solely responsible for program development and operation.

## **ARTICLE VIII - SUBCONTRACTOR**

CONTRACTOR will be 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 CONTRACTOR is responsible for the acts and omissions of persons directly employed by it. Nothing in this Contract 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 Contract, 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, which is hereby incorporated into this Contract as if set forth in full herein, supersedes Executive order 99-4 and amends Executive order 75-5. During the performance of this Contract, 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**

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.

## **ARTICLE XII-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 shall not be liable to CONTRACTOR or any third party by reason of such determination or by any reason of this Contract.

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

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of this Contract 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 the 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 Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into and made part of this Contract by reference.

#### **ARTICLE XV - OWNERSHIP OF ARTWORK**

- a. Ability of COUNTY to Alter ARTWORK. The COUNTY, having expended considerable public funds to commission the ARTWORK, intends to display the ARTWORK at the PROJECT site as originally created by CONTRACTOR and to maintain the ARTWORK in good condition. Public artworks commissioned by the COUNTY are sometimes integrated into the overall project, such that they become an integral, permanent and site-specific part of the project's or facility's structure, architecture or landscaped environment, and a modification or change in the project or facility would result in significant changes to the artwork. COUNTY, however, must preserve complete flexibility to operate and manage COUNTY property in the public's interest. Therefore, COUNTY retains the right to alter, remove or destroy the ARTWORK in connection with any repair, maintenance, change or modification of the overall PROJECT or public facility, under the conditions set forth below.
- b. Procedure in Event of Alteration. If COUNTY intends to take any action with respect to the PROJECT or the ARTWORK that would alter the ARTWORK, other than routine cleaning and maintenance, the following procedures shall apply:
  - (1) Notice. If time permits, COUNTY shall make reasonable good faith efforts to notify CONTRACTOR at least 20 calendar days prior to authorizing any alteration of the ARTWORK, at the last phone number or address provided by CONTRACTOR to the COUNTY. Where time does not permit notification prior to alteration of the ARTWORK – for example, in cases of public hazard, accident or unauthorized alteration – COUNTY shall notify CONTRACTOR within 30 calendar days after such alteration.
  - (2) Consultation. After receiving such notice, CONTRACTOR shall consult with COUNTY to determine whether the ARTWORK can be restored or relocated, and attempt to come to a mutually agreeable plan for disposition of the ARTWORK. Such consultation shall be without charge by CONTRACTOR unless otherwise specifically agreed in writing. If COUNTY intends to remove the ARTWORK, CONTRACTOR shall consult regarding methods to minimize or repair any alteration to the ARTWORK caused by such removal and the potential costs of such removal.
  - (3) Restoration. If the ARTWORK is altered, with or without prior notice to CONTRACTOR, and COUNTY intends to maintain the ARTWORK on display, COUNTY shall make a reasonable good faith effort to engage CONTRACTOR in the restoration of the ARTWORK and to compensate CONTRACTOR for CONTRACTOR'S time and efforts at fair market value, which may be the subject of a future agreement between CONTRACTOR and COUNTY. However, COUNTY has no obligation under this Contract to restore the ARTWORK to its original condition, to compensate CONTRACTOR for any restoration work, or to maintain the ARTWORK on display. If CONTRACTOR fails or refuses to negotiate with COUNTY in good faith with respect to any restoration, COUNTY may contract with any other qualified art conservator or CONTRACTOR for such restoration. During CONTRACTOR'S lifetime, COUNTY shall make best efforts not to display or deaccession only a portion of the ARTWORK without CONTRACTOR'S consent.
  - (4) Removal by CONTRACTOR. If time permits, if COUNTY intends to take an action that will destroy the ARTWORK, such as destruction of all or part of the PROJECT site, and COUNTY determines that it will not remove and preserve the ARTWORK itself, COUNTY shall allow CONTRACTOR to remove the ARTWORK at CONTRACTOR'S expense within 30 days of notice from the COUNTY of the need to remove the ARTWORK, in which case title to the

ARTWORK shall revert to CONTRACTOR. If CONTRACTOR fails to remove the ARTWORK within that 30 day period, COUNTY may destroy the ARTWORK.

- c. Remedies. If COUNTY breaches any of its obligations under this Section, CONTRACTOR'S remedies shall be limited as follows: If COUNTY inadvertently fails to provide a required prior notice of alteration, COUNTY will provide notice as soon as it discovers the omission, and before alteration of the ARTWORK if that remains possible. If COUNTY alters the ARTWORK without providing CONTRACTOR a required prior notice of alteration, CONTRACTOR shall be given the first right of refusal to restore the ARTWORK at the same location and COUNTY shall make reasonable efforts to provide funding for the restoration. If COUNTY funds cannot be made available after reasonable efforts are made to secure such funding, CONTRACTOR may, but is not obligated to, restore the ARTWORK at CONTRACTOR'S expense. If CONTRACTOR elects not to restore the ARTWORK, COUNTY may retain another contractor or conservator to restore it, or may alter the ARTWORK in any manner, at COUNTY'S sole discretion. If COUNTY alters the ARTWORK without CONTRACTOR'S consent in a manner that is prejudicial to CONTRACTOR'S reputation, CONTRACTOR'S retains the right to disclaim authorship of the ARTWORK in accordance with 17 U.S.C. §106A (a) (2).
- d. Third Parties. Except as provided in this Contract, with respect to third parties who are not officers, employees, agents, successors or assigns of COUNTY, CONTRACTOR retains CONTRACTOR'S moral rights in the ARTWORK, as established in the Visual Artists Rights Act (17 U.S.C. §§106A and 113(d)) or any other local, state, federal or international moral rights laws that protect the integrity of works of art. Accordingly, nothing herein shall prevent CONTRACTOR from pursuing a claim for alteration of the ARTWORK against a third party who is not an officer, employee, agent, successor or assign of COUNTY. COUNTY has no obligation to pursue claims against third parties to remedy or prevent alteration of the ARTWORK. However, as owner of the ARTWORK, COUNTY may pursue claims against third parties for damages or to restore the ARTWORK if the ARTWORK has been altered without COUNTY'S authorization.

#### **ARTICLE XVI - COPYRIGHT**

- a. Copyright. Subject to usage rights and licenses granted to COUNTY hereunder, CONTRACTOR shall retain all 17 U.S.C. §106 copyrights in all original works of authorship produced under this Contract. CONTRACTOR'S copyright shall not extend to predominantly utilitarian aspects such as landscaping elements, furnishings, or other similar objects. If CONTRACTOR is comprised of two or more individual persons, the individual persons shall be deemed joint authors of the ARTWORK.
- b. COUNTY'S Intellectual Property License. CONTRACTOR grants to COUNTY and to COUNTY'S agents, authorized contractors and assigns, an unlimited, non-exclusive and irrevocable license to do the following with respect to the ARTWORK, and any original works of authorship created under this Contract, whether in whole or in part, in all media (including electronic and digital).
  - (1) Implementation, Use and Display. COUNTY may use and display the ARTWORK.
  - (2) Reproduction and Distribution. COUNTY may make and distribute, and authorize the making, display and distribution of, photographs and other 2-dimensional reproductions of the ARTWORK. COUNTY may use such reproductions for any COUNTY-related purpose, including advertising, educational and promotional materials, brochures, books, flyers, postcards, print, broadcast, film, and catalogues or similar publications. The license granted hereunder does not include the right to create 3-dimensional reproductions on items such as tote-bags, T-shirts, coffee mugs and similar merchandise. Such reproductions may only be created pursuant to separate license agreements with CONTRACTOR.
  - (3) Public Records Requests. Any documents provided by CONTRACTOR to COUNTY are public records and COUNTY may authorize third parties to review and reproduce such documents pursuant to public records laws.

- c. Publicity. COUNTY shall have the right to use CONTRACTOR'S name, likeness, and biographical information, in connection with the display or reproduction and distribution of the ARTWORK including all advertising and promotional materials regarding COUNTY. CONTRACTOR shall be reasonably available to attend any inauguration or presentation ceremonies relating to the public dedication of the ARTWORK.

#### **ARTICLE XVII - WARRANTY**

CONTRACTOR warrants that the ARTWORK is an original production of CONTRACTOR'S own creative efforts, that upon delivery the ARTWORK shall be free of all liens, claims and encumbrances of any sort, and that the ARTWORK is unique and will not be physically reproduced by CONTRACTOR for sale or display elsewhere without the express written permission of COUNTY.

CONTRACTOR shall warranty the work to be free from defects in material and workmanship for a period of two years from date of Final Acceptance by Owner. Warranty does not cover damage from theft, fire, vandalism or acts of God. Should defects develop within the warranty period as a result of poor material and/or workmanship, CONTRACTOR shall repair or replace all work to the satisfaction of COUNTY without cost to COUNTY.

#### **ARTICLE XVIII-TERMINATION**

COUNTY reserves the right to terminate this Contract at any time and without cause by serving upon CONTRACTOR 30 days advance written notice of such intent to terminate. In the event of such termination, the COUNTY'S only obligation to CONTRACTOR shall be payment for services rendered prior to the date of termination.

This Contract may be terminated at any time without advance notice and without further obligation to the COUNTY when the CONTRACTOR is found to be in default of any provision of this Contract.

Notwithstanding any other provision in this Contract, this Contract 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 Contract. In the event of such termination, COUNTY shall have no further obligation to CONTRACTOR, other than to pay for services rendered prior to termination.

#### **ARTICLE XIX - NOTICE**

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:

<b>Pima County</b> Priscilla Cornelio, P.E., Director Department of Transportation, 4 <sup>th</sup> floor 201 N. Stone Avenue Tucson AZ 85701 (520) 724-6340	<b>CONTRACTOR</b> La Ceramica, LLC 2929 W. Via de Sueños Tucson, AZ 85713 (520) 275-5035 info@ninaborgiaaberle.com
<b>Copy:</b> Jonathan Crowe, Principal Planner Department of Transportation, 4 <sup>th</sup> floor 201 N. Stone Avenue Tucson AZ 85701 (520) 724-6383	

#### **ARTICLE XX - NON-EXCLUSIVE CONTRACT**

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



#### **ARTICLE XXI - 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 shall be cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.

#### **ARTICLE XXII- SEVERABILITY**

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

#### **ARTICLE XXIII - 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.

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

#### **ARTICLE XXIV – 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 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 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 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 Contract subjecting CONTRACTOR to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, CONTRACTOR 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, (subject to COUNTY approval if MWBE 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 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 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.

**(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)**

**ARTICLE XXVI- ENTIRE AGREEMENT**

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

IN WITNESS WHEREOF, the parties have affixed their signatures to this Contract on the dates written below.

**PIMA COUNTY:**

\_\_\_\_\_  
Chair, Board of Supervisors

\_\_\_\_\_  
Date

**CONTRACTOR:**

  
\_\_\_\_\_  
La Ceramica, LLC  
Nina Borgia-Aberle, owner


6/10/15  
\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Clerk of Board

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Deputy Pima County Attorney

**ANDREW FLAGG**

## **EXHIBIT 'A'**

### **SCOPE OF WORK**

#### **Artist Services for Cortaro Farms Road, Camino de Oeste to Thornydale Road**

During the term of this Contract, the CONTRACTOR, La Ceramica LLC, shall perform professional services for the COUNTY in connection with the above referenced project. This scoping document shall be used to plan, conduct, and complete the CONTRACTOR's work on the PROJECT.

#### **I. Design Phase**

- A. Upon execution of this Contract, CONTRACTOR shall meet with COUNTY staff and Project Manager(s) to review opportunities and constraints, discuss possible designs, and identify appropriate areas as possible sites for ARTWORK.
- B. CONTRACTOR shall work cooperatively with COUNTY, design team, contractors, and the local community as represented by the Community Advisory Committee. It is understood that the process of developing, reviewing, and approving an ARTWORK for the COUNTY is an open and transparent process which may include public participation and scrutiny.
- C. the follow shall initially prepare at least one conceptual design for the ARTWORK, and shall submit these concepts to COUNTY staff and project manager for review. The conceptual design submittal shall include information about the content, scale, location, context, relationship of components, and materials of the proposed ARTWORK.
- D. CONTRACTOR shall submit a budget which explains how the contract amount shall be expended. Budget shall include a list of art elements with corresponding budget, the projected allocation of responsibilities and activities related to design, production and installation of the elements, and a timeline. This budget, once accepted by the Project Manager, shall become part of this Contract.
- E. The COUNTY in reviewing the proposed ARTWORK may require that the CONTRACTOR make modifications before submitting to public review. CONTRACTOR shall respond within a reasonable amount of time to the COUNTY's requests for written decisions or determinations, pertaining to the PROJECT, so as not to delay the PROJECT. CONTRACTOR agrees to address COUNTY's comments and modification requirements prior to final review and approval. CONTRACTOR shall give prompt written notice to the COUNTY whenever the CONTRACTOR becomes aware of an event, occurrence, condition or circumstance, which may substantially affect the PROJECT or the PROJECT team's performance.
- F. Once conceptual design and budget has been reviewed and accepted by COUNTY, CONTRACTOR may present designs of the proposed ARTWORK at public meetings to gather input and select a final design. CONTRACTOR shall be available with reasonable advance notice for meetings, as necessary. CONTRACTOR shall document community and design team input, feedback and outcomes.
- G. Once a final design has been selected, CONTRACTOR shall prepare final design drawings, specifications, and materials samples, and shall submit these to COUNTY for review and approval including review by Risk Management. Where applicable, CONTRACTOR shall provide structural engineering drawings.
- H. If ARTWORK is integrated into roadway project construction plans, CONTRACTOR shall provide detailed construction drawings with sufficient detail to install ARTWORK using standard construction methods. CONTRACTOR shall coordinate with the Project Team to prepare and finalize drawings and specifications that Design Engineer can include in the roadway design plans.
- I. The Project Manager will provide CONTRACTOR with the following coordination support:

1. Assisting and cooperating with CONTRACTOR in completing the Scope of Services in a timely and effective manner; including assisting CONTRACTOR with preparation of budgets, visual materials for public meetings; documenting ARTWORK into the construction documents, if needed. If ARTWORK is incorporated into the roadway design documents, the Design Engineer and all its sub-consultants may provide engineering services at their discretion. Unless otherwise agreed, CONTRACTOR is responsible to obtain, coordinate and document engineering requirements.
2. Designating a representative who shall have authority to transmit instructions, receive information and enunciate Engineer's policies and decisions.
3. Arranging required meetings for presentations.
4. Making available to CONTRACTOR existing information, which may be pertinent to the Scope of Services described herein.
5. Responding within a reasonable time to CONTRACTOR requests for written decisions or determinations, pertaining to the Scope of Services, so as not to delay the services of the CONTRACTOR.
6. Giving prompt written notice to CONTRACTOR whenever the Engineer becomes aware of an event, occurrence, condition or circumstance, which may substantially affect CONTRACTOR performance of her Scope of Services under this Contract.

### **III. Fabrication and Installation**

- A. CONTRACTOR must receive written approval from COUNTY of the Final Design of the ARTWORK before proceeding with fabrication and installation. CONTRACTOR shall fabricate the ARTWORK in substantial conformity with the approved Final Design and, if applicable, approved engineering and construction documents.
- B. CONTRACTOR shall be available with reasonable advance notice for meetings, as necessary to review construction plans and specifications, and for field reviews.
- C. CONTRACTOR shall make any necessary modifications or revisions to the ARTWORK as requested by the COUNTY for a proper and structurally sound installation.
- D. If CONTRACTOR fabricates any portion of the ARTWORK themselves, CONTRACTOR is responsible for transporting ARTWORK to the site but shall coordinate with the Project Manager.
- E. CONTRACTOR shall fabricate and install, at their own expense, a plaque on or near the ARTWORK stating the title, CONTRACTOR name, date, and other details as determined by the CONTRACTOR and COUNTY, subject to approval by the Tucson Pima Arts Council and COUNTY prior to installation.
- F. When ARTWORK is completed, CONTRACTOR shall provide the Tucson Pima Arts Council and the COUNTY a recommended annual maintenance protocol and schedule describing the media and techniques used to produce and install the ARTWORK the frequency of maintenance; materials and methods to be used; and an estimate of the costs of maintenance and preservation of the ARTWORK.
- G. When ARTWORK is completed, CONTRACTOR shall provide a minimum of (6) digital images and (6) 8" x 10" color prints of the completed and installed ARTWORK to the Tucson Pima Arts Council and COUNTY.

## **EXHIBIT 'B'**

### **PAYMENT**

#### **Artist Services for Cortaro Farms Road, Camino de Oeste to Thornydale Road**

- A. In consideration of the performance and service described in the Scope of Services, COUNTY shall pay CONTRACTOR the estimated amounts as set forth below and CONTRACTOR shall charge COUNTY only in accordance with those same amounts. Checks for payment shall be issued to La Ceramica LLC. Total payment for services provided during the term of this Contract shall not exceed \$110,000.00
- B. During the design phase, CONTRACTOR shall be paid for design services including those of CONTRACTOR sub-consultants. CONTRACTOR shall submit invoices to COUNTY with documentation that accurately defines progress towards completion of tasks, and the CONTRACTOR'S estimate of the percentage of the task that is completed at the date of the submission.
- C. It is estimated that that no more than 30% of the total Contract, or \$33,000.00 will be expended for design services. Allowable costs include design time, materials for models/presentations, and labor. Only with prior authorization from the Project Manager shall additional funds be expended during the design phase.
- D. It is estimated that no more than 70% of the total Contract, or \$77,000.00 will be expended on ARTWORK materials, fabrication, transportation and installation. CONTRACTOR shall submit itemized invoices for services based upon the mutually agreed upon schedule and final design plans provided at the 100% design milestone.