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

**Requested Board Meeting Date:** May 17, 2016
**or Procurement Director Award** ☐

**Contractor/Vendor Name (DBA):** Southern Arizona Paving and Construction, Co. (Headquarters: Tucson, AZ)

**Project Title/Description:**
Colossal Cave Road: Acacia Elementary to Old Vail Middle School (4RTCCS).

**Purpose:**
Award of Contract: Contract No. CT-PW-16-323. This award of contract is recommended to the lowest, responsive, responsible bidder in the amount of $3,138,529.00 for a contract term from May 17, 2016 to December 28, 2018, for the construction of Colossal Cave Road: Acacia Elementary to Old Vail Middle School. Administering Department: Public Works Administration.

**Procurement Method:**
A Limited Competition Invitation for Bid No. 213642 was conducted in accordance with A.R.S. 34-606 and Pima County Procurement Code 11.12.060. In order to provide the best method for facilitating and coordinating the work activities between the Department of Transportation (DOT) roadway contractor and the Union Pacific Railroad (UPRR) crossing contractor, DOT received the approval to limit the bid to the five (5) existing Job Order Contractors that were prequalified under Solicitation No. 8652 - Job Order Master Agreement for Traffic Signal, Road Intersection, Paving and Drainage Improvements. Five (5) responses were received. All bidders met the small business enterprise goal of nine percent (9%).

Attachments: Notice of Recommendation for Award, Limited Competition Procurement Memo, Contract No. CT-PW-16-323.

**Program Goals/Predicted Outcomes:**
Construction can commence on the Colossal Cave Road, Acacia Elementary to Old Vail Middle School, road improvement project.

**Public Benefit:**
Traffic operations will be improved with the widening of the existing roadway to include a center two-way left-turn lane. Safety will be improved with increased line-of-sight visibility at railroad crossings, reconfigured railroad crossings, and installation of new bicycle and pedestrian facilities. Other components include landscape, public art, and other hardscape amenities.

**Metrics Available to Measure Performance:**
This project will be measured and evaluated in conformance with the Pima County Project Management Manual, as well as project-specific monthly reports and DOT Partnering metrics.

**Retroactive:**
No

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To: CoB 5-6-16 (1)
Ver. - 1
Pgs. - 45

Procure Dept 05/06/'16 PM 11:06

**Original Information**

Document Type: CT Department Code: PW Contract Number (i.e.,15-123): 16-323

Effective Date: 5/17/2016 Termination Date: 12/28/2018 Prior Contract Number (Synergen/CMS):

☒ Expense Amount: $ 3,138,529.00 ☐ Revenue Amount: $

Funding Source(s): Regional Transportation Authority (RTA) - 17%; Vail Unified School District - 2%; Southeast Impact Fees - 69%; General Fund - 11%; Rincon Valley Impact Fees >1%

Cost to Pima County General Fund: $345,238.19 (11%)

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:

Contact: Matt Sage, Commodity/Contracts Officer 5/3/16 5/3/16

Department: Procurement 5/3/16 Telephone: 724-8586

Department Director Signature/Date: 5/5/16

Deputy County Administrator Signature/Date: 5/5/16

County Administrator Signature/Date: 5/5/16

*(Required for Board Agenda/Addendum Items)*

PIMA COUNTY
TRANSPORTATION

C. Huckelberry 2/12/16

# MEMORANDUM

DATE: February 11, 2016

TO: C.H. Huckelberry, County Administrator

FROM: Priscilla S. Cornelio, P.E., Director

SUBJECT: **Colossal Cave Road, Project Update and Railroad Acquisition**

In response to your memo dated February 8, 2016 I would like to provide the following update information.

**Design Activities**

The contract Plans, Specifications and Estimate (PS&E) are being finalized in preparation for invitation to bid and we are also preparing for the upcoming 3-2, 100% Design Gate meeting. As part of this effort, the project team has identified an alternate approach of utilizing limited competition procurement, and the memo outlining the details associated with this request is attached.

**Right of way Acquisition**

In December 2015, Union Pacific Railroad (UPRR) sent the valuation and contract agreement to Pima County. We have been working closely with Pima County Real Property on this item, and the contract language has been reviewed and revised and is now acceptable to the County. However, the dollar amount requested from UPRR is $157,000, or $2.81/ft. We have raised the question regarding how the UPRR data supports their price, and have submitted a County appraisal at $.65 and $.85/ft. (there are 2 separate parcels). The valuation was submitted to UPRR on January 14, 2016 and UPRR has indicated they will have a response by the end of February as to valuation.

In the interest of performing our due diligence and pursuing every opportunity to reduce project costs, we do believe that we can still proceed with an invitation to bid the project independent of the UPRR acquisition activities. However, if final resolution is not attained by the end of February, then the railroad construction may no longer fit within the overall construction timing of the roadway project.

I trust this provides the information you need, and please let me know if you have any questions.

PSC:RE:dg

Attachment

c: John M. Bernal, Deputy County Administrator – Public Works
Nanette Slusser, Assistant County Administrator for Policy – Public Works
Neil Konigsberg, Pima County Real Property
Ana Olivares, Deputy Director
Rick Ellis, Engineering Division Manager
Sandi Garrick, Project Manager

2/16/16

PIMA COUNTY
TRANSPORTATION

# MEMORANDUM

DATE: February 11, 2016

THRU: Tom Burke, Deputy County Administrator - Administration

TO: C.H. Huckelberry, County Administrator

FROM: Priscilla S. Cornelio, P.E., Director

SUBJECT: **Colossal Cave Road, Request Approval for Limited Competition Procurement**

We are requesting your approval to utilize a limited competition procurement pursuant to the Emergency Procurement provisions of A.R.S. §34-606 and Pima County Procurement Code 11.12.060 for the Colossal Cave project from Acacia Elementary to Old Vail Middle School.

**Background**

The project proposes to reconstruct the existing two-lane roadway into a three-lane roadway complete with turning lanes, paved shoulders, pedestrian features and drainage improvements. As part of the project, the Union Pacific Railroad (UPRR) will be reconstructing two crossings within the project limits. Substantial work is required at, and adjacent to, these railroad crossings, including realignment and widening of the roadway, relocation of the UPRR gates and cabinets, and raising the roadway profile approximately six feet at one of the crossings. Based on our initial discussions with UPRR, we are anticipating that there will be a need for full closure of the roadway for approximately 5-7 days, at each crossing location.

As part of the overall approval process, the Arizona Corporation Commission (ACC) allocates a 15 month time frame in which UPRR must complete their construction modifications at both crossing locations. While this time frame fits within our overall project construction duration, we have also been in contact with the UPRR to suggest scheduling the railroad activities and closures so that they coincide with break periods when Vail Unified School District closes. Taking advantage of these breaks will significantly reduce the traffic and demand on Colossal Cave Road as well as the Vail community, which will ease impacts to the residents and businesses in the area. Although UPRR cannot formally commit to our recommendations, they have been receptive to this suggestion and indicated that they will continue to work with us to explore and pursue this approach.

**Recommended Approach**

In order to provide the best method for facilitating and coordinating the work activities between the Department of Transportation's (DOT) roadway contractor and the UPPR's crossing contractor, DOT recommends limiting the construction procurement to DOT's five existing Job Order Contracting (JOC) contractors:

- ✓ The Ashton Company
- ✓ KE&G
- ✓ Southern Arizona Paving
- ✓ Granite Construction
- ✓ Borderland Construction

This approach is necessary due to the fact that construction of the roadway project will occur in the same time period as the UPRR crossing work. Although this overlap does not jeopardize the project, it does mean that we are proceeding without finalized and fully detailed timelines for when the railroad construction activities will take place. As a result, many of the roadway project work elements such as; phasing, traffic control, earthwork balancing, mobilization of equipment, etc. can all be significantly affected by timing and scheduling of the railroad work being performed by UPRR. Please be assured that we are working closely with UPRR as these efforts progress, however, we have no control or authorization over scheduling and sequencing of their work activities. As a result, we need a construction team (especially the contractor) with the ability to react and respond to a less than well defined set of circumstances.

While limiting the advertisement to the five contractors listed above does not guarantee lower prices or fewer claims, it does improve the likelihood that the limitations, unknowns and constraints as identified in the contract will be better understood, and subsequently addressed in a responsible manner. Unfortunately, we have seen first-hand what can happen when an unfamiliar and/or less experienced contractor is the successful low bidder. For the approach we are proposing, all five contractors are highly-qualified firms with proven track records for partnering with DOT to complete challenging projects. In addition, all five were selected as contractors for the JOC program based on their skills, capabilities and qualifications.

Although this approach may be perceived as limiting competition, we believe that the five firms will submit very competitive bids, while reducing the potential for additional costs during construction. We have discussed other alternative methods and verified that this approach will have the highest potential for success.

Since we are currently in the process of preparing for the upcoming 3-2, 100% Design Gate meeting, we request your concurrence/approval on this approach so that we can integrate this information into the materials and discussion.

I trust this provides the information you need, and please let me know if you have any questions.

PSC:RE:dg

c: John M. Bernal, Deputy County Administrator – Public Works
Ana Olivares, Deputy Director
Rick Ellis, Engineering Division
Sandi Garrick, Project Manager

2/11/16

Concur:

Tom Burke, Deputy County Administrator – Administration — 2-11-16 Date

Approved / Not Approved

C.H. Huckelberry, County Administrator — 2/12/16 Date

PIMA COUNTY
PROCUREMENT

# NOTICE OF RECOMMENDATION FOR AWARD

Date of Issue: April 26, 2016

The Pima County Procurement Department hereby issues formal notice to respondents to Solicitation #213642 for Colossal Cave Road: Acacia Elementary to Old Vail Middle School that the following listed respondent will be recommended for award as indicated below. The award action is scheduled to be performed by the Board of Supervisors on or after May 17, 2016.

Award is recommended to the Respondent submitting the Low Bid:

| AWARDEE NAME(S) | BID AMOUNT |
|---|---|
| Southern Arizona Paving & Construction Company | $3,138,529.00 |

| OTHER RESPONDENT NAMES | BID AMOUNT |
|---|---|
| The Ashton Company | $3,936,717.90 |
| Borderland Construction Company, Inc. | $3,828,111.01 |
| Granite Construction Company | $3,270,766.09 |
| KE&G Construction, Inc. | $3,165,587.00 |

Engineer's Estimate: $3,937,910.65

Issued by: /s/ Matt Sage

Telephone Number: 520-724-8586

This notice is in compliance with Pima County Procurement Code §11.20.010(C).

Copy to: Pima County SBE via e-mail at SBE@pima.gov or via fax at 520-724-4434.

| | |
|---|---|
| **PIMA COUNTY DEPARTMENT OF TRANSPORTATION** | |
| **PROJECT:** Colossal Cave Road: Acacia Elementary to Old Vail Middle School (4RTCCS) | |
| **CONTRACTOR:** **Southern Arizona Paving and Construction, Co.**<br>**4102 E. Illinois Street**<br>**Tucson, Arizona 85714** | CONTRACT<br>NO. CT-PW-16-323<br>AMENDMENT NO. _____<br>This number must appear on all invoices, correspondence and documents pertaining to this contract. |
| **AMOUNT:** $3,138,529.00 | |
| **FUNDING:** Southeast Impact Fees (69%)<br>Regional Transportation Authority (17%)<br>General Fund (11%)<br>Vail Unified School District (2%)<br>Rincon Valley Impact Fees (>1%) | |

## CONSTRUCTION SERVICES CONTRACT

THIS Contract is entered into between Pima County, a body politic and corporate of the State of Arizona, hereinafter called COUNTY, and Southern Arizona Paving and Construction, Co., hereinafter called CONTRACTOR, collectively referred to as the Parties.

**W I T N E S S E T H**

**WHEREAS**, COUNTY requires, consistent with the provisions of A.R.S. Title 34, the services of a CONTRACTOR to provide all equipment, labor, and material required to construct the Colossal Cave Road: Acacia Elementary to Old Vail Middle School Project; and,

**WHEREAS**, CONTRACTOR is qualified and willing to provide such services; and

**WHEREAS,** pursuant to A.R.S. § 34-606, the COUNTY has determined a situation exists where fully public competition is impracticable for the above services; and

**WHEREAS**, subsequent to a limited competition solicitation process between the five (5) Contractors on the Traffic Signal, Road Intersection, Paving and Drainage Improvement Job Order Master Agreement, CONTRACTOR submitted the lowest bid for the work; and

**NOW, THEREFORE**, in consideration of the foregoing recitals and other valuable and good consideration the Parties hereto agree as follows:

### ***ARTICLE 1 – TERM AND EXTENSION/RENEWAL/CHANGES***

This Contract as approved by the Board of Supervisors commences on May 17, 2016, and terminates on December 28, 2018, unless sooner terminated or further extended pursuant to the provisions of this Contract.

Construction completion time for the work to be performed under this Contract will be **300 working days** after the date of Notice to Proceed. Liquidated damages will be assessed based upon the construction completion time.

COUNTY has the option to extend the Contract termination date for project completion. Any modification or extension of the Contract termination date will be by formal written amendment executed by the Parties. The Procurement Director or the COUNTY Board of Supervisors, as required by the Pima County Procurement Code

must approve change orders to the Contract or the Scope of Services before CONTRACTOR performs the work authorized by the change order.

Furthermore, this Contract is funded wholly or partially by the Regional Transportation Authority (RTA). Any changes to the Project which result in the final project cost deviating by ten (10) or more percent from the RTA's budget amount for the project must be approved by the RTA in advance of those changes being made, regardless of the fact that the RTA will not be paying for them. For the purposes of this paragraph only, the term "Project" refers specifically and exclusively to the project as defined and funded by the Intergovernmental Agreement No. CMS143220 between the County and RTA.

## *ARTICLE 2 – SCOPE OF SERVICES*

CONTRACTOR shall provide for the COUNTY all labor, materials and equipment necessary to complete the COLOSSAL CAVE ROAD: ACACIA ELEMENTARY TO OLD VAIL MIDDLE SCHOOL. All work shall be as called for by Pima County Solicitation No. 213642 Bid Documents any issued Addenda, the Standard Specifications & Details for Public Improvements 2003 Edition, and other documents incorporated into this Contract, all made a part hereof.

## *ARTICLE 3 – COMPENSATION AND PAYMENT*

In consideration of the services specified in this Contract, the COUNTY agrees to pay CONTRACTOR in the manner hereinafter specified.

CONTRACTOR will provide detailed documentation in support of requested payment. The CONTRACTOR must cite the Contract number on all invoices. Payments will be made in accordance with A.R.S. § 34-221.

Total payment for this Contract will not exceed three million, one hundred thirty-eight thousand, five hundred twenty-nine dollars and zero cents ($3,138,529.00) based on **EXHIBIT A: Bid Schedule, Revised 4/14/16** (4 pages) submitted by Contractor in response to Solicitation No.213642, attached hereto and made part of this Contract. Line items for which the "Unit" is defined as L.S. will be paid as "Lump Sum". Other line items for which the "unit" is defined as a unit of measure (i.e., "each", "L.F.", etc.) and for which there is a Unit Price, will be measured and paid at the unit price for the actual quantity of work performed in accordance with the Standard Specifications. The quantities of unit-priced items stated in the bid schedule are estimates only and the actual quantities may be either less or more than stated in the Bid Schedule.

For the period of record retention required under Article 23, 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 Contract or law

CONTRACTOR will not perform work in excess of the Contract Amount without prior authorization by an amendment executed by COUNTY. Work performed in excess of the Contract Amount without prior authorization by amendment is at CONTRACTOR'S own risk.

## *ARTICLE 4 – INSURANCE*

The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. COUNTY in no way warrants that the minimum limits contained herein are sufficient to protect the CONTRACTOR from liabilities that arise out of the performance of the work under this Contract. The CONTRACTOR is free to purchase additional insurance.

CONTRACTOR'S insurance will be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers will have an "A.M. Best" rating of not less than A- VII. COUNTY in no way warrants that the above-required minimum insurer rating is sufficient to protect the CONTRACTOR from potential insurer insolvency.

4.1 Minimum Scope and Limits of Insurance:

CONTRACTOR will procure and maintain, until all of their obligations have been discharged, coverage with limits of liability not less than those stated below.

4.1.1 Commercial General Liability (CGL) – Occurrence Form with limits of $1,000,000 Each Occurrence and $2,000,000 General Aggregate. Policy will include bodily injury, property damage, and broad form contractual liability coverage, and products – completed operations.

4.1.2 Business Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract with a Combined Single Limit (CSL) of $1,000,000.

4.1.3 Workers' Compensation and Employers' Liability - Statutory requirements and benefits. Coverage is compulsory for employers of one or more employees. Employer's Liability - $500,000.
Note: The Workers' Compensation requirement will not apply to a CONTRACTOR that is exempt under A.R.S. § 23-901, and when such CONTRACTOR executes the appropriate COUNTY Sole Proprietor or Independent CONTRACTOR waiver form.

4.2 Additional Insurance Requirements:

The policies will include, or be endorsed to include, as required by this written agreement, the following provisions:

4.2.1 Additional Insured Endorsement: The General Liability and Business Automobile Liability Policies will each be endorsed to include COUNTY and RTA, their departments, districts, boards, commissions, officers, officials, agents, and employees as additional insured with respect to liability arising out of the activities performed by or on behalf of the CONTRACTOR.

4.2.2 Subrogation Endorsement: The General Liability, Business Automobile Liability and Workers' Compensation Policies will each contain a waiver of subrogation endorsement in favor of COUNTY and RTA, and their departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the CONTRACTOR.

4.2.3 Primary Insurance Endorsement: The CONTRACTOR'S policies will stipulate that the insurance afforded the CONTRACTOR will be primary and that any insurance carried by the Department, its agents, officials, employees, COUNTY or RTA will be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

4.2.4 Insurance provided by the CONTRACTOR will not limit the CONTRACTOR'S liability assumed under the indemnification provisions of this Contract.

4.3 Notice of Cancellation:

For each insurance policy required by the insurance provisions of this Contract, the CONTRACTOR must provide to COUNTY, within two (2) business days of receipt, a notice if a policy is suspended, voided, or cancelled for any reason. Such notice will be mailed, emailed, hand-delivered or sent by facsimile transmission to Pima County Procurement at 130 W Congress St, Tucson AZ 85701, Fax: 520-724-4434.

4.4 Verification of Coverage:

CONTRACTOR will furnish COUNTY with certificates of insurance (valid ACORD form or equivalent approved by COUNTY) as required by this Contract. An authorized representative of the insurer will sign the certificates.

4.4.1 All certificates and endorsements, as required by this written agreement, are to be received and approved by 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. Failure to maintain the insurance coverage or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

4.4.2 All certificates required by this Contract will be sent directly to Pima County Procurement. COUNTY project or contract number and project description will be noted on the certificate of insurance. COUNTY reserves the right to require complete copies of all insurance policies required by this Contract at any time.

4.5 Approval and Modifications:

COUNTY Risk Management reserves the right to review or make modifications to the insurance limits, required coverage, or endorsements throughout the life of this Contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

## ***ARTICLE 5 – INDEMNIFICATION***

To the fullest extent permitted by law, CONTRACTOR indemnifies and holds harmless COUNTY and the RTA, their officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, including reasonable attorney's fees and court costs, to the extent caused by any negligent, reckless or intentionally wrongful act or omission of CONTRACTOR, its agents, employees or anyone acting under its direction or control or on its behalf in connection with performance of this Contract. The obligations under this Article do not extend to the negligence of COUNTY or the RTA, their agents, employees or indemnities.

All warranty and indemnification obligations under this Contract survive expiration or termination of the Contract, unless expressly provided otherwise. Any indemnification provision inconsistent with A.R.S. § 34-226 is, in all cases, not void, but will be interpreted and applied as if it were consistent with A.R.S. § 34-226.

Upon request, CONTRACTOR may fully indemnify and hold harmless any private property owner granting a right of entry to CONTRACTOR for the purpose of completing the project.

## ***ARTICLE 6 – COMPLIANCE WITH LAWS***

CONTRACTOR will comply with all applicable 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 govern the rights of the Parties, the performance of this Contract, and any disputes hereunder. Any action relating to this Contract will be brought and maintained in Superior Court in Pima County. Any changes in the governing laws, rules, and regulations during the term of this Contract apply, but do not require an amendment.

## ***ARTICLE 7 – INDEPENDENT CONTRACTOR STATUS***

The status of CONTRACTOR is that of an independent contractor and CONTRACTOR is not considered an employee of Pima County and is not entitled to receive any of the fringe benefits associated with regular employment, and will not be subject to the provisions of the merit system. CONTRACTOR will be responsible for payment of all Federal, State and Local taxes associated with the compensation received by CONTRACTOR from COUNTY. CONTRACTOR will be responsible for program development and operation without supervision by COUNTY.

## ***ARTICLE 8 – CONTRACTOR/SUBCONTRACTOR PERFORMANCE***

CONTRACTOR will perform the work in accordance with the terms of the Contract and with the degree of care and skill which a licensed contractor in Arizona would exercise under similar conditions. CONTRACTOR will employ suitably trained and skilled personnel to perform all required services under this Contract. Prior to changing any key personnel, especially those key personnel COUNTY relied upon in making this Contract, CONTRACTOR will obtain the approval of COUNTY.

CONTRACTOR is responsible for the professional quality, technical accuracy, timely completion, and the coordination of all its effort and other services furnished by CONTRACTOR under this Contract. Without additional compensation, CONTRACTOR will correct or revise any errors, omissions, or other deficiencies in all products of its efforts and other services provided. This includes resolving any deficiencies arising out of the acts or omissions of CONTRACTOR found during or after the course of the services performed by or for CONTRACTOR under this Agreement, regardless of COUNTY having knowledge of or condoning or accepting the products or the services. Correction of such deficiencies will be at no cost to COUNTY.

CONTRACTOR will ensure that all SUBCONTRACTORS have the appropriate and current license issued by the Arizona Registrar of Contractors for work they perform under this Contract. CONTRACTOR will 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.

CONTRACTOR will be fully responsible for all acts and omissions of its SUBCONTRACTOR(S) and of persons directly or indirectly employed by 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 creates any obligation on the part of COUNTY to pay or see to the payment of any money due any SUBCONTRACTOR, except as may be required by law.

CONTRACTOR must use the SUBCONTRACTORS named on Contractor's Subcontractor List submitted with the bid. No SUBCONTRACTOR may be added or changed without the prior written approval of the COUNTY subsequent to review and approval by the Administering Department Director and Procurement Director. Substitution of non-SBE SUBCONTRACTORS may be approved at the discretion of the COUNTY for reasons including but not limited to, availability, insolvency or any other reason deemed to be in the best interest of the COUNTY. Approval for substitution of SBE SUBCONTRACTORS that are listed on the Bidders Statement of Proposed SBE Utilization submitted with the bid will only be granted if the provisions of Title 20.28.050 of the Pima County Code have been met.

## *ARTICLE 9 – ASSIGNMENT*

CONTRACTOR will not assign its rights to this Contract in whole or in part, without prior written approval of COUNTY. COUNTY may withhold assignment at its sole discretion, provided that COUNTY will not unreasonably withhold such approval.

## *ARTICLE 10 – NON-DISCRIMINATION*

CONTRACTOR agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 which is hereby incorporated into this Contract as if set forth in full herein **including flow down of all provisions and requirements to any SUBCONTRACTORS.** 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 11 – 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. 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 12 - AUTHORITY TO CONTRACT*

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

## *ARTICLE 13 – NON-WAIVER*

The failure of COUNTY to insist in any one or more instances upon full and complete compliance with any of the terms and provisions of this Contract or to take any action permitted as a result thereof is not a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future. The acceptance by either Party of sums less than may be due and owing it at any time is not an accord and satisfaction.

## *ARTICLE 14 – CANCELLATION FOR CONFLICT OF INTEREST*

This Contract is subject to the provisions of A.R.S. §38-511 which provides in pertinent part:

"The state, its political subdivisions or any department of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time, while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract."

## *ARTICLE 15 – TERMINATION OF CONTRACT FOR DEFAULT*

A. Upon a failure by CONTRACTOR to cure a default under this Contract within ten (10) days of receipt of notice from COUNTY of the default, COUNTY may, in its sole discretion, terminate this Contract for default by written notice to CONTRACTOR. In this event, COUNTY may take over the work and complete it by Contract or otherwise. CONTRACTOR and its sureties, if any, will 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 constitutes 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 Contract, 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 workers 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 to remove any defective or deficient material;
5. Failure to make prompt payment to SUBCONTRACTORS or suppliers for material or labor;
6. Loss of CONTRACTOR'S 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 Contract;
7. Disregard of laws, ordinances, or the instructions of COUNTY or its representatives, or any otherwise substantial violation of any provision of the Contract; 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 this project become COUNTY'S property and will 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 Contract 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 will not exceed the reasonable value of work satisfactorily performed prior to the date of termination for which payment has not been previously made.

D. The Contract will not be terminated for default nor CONTRACTOR charged with 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 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 a Contract 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 CONTRACTOR and the SUBCONTRACTOR'S or suppliers; and

2. CONTRACTOR, within three (3) days from the beginning of any event of default or delay (unless extended by COUNTY), notifies COUNTY in writing of the cause(s) therefor. In this circumstance, COUNTY will 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" includes receipt by hand by CONTRACTOR'S onsite project manager, facsimile transmission, or under the Notices clause of this Contract.

F. If, after termination of the Contract 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 Contract.

## ***ARTICLE 16 – TERMINATION FOR CONVENIENCE OF COUNTY***

COUNTY may terminate this Contract at any time by giving written notice to CONTRACTOR 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 will, at the option of COUNTY, become its property. If COUNTY terminates the Contract as provided herein, COUNTY will pay CONTRACTOR an amount based on the time and expenses incurred by CONTRACTOR prior to the termination date. However, COUNTY will make no payment for anticipated profit on unperformed services.

## ***ARTICLE 17 – NON-APPROPRIATION OF FUNDS***

Notwithstanding any other provision in this Contract, COUNTY may terminate this Contract if for any reason the Pima County Board of Supervisors does not appropriate sufficient monies for the purpose of maintaining this Contract. In the event of such termination, COUNTY has no further obligation to CONTRACTOR, other than payment for services rendered prior to termination.

## ***ARTICLE 18 – NOTICES***

Any notice required or permitted to be given under this Contract will be in writing and will be served by delivery or by certified mail upon the other Party as follows:

COUNTY:
Sandi Garrick, Project Manager
Public Works
Pima County Public Works Building
201 N. Stone Ave
Tucson, AZ 85701
Tel: (520) 724-6710

CONTRACTOR:
Marlene M. Ashton, President
Southern Arizona Paving and Construction, Co.
4102 E. Illinois Street
Tucson, Arizona 85714
<Tel: (520) 745-8808

## *ARTICLE 19 - NON-EXCLUSIVE CONTRACT*

CONTRACTOR understands that this Contract 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 20 - CONTRACT DOCUMENTS*

A. INCORPORATION OF DOCUMENTS: CONTRACTOR and COUNTY in entering into this Contract have relied upon information provided in SOLICITATION NO. 213642 - COLOSSAL CAVE ROAD: ACACIA ELEMENTARY TO OLD VAIL MIDDLE SCHOOL, EXHIBIT "A" - BID SCHEDULE REVISED 4/14/16, BONDS (BID, PAYMENT, AND PERFORMANCE BONDS), EXHIBIT "B" - GENERAL CONDITIONS, SPECIAL PROVISIONS, PLANS, CONSTRUCTION DOCUMENTS, DRAWINGS AND SPECIFICATIONS, ADDENDA, and on information provided in the CONTRACTOR response to this Solicitation. These documents are hereby incorporated into and made a part of this Contract by reference as if set forth in full herein.

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

a) This Contract
b) EXHIBIT "B" - General Conditions
c) Special Provisions, Technical Specifications, and Plans
d) Contractor Response to the Solicitation
e) Instructions to Bidders
f) Invitation to Bid

The Parties may, by written mutual agreement, deviate from this order of precedence in resolving inconsistencies between or among Contract Documents. Any such Agreement interpreting the Contract shall be incorporated into the Contract by Amendment.

In the event of any conflict between any provision in the Special Conditions, if any, and any provision of the General Conditions, or any other incorporated document, the provision in the Special Conditions shall take precedence.

## *ARTICLE 21 - BONDING REQUIREMENTS*

In accordance with A.R.S. §34-221, *et. seq.*, the CONTRACTOR will provide Payment and Performance bonds for not less than one hundred percent (100%) of the contract amount. Copies of said bonds will be attached to and become part of this Contract.

## *ARTICLE 22 - OWNERSHIP OF DOCUMENTS*

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 Contract vest in and become the property of the COUNTY and will be delivered to COUNTY upon completion or termination of the services, but CONTRACTOR may retain record copies thereof.

## *ARTICLE 23 – BOOKS AND RECORDS*

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

CONTRACTOR will retain all records relating to this Contract at least five (5) years after its termination or cancellation or until any related pending proceeding or litigation has been closed, if later. Alternatively, CONTRACTOR may, at its option, deliver such records to COUNTY for retention.

## *ARTICLE 24 – REMEDIES*

Either Party may pursue any remedies provided by law for the breach of this Contract, provided, however, that the procedures in ARTICLE 27 are first exhausted. No right or remedy is intended to be exclusive of any other right or remedy and each is cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.

## *ARTICLE 25 – SEVERABILITY*

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

## *ARTICLE 26 – DELAYS*

Neither Party hereto is in default in the performance of its obligations hereunder to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such Party.

## *ARTICLE 27 – DISPUTES*

In the event of a dispute between COUNTY and CONTRACTOR regarding any part of this Contract or the Parties' obligations or performance hereunder, either Party may request a special meeting between their respective representatives to resolve the dispute. If the dispute remains unresolved, then either Party may request escalation of the issue to a meeting between the Director of the Pima County Department administering this Contract and CONTRACTOR'S counterpart official, such meeting to be held within one week of the request, unless otherwise agreed. If the dispute is still not resolved after that meeting, then either Party may pursue such remedy or remedies as may be available to them under the laws of the State of Arizona.

The Parties will continue performance of their respective obligations under this Contract notwithstanding the existence of any dispute.

## *ARTICLE 28 – PUBLIC INFORMATION*

Pursuant to A.R.S. § 39-121 et seq., and A.R.S. §§ 34-603(H), 604(H), in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all information submitted by CONTRACTOR in any way related to this Contract, 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 information submitted related to this Contract that CONTRACTOR believes constitutes proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as CONFIDENTIAL prior to submittal to COUNTY and be accompanied by an index specifically identifying and describing the general contents of each page so marked. The index is a public record and should not include any information considered confidential.

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 will release records marked CONFIDENTIAL ten (10) business days after the date of notice to the CONTRACTOR of the request for release, unless CONTRACTOR has, within the ten (10) 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 is not counted in the time calculation. CONTRACTOR will 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 29 – 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 will further ensure that each SUBCONTRACTOR who performs any work for CONTRACTOR under this Contract likewise complies with the State and Federal Immigration Laws.

COUNTY has 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, is 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 will take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or to retain a replacement SUBCONTRACTOR (subject to COUNTY approval if SBE or DBE preferences apply), as soon as possible so as not to delay project completion.

CONTRACTOR will 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 is 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 are 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 will be excusable delay for which CONTRACTOR is entitled to an extension of time, but not costs.

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

***ARTICLE 30 – ENTIRE AGREEMENT***

This document 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. 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.

APPROVED:

Chair, Board of Supervisors

Date

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

Deputy County Attorney

ANDREW FLAGG

Name (Please Print)

5/4/2016

Date

CONTRACTOR:

Lawrence E Ashton

Signature

LAWRENCE E. ASHTON V.P.-SEC.

Name and Title (Please Print)

5-4-2016

Date

# EXHIBIT "A" - BID SCHEDULE
## SOLICITATION NO. 213642 - COLOSSAL CAVE ROAD: ACACIA ELEMENTARY TO OLD VAIL MIDDLE SCHOOL
## WORK ORDER NO. 4RTCCS
## REVISED 4/14/16

| BID ITEM NO. | ITEM DESCRIPTION | UNIT | QUANTITY | UNIT PRICE | AMOUNT |
|---|---|---|---|---|---|
| 1090010 | Fuel Adjustment Allowance | USD | 55,000 | **$1.00** | **$55,000.00** |
| 2010001 | Clearing and Grubbing | L.S. | 1 | $58,000.00 | $58,000.00 |
| 2010004 | Preservation Fencing | L.F. | 4,985 | $2.25 | $11,216.25 |
| 2010010 | Clearing and Grubbing (Noxious and Invasive Species Control) | USD | 10,000 | **$1.00** | **$10,000.00** |
| 2020001 | Removal of Structures and Obstructions | L.S. | 1 | $18,000.00 | $18,000.00 |
| 2020061 | Relocate Mailbox | EA. | 9 | $300.00 | $2,700.00 |
| 2030300 | Roadway Excavation | C.Y. | 7,380 | $11.00 | $81,180.00 |
| 2030401 | Drainage Excavation | C.Y. | 650 | $8.50 | $5,525.00 |
| 2030908 | Borrow (Contractor Phasing & Detour) | L.S. | 1 | $18,000.00 | $18,000.00 |
| 3030003 | Aggregate Base | C.Y. | 6,920 | $31.00 | $214,520.00 |
| 4040111 | Tack Coat | TON | 10 | $400.00 | $4,000.00 |
| 4060001 | Asphaltic Concrete (No. 1) | TON | 3,940 | $52.00 | $204,880.00 |
| 4060002 | Asphaltic Concrete (No. 2 Local Mix) | TON | 540 | $56.00 | $30,240.00 |
| 4060003 | Asphaltic Concrete (PAG #3) | TON | 1,110 | $69.00 | $76,590.00 |
| 4060004 | Asphaltic Concrete (No. 2 Terminal Mix) | TON | 2,990 | $69.00 | $206,310.00 |
| 5010002 | Pipe Sleeve | L.F. | 1,015 | $11.00 | $11,165.00 |
| 5011213 | Pipe, Reinforced Concrete, Class HE III, 14"x 23" | L.F. | 234 | $136.00 | $31,824.00 |
| 5011263 | Pipe, Reinforced Concrete, Class HE III, 29"x 45" | L.F. | 1,340 | $223.00 | $298,820.00 |
| 5103103 | Potable Water, Adjust Existing Valve Box and Cover | EA. | 7 | $277.00 | $1,939.00 |
| 5150005 | Utility Potholing, Depth <12' | EA. | 200 | $250.00 | $50,000.00 |
| 5150101 | Utility Impact Allowance | USD | 30,000 | **$1.00** | **$30,000.00** |
| 6010713 | Concrete Cut-Off Wall (1' x 3') | L.F. | 118 | $58.00 | $6,844.00 |
| 6010721 | Concrete Apron | S.Y. | 255 | $131.00 | $33,405.00 |
| 6016087 | Pipe Culvert Headwall | EA. | 5 | $8,000.00 | $40,000.00 |
| 6070010 | Sign Post (Perforated) (Single) | L.F. | 1,164 | $8.00 | $9,312.00 |
| 6070100 | Foundation for Sign Post (Perforated) | EA. | 106 | $100.00 | $10,600.00 |
| 6080015 | Sign Panel (Traffic Control) (Permanent) (Type III) | S.F. | 5 | $26.00 | $130.00 |
| 6080016 | Sign Panel (Traffic Control) (Permanent) (Type IV) | S.F. | 424 | $15.00 | $6,360.00 |
| 6080030 | Sign Panel (Traffic Control) (Permanent) (Type XI) | S.F. | 104 | $27.00 | $2,808.00 |



**Company Name** Southern Arizona Paving and Construction Co. **Initials**

| BID ITEM NO. | ITEM DESCRIPTION | UNIT | QUANTITY | UNIT PRICE | AMOUNT |
|---|---|---|---|---|---|
| 7010001 | Maintenance and Protection of Traffic | L.S. | 1 | $16,000.00 | $16,000.00 |
| 7010007 | Construction Area Elements (Predetermined Reimbursement Rate Allowance) | USD | 50,000 | **$1.00** | **$50,000.00** |
| 7010010 | Temporary Concrete Barrier (Installation and Removal) | L.F. | 3,000 | $12.00 | $36,000.00 |
| 7010025 | Flashing Arrow Panel | Ea/Day | 2,500 | $12.50 | $31,250.00 |
| 7010027 | Changeable Message Board | Ea/Day | 900 | $30.00 | $27,000.00 |
| 7010030 | Vertical Panels | Ea/Day | 134,000 | $0.13 | $17,420.00 |
| 7010035 | Barricade (Type II) | Ea/Day | 47,000 | $0.13 | $6,110.00 |
| 7010038 | Barricade (Type III) | Ea/Day | 8,000 | $0.27 | $2,160.00 |
| 7010040 | Flashing Warning Light (Type A) | Ea/Day | 110,000 | $0.12 | $13,200.00 |
| 7010043 | Flashing Warning Light (Type B) | Ea/Day | 5,000 | $0.38 | $1,900.00 |
| 7010050 | Steady-Burning Warning Light (Type C) | Ea/Day | 130,000 | $0.13 | $16,900.00 |
| 7010055 | Standard Intensity Reflective Sheeting, Small Sign (Less than 10 S.F.) | Ea/Day | 84,000 | $0.28 | $23,520.00 |
| 7010060 | Standard Intensity Reflective Sheeting,Large Sign (10 S.F. or Larger) | Ea/Day | 17,000 | $0.38 | $6,460.00 |
| 7010063 | Portable Sign Stand (Spring Type) | Ea/Day | 8,000 | $0.55 | $4,400.00 |
| 7010065 | Portable Sign Stand, Small Sign (Less than 10 S.F.) | Ea/Day | 81,000 | $0.28 | $22,680.00 |
| 7010069 | Portable Sign Stand, Largel Sign (10 S.F. or Larger) | Ea/Day | 15,000 | $0.38 | $5,700.00 |
| 7010075 | Flagging Services (Civilian) | HOUR | 2,400 | $19.00 | $45,600.00 |
| 7010077 | Flagging Servcices (Uniformed Officer) (Off Duty) | HOUR | 600 | $44.00 | $26,400.00 |
| 7010079 | Official Police Vehicle (Off Duty) | HOUR | 600 | $7.00 | $4,200.00 |
| 7010100 | Provide Detours | L.S. | 1 | $120,000.00 | $120,000.00 |
| 7015052 | Obliterate Pavement Marking Stripe | L.F. | 547 | $1.75 | $957.25 |
| 7040005 | Pavement Marking (White Extruded Thermoplastic) (0.090") | L.F. | 17,201 | $0.42 | $7,224.42 |
| 7040006 | Pavement Marking (Yellow Extruded Thermoplastic) (0.090") | L.F. | 13,462 | $0.42 | $5,654.04 |
| 7040074 | Pavement Symbol (Extruded Plastic) (ALKYD) (0.090") | EA. | 4 | $110.00 | $440.00 |
| 7040130 | Pavement Marking (White Extruded Thermoplastic) (Transverse)(0.090") | L.F. | 2,151 | $0.61 | $1,312.11 |
| 7040140 | Pavement Marking (Yellow Extruded hermoplastic) (Transverse)(0.090") | L.F. | 3,201 | $0.61 | $1,952.61 |
| 7050080 | Pavement Legend, Preformed, Type I, Bike Lane Legend and Symbol | EA. | 8 | $250.00 | $2,000.00 |
| 7050085 | Pavement Legend, Preformed, Type I, Railroad Crossing Legend and Symbol | EA. | 8 | $525.00 | $4,200.00 |
| 7050090 | Pavement Marking, Preformed, Type I, Symbol (for temp school sign dots) | EA. | 4 | $55.00 | $220.00 |
| 7060025 | Pavement Marker (Reflective, (Type D, Yellow, Two-Way) | EA. | 251 | $3.00 | $753.00 |
| 7060035 | Pavement Marker (Reflective, (Type H, Yellow, One-Way) | EA. | 48 | $3.00 | $144.00 |
| 7080001 | Painted Pavement Marking | L.F. | 36,015 | $0.13 | $4,681.95 |
| 7350010 | Loop Detector Counter Station | EA. | 1 | $13,000.00 | $13,000.00 |



**Company Name** Southern Arizona Paving and Construction Co. **Initials**

| BID ITEM NO. | ITEM DESCRIPTION | UNIT | QUANTITY | UNIT PRICE | AMOUNT |
|---|---|---|---|---|---|
| 8030028 | Rock Mulch (Special) | SY | 13,604 | $2.55 | $34,690.20 |
| 8030030 | Rock Mulch (Type 1) | CY | 5 | $93.00 | $465.00 |
| 8030035 | Rock Mulch (Desert Carpet) | SY | 12,835 | $2.25 | $28,878.75 |
| 8050025 | Seeding (Class II) (Type A) | AC | 2.81 | $3,000.00 | $8,430.00 |
| 8050026 | Seeding (Class II) (Type B) | AC | 0.54 | $2,650.00 | $1,431.00 |
| 8050029 | Seeding (Class II) (Type A) (2nd Application) | AC | 2.81 | $2,550.00 | $7,165.50 |
| 8050030 | Seeding (Class II) (Type B) (2nd Application) | AC | 0.54 | $2,400.00 | $1,296.00 |
| 8061005 | Tree (15 Gallon) | EA | 45 | $68.00 | $3,060.00 |
| 8061009 | Tree (24" Box) | EA | 7 | $200.00 | $1,400.00 |
| 8061013 | Tree (36" Box) | EA | 5 | $500.00 | $2,500.00 |
| 8061019 | Tree (48" Box) | EA | 4 | $1,300.00 | $5,200.00 |
| 8061090 | Tree Staking | EA | 61 | $25.00 | $1,525.00 |
| 8061295 | Shrub (One Gallon) (Agency Provided) | EA | 216 | $10.00 | $2,160.00 |
| 8061296 | Shrub (One Gallon) | EA | 24 | $25.00 | $600.00 |
| 8061297 | Shrub (Five Gallon) (Agency Provided) | EA | 490 | $15.00 | $7,350.00 |
| 8061298 | Shrub (Five Gallon) | EA | 12 | $50.00 | $600.00 |
| 8061305 | Succulent (Five Gallon) | EA | 21 | $25.00 | $525.00 |
| 8061602 | Saguaro Cactus (1' - 3') | EA | 5 | $125.00 | $625.00 |
| 8061603 | Saguaro Cactus (4' - 7') | EA | 5 | $275.00 | $1,375.00 |
| 8061611 | Cactus | EA | 6 | $100.00 | $600.00 |
| 8061612 | Barrel Cactus | EA | 6 | $100.00 | $600.00 |
| 8061613 | Cactus - Prickly Pear | EA | 11 | $100.00 | $1,100.00 |
| 8061614 | Barrel Cactus (Agency Provided) | EA | 55 | $15.00 | $825.00 |
| 8061652 | Ocotillo (Container Grown) (5 Gallon) | EA | 6 | $55.00 | $330.00 |
| 8061654 | Ocotillo (Agency Provided) | EA | 56 | $25.00 | $1,400.00 |
| 8061700 | Landscape Pruning | HR | 50 | $60.00 | $3,000.00 |
| 8061701 | Browser Cages | EA | 48 | $9.00 | $432.00 |
| 8062015 | 15" Treepot (Agency Provided) | EA | 451 | $35.00 | $15,785.00 |
| 8062024 | 24" Treepot (Agency Provided) | EA | 48 | $45.00 | $2,160.00 |
| 8070001 | Landscape Establishment | LS | 1 | $14,000.00 | $14,000.00 |
| 8080001 | Landscape Irrigation | LS | 1 | $60,000.00 | $60,000.00 |
| 8080020 | Irrigation Water Meter and Water Service Installation Fee Allowance | USD | 15,000 | **$1.00** | **$15,000.00** |
| 8080111 | Miscellaneous Landscape Work Allowance | USD | 15,000 | **$1.00** | **$15,000.00** |



**Company Name** Southern Arizona Paving and Construction Co. **Initials**_____

| BID ITEM NO. | ITEM DESCRIPTION | UNIT | QUANTITY | UNIT PRICE | AMOUNT |
|---|---|---|---|---|---|
| 8100001 | AZPDES/NPDES (Original) | LS | 1 | $31,000.00 | $31,000.00 |
| 8100005 | Sediment Log (Discretionary) | L.F. | 3,310 | $2.00 | $6,620.00 |
| 8100006 | Sediment Wattle (Discretionary) | L.F. | 1,235 | $5.00 | $6,175.00 |
| 8100012 | AZPDES/NPDES Allowance (Modified) | USD | 19,500 | **$1.00** | **$19,500.00** |
| 9010001 | Mobilization | L.S. | 1 | $139,405.17 | $139,405.17 |
| 9010002 | Mobilization (UPRR Crossing) | L.S. | 1 | $6,000.00 | $6,000.00 |
| 9020300 | Barbed Wire Fence | L.F. | 2,970 | $5.00 | $14,850.00 |
| 9080001 | Concrete Vertical Curb (PC/COT Std. Dtl. 209, Type 1) (H=6") | L.F. | 2,320 | $15.00 | $34,800.00 |
| 9080090 | Concrete Curb Terminal section (PC/COT Std. Dtl. 212) | EA. | 33 | $65.00 | $2,145.00 |
| 9080201 | Concrete Sidewalk (4") (PC/Cot Std. Dtl. 200) | S.F. | 8,955 | $4.65 | $41,640.75 |
| 9080203 | Concrete Sidewalk (6") (PC/Cot Std. Dtl. 200) | S.F. | 4,070 | $5.50 | $22,385.00 |
| 9080292 | Concrete Landing with Detectable Warning Strip | EA. | 24 | $800.00 | $19,200.00 |
| 9080293 | Concrete Landing with Detectable Warning Strip (Special) | EA. | 20 | $1,100.00 | $22,000.00 |
| 9080402 | Concrete Header | L.F. | 5,655 | $9.00 | $50,895.00 |
| 9090021 | Survey Monument, Frame and Cover | EA. | 5 | $355.00 | $1,775.00 |
| 9130001 | Riprap (Dumped) | C.Y. | 575 | $68.00 | $39,100.00 |
| 9130009 | Riprap (Hand Placed)(Grouted) | S.Y. | 85 | $72.00 | $6,120.00 |
| 9140179 | Masonry Retaining Wall (ADOT Std. Dwg. SD-7.02) | S.F. | 1,510 | $35.00 | $52,850.00 |
| 9250100 | Reset Property Corner Monuments | EA | 1 | $800.00 | $800.00 |
| 9260001 | Engineer's Field Office | LS | 1 | $42,000.00 | $42,000.00 |
| 9300100 | Incidental Items Allowance | USD | 150,000 | **$1.00** | **$150,000.00** |
| 9300113 | Miscellaneous Work 3 | EA | 6 | $50.00 | $300.00 |
| 9300115 | Miscellaneous Work 5 | LF | 1,027 | $11.00 | $11,297.00 |
| 9300117 | Miscellaneous Work 7 | LS | 1 | $15,000.00 | $15,000.00 |
| 9300119 | Miscellaneous Work 9 | USD | 7,500 | **$1.00** | **$7,500.00** |
| 9300300 | Railroad Personnel, Protective Crossings and Private Crossings Allowance | USD | 64,000 | **$1.00** | **$64,000.00** |
| 9310006 | Decorative Concrete Pavement | SY | 60 | $115.00 | $6,900.00 |
| 9320050 | Concrete Pavers | SF | 1,955 | $9.00 | $17,595.00 |
| 9330001 | Handrail (Std. Dtl. 105) (Std. Lower Rail Location) | L.F. | 765 | $24.00 | $18,360.00 |
| | **TOTAL BID AMOUNT** | | | | **$3,138,529.00** |



**Company Name** Southern Arizona Paving and Construction Co. **Initials** _____ President

# EXHIBIT "B" - GENERAL CONDITIONS

## ARTICLE 1. DEFINITIONS

Whenever in these Specifications, or in any document of instructions where these Specifications govern, the following terms or pronouns in place of them are used, the intent and meaning will be interpreted as follows:

Bid: The offer of the Bidder for the work when properly made out on forms containing the Bid for Lump Sum Construction supplied by County and properly submitted, signed and guaranteed.

Bid Documents: All Drawings, Technical Specifications, Supplementary General and/or General Conditions, Bid Schedule, Construction Contract and Bonds, and Contract Documents.

Bidder: Any individual, firm or corporation, qualified as herein provided, legally submitting a Bid for the work contemplated, acting directly or through an authorized representative.

Board: The Board of Supervisors, Pima County, Arizona, acting under authority of the laws of Arizona.

Building Code: The directions, provisions, and requirements contained in the current edition of the Building Codes, with Amendments, as adopted by Pima County, supplemented by such special provisions as may be necessary, pertaining to the method and manner of performing the work, quality and quantity of material to be furnished and measurement for payment of same.

Contract: The written Agreement between County and Contractor covering the performance of the work and the furnishing of labor, equipment, and materials in the construction of the work.

Contract Bond: The approved form of security furnished by Contractor and its Surety as a guarantee on the part of Contractor to execute the work in accordance with the terms of the Contract.

Contractor: The party who undertakes to execute the work, acting directly or through an authorized lawful agent or employee.

County: Pima County, Arizona, a body politic and corporate, the owner of the work.

Department: The Pima County Department of Transportation.

Director: The Pima County Department Director, an assistant or other representative duly authorized by a Department Director to act on their behalf.

Extra Work: Work, including materials, for which no price agreement is contained in the Contract and which is deemed necessary for the proper completion of the work.

Item: A detail of work for which separate payment is made.

Laboratory: The established laboratory of the Department or other laboratories authorized by COUNTY to test materials and work involved in the Contract.

Plans: The Contract drawings or exact representations thereof, which show the location, character, dimensions, and details of the work.

Project Manager, Engineer, or Architect: The person designated by COUNTY to oversee the project on its behalf.

Standard Specifications: The directions, provisions, and requirements contained in the current edition of the Pima Association of Governments Standard Specifications for Public Improvements, 2003 Edition with Amendments, as adopted by Pima County, supplemented by such special provisions as may be necessary, pertaining to the method

and manner of performing the work, quality and quantity of material to be furnished and measurement of payment of same.

Supplementary Agreement: A written agreement executed by Contractor and County covering alterations to the project. A change order or a force account work request prepared on the approved form of the Department is a supplementary agreement.

Supplementary General Conditions or Special Conditions: The Supplementary General Conditions or Special Conditions are additional to the General Conditions, which are conditions or requirements peculiar to the project under consideration.

Surety: The corporate body which is bound with and for Contractor, who is primarily liable, and which (agrees) to be responsible for its payment of all debts pertaining to and for its acceptable performance of the work for which it has contracted.

The Work: All of the work specified in the Contract.

## ARTICLE 2. RESPONSIBILITY REGARDING EXISTING UTILITIES AND STRUCTURES

County does not guarantee the existence and locations of underground utilities indicated on the plans and Contractor will investigate and verify the location of underground utilities in the field before starting work. Contractor will carefully perform excavations in the vicinity of existing structures and utilities. Contractor is responsible for any damage to, and for maintenance and protection of, existing utilities and structures. At least two full working days prior to commencing excavation, contactor must call blue Stake Center, 1-800-STAKE-IT, between the hours of 7:00 a.m. and 4:30 p.m., Monday through Friday for information relative to the location of buried utilities.

Contractor is fully responsible for costs incurred due to damage to utilities as a result of grading or excavation operations. Utility locations shown on the Plans are approximate, and not all utilities may be shown. The possibility of conflicts with existing utilities –in-place exists. If conflicting utilities interfere with Contractor's normal progress toward completion of this project, County may, at is option, authorize Contractor to relocate said conflicting utilities by Force Account.

It is the responsibility of Contractor to contact the utility companies in order for them to determine if there is a need for any bracing or shoring of power to telephone poles during the construction of this project. If bracing or shoring is necessary, Contractor will effect this work to the satisfaction of the utility company. County will make no measurement or direct payment for bracing or shoring.

## ARTICLE 3. LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

a. Laws to be Observed -- Contractor is presumed to be familiar with and at all times will observe and comply with all Federal and State laws and local ordinances, worker's compensation, occupational disease, and unemployment compensation laws together with the payment of all premiums and taxes therefor, also all laws, ordinances, and regulations in any manner affecting the conduct of the work and will indemnify and hold harmless County and its representatives against any claim arising from the violations of such laws, bylaws, ordinances or regulations, whether by Contractor or by Contractor's employees.

b. Permits and Licenses -- Contractor will procure all County building permits, and sewer connection fees. Contractor will post required permits on site and give all notices necessary and incidental to the due and lawful prosecution of the work. Contractor will procure and pay for all other permits, fees, and applications for water, gas, electric and other utilities.

c. Sanitary Provisions -- Contractor will provide and maintain in a neat and sanitary condition such accommodations for the use of its employees as may be necessary to comply with the requirements and regulations of the Arizona Department of Health Services or other authorities having jurisdiction therein.

d. Public Convenience and Safety -- Contractor will have due regard for the public health and will conduct the work in such a manner as to provide and insure the safety and convenience of the public.

When special conditions prevail and extraordinary measures are necessary, the details will be set forth in the Technical Specifications or Special Provisions.

e. Barricades, Warning Lights, and Detour Signs -- Contractor will at its expense and without further order provide, erect, and maintain at all times during the progress or temporary suspension of the work such barricades, fences, warning lights, danger signals, reflectors, signs, or other protective devices as are required to insure the safety of the public, those engaged in connection with the work and the work itself.

Unless otherwise expressly stated in the Contract, no measurement or direct payment for this work will be made, but the cost of providing, erecting, and maintaining such protection devices, including guards, watchmen and/or flagmen as required will be considered as included and paid for in the contract prices for the work.

f. Use of Explosives -- Prohibited

g. Preservation and Restoration of Property -- Contractor will be responsible for the preservation of all public and private property on the surface or underground, along and adjacent to the work and will conduct its operations so as to insure the prevention of injury or damage thereto. No land monuments or property will be disturbed or moved until an authorized agent has witnessed or otherwise referenced their locations.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence or the non-execution thereof on the part of Contractor, Contractor will restore such property at its own expense to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring same, or it will make good such damage or injury in an acceptable manner.

h. CONTRACTOR's Responsibility for Work -- Until written final acceptance of the work by COUNTY, Contractor will have the charge and care thereof and will take every precaution against injury or damage to any part thereof by action of elements, or from any other cause, whether arising from the execution or non-execution of the work. The Contractor will rebuild, repair, restore, and make good all injuries or damages of any portion of the work occasioned by any of the above causes before final acceptance and will bear the expense thereof.

In case of the suspension of work for any cause whatever, Contractor will be responsible for all work and materials and will take proper care of the work, storing all materials if necessary, and will provide suitable drainage of the work and erect necessary temporary structures.

i. Waiver of Legal Rights -- County will not be precluded or be estopped, by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment therefor, from showing the true amount and character of the work performed and materials furnished by Contractor, or from showing that any such measurement, estimate, or certificate is untrue or incorrectly made, or that the work or materials do not conform in fact to the Contract. Neither the acceptance by County or by any representative of County nor any payment, nor acceptance of the whole or any part of the work, nor any extension of time, nor any possession taken by County will operate as a waiver of any portion of the Contract or of any power herein reserved, or any right to damage herein provided. A waiver of any breach of the Contract is not a waiver of any other subsequent breach.

**ARTICLE 4. ACCIDENTS**

Contractor will provide, at the site, such equipment and medical facilities as are necessary to supply first-aid service to anyone who may be injured in connection with the work.

Contractor must promptly report in writing to County all accidents whatsoever arising out of, or in connection with the performance of the work, whether on or adjacent to the site, which caused death, personal injury, or property damage, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damages are caused, Contractor will report the accident immediately by telephone or messenger to both County and the Board.

If any claim is made by anyone against Contractor or any Subcontractor on account of any accident, Contractor will promptly report the facts in writing to County, giving full details of the claim.

**ARTICLE 5. RESERVED**

**ARTICLE 6. RESERVED**

**ARTICLE 7. EXECUTION, CORRELATION AND INTENT OF DOCUMENTS**

The Contract documents are complementary, and what is called for by any one will be as binding as if called for by all, and the most stringent requirement will apply. The intention of the documents is to include all labor and materials, equipment and transportation necessary for the proper execution of the work. It is not intended, however, that materials or work not covered by or properly inferable from any heading, branch, class or trade of the specifications will be supplied unless distinctly so noted on the drawings. Materials or work described in words that so applied have a well-known technical or trade meaning will be held to refer to such recognized standards.

**ARTICLE 8. DETAIL DRAWINGS AND INSTRUCTIONS**

County will furnish with reasonable promptness, additional instructions, by means of drawings or otherwise, necessary for the proper execution of the work. All such drawings and instructions will be consistent with the Bid documents, true developments thereof, and reasonably inferable therefrom.

**ARTICLE 9. COPIES OF DRAWINGS FURNISHED**

County will provide, at no cost to Contractor, two complete sets of code approved construction documents in non-reproducible form.

County will provide, at no cost to Contractor, five (5) non-reproducible sets of construction documents used during the course of bidding the work (Bid Sets) for execution on the work. It will be Contractor's responsibility to ensure that any modifications called for as a result of the permit process are transferred to the bid sets.

Contractor may purchase additional sets of code-approved sets or bid sets construction documents, at its expense.

**ARTICLE 10. ORDER OF COMPLETION**

Contractor will submit at such times as may be requested by County, schedules which will show the order in which Contractor proposes to carry on the work with dates at which Contractor will start the several parts of the work and estimated dates of completion of the several parts.

**ARTICLE 11. CONSTRUCTION DOCUMENTS ON THE JOB SITE**

Contractor will keep one copy of code approved construction documents on the job site, in good order, available to County and to County's representatives. This set of documents will be kept current as to pending and approved changes in the work.

**ARTICLE 12. OWNERSHIP OF DRAWINGS**

All drawings, specifications, and copies thereof furnished by County are the property of Pima County. They are not to be used on other work and with the exception of the signed Contract set, and are to be returned to County on

request, at the completion of the work. All models are the property of County.

## ARTICLE 13. CONTRACTOR'S UNDERSTANDING

Contractor has, by careful examination, satisfied itself as to the nature and location of the work, the conformation of the ground, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work under this Contract. No verbal agreement or conversations with any officer, agent or employee of County, either before or after the execution of this Contract, will affect or modify any of the terms or obligations herein contained.

## ARTICLE 14. MATERIALS, APPLIANCES, EMPLOYEES

Unless otherwise agreed, Contractor will provide and pay for all materials, labor, water, tools, equipment, light, power, transportation, and other facilities necessary for the execution and completion of the work.

Unless otherwise agreed, all materials will be new, and both workmanship and materials will be of good quality. Contractor will, if required, furnish satisfactory evidence as to the kind and quality of materials.

Contractor will at all times enforce strict discipline and good order among its employees, and will not employ on the work any unfit person or anyone not skilled in the work that Contractor assigns to that person.

## ARTICLE 15. ROYALTIES AND PATENTS

Contractor will pay all royalties and license fees. Contractor will defend all suits or claims for infringement of any patent rights and will hold County harmless from loss on account thereof, except that County will be responsible for all such loss when a particular process or the product of a particular manufacturer or manufacturers is specified, but if Contractor has information that the process or article specified is an infringement of a patent it will be responsible for such loss unless it promptly gives such information to County.

## ARTICLE 16. SURVEYS, PERMITS, AND REGULATIONS

County will furnish all property surveys unless otherwise specified. Contractor will secure and pay for permits and licenses of a temporary nature necessary for the prosecution of the work except as noted in Article 3.b. County will secure and pay for easements for permanent structures or permanent changes in existing facilities unless otherwise agreed.

Contractor will give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the work as drawn and specified. If Contractor observes that the drawings and specifications are at variance therewith, it will promptly notify County in writing, and any necessary changes will be adjusted as provided in the Contract for changes in the work. If Contractor performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to County, it will bear all costs arising therefrom.

## ARTICLE 17. PROTECTION OF WORK AND PROPERTY

Contractor will continuously maintain adequate protection of all its work from damage and will protect County's property from injury or loss arising in connection with this Contract. It will make good any such damage, injury, or loss, except such as may be directly due to errors in the bid documents or caused by agents or employees of County. It will adequately protect adjacent property as provided by law and the bid documents. It will provide and maintain all passageways, guard fences, lights, and other facilities for protection required by public authority or local conditions.

If an emergency should occur affecting the safety of life or the work or of adjoining property, Contractor, without special instruction or authorization from County, is hereby permitted to act at his discretion, to prevent such threatened loss or injury, and Contractor will so act, without appeal, if so instructed or authorized. Any compensation claimed by Contractor on account of emergency work will be determined by County.

Contractor is responsible for equipment, materials, and supplies until completion of the project and acceptance by County.

**ARTICLE 18. INSPECTION OF WORK**

County representatives will at all times have access to the work wherever it is in preparation or progress and Contractor will provide proper facilities for such access and for inspection.

If the specifications, County's instructions, laws, ordinances, or any public authority, require any work to be specially tested or approved, Contractor will give County timely notice of its readiness for inspection and if the inspection is by an authority other than County, of the date fixed for such inspection. Inspections by County will be promptly made, and where practicable at the source of supply. If any work should be covered up without approval or consent of County, it must, if required by County, be uncovered for examination at Contractor's expense.

Re-examination of questioned work may be ordered by County and if so ordered the work must be uncovered by Contractor. If such work is found to be in accordance with the bid documents, County will pay the cost of re-examination and replacement. If such work is found not to be in accordance with the bid documents, Contractor will pay such cost.

**ARTICLE 19. SUPERINTENDENCE - SUPERVISION**

Contractor will keep on its work site during its progress a competent Superintendent and any necessary assistants, all satisfactory to County. The Superintendent will not be changed except with the consent of County, unless the Superintendent proves to be unsatisfactory to Contractor and ceases to be in its employ. The Superintendent will represent Contractor in its absence and all directions given to it will be as binding as if given to Contractor. Contractor will give efficient supervision to the work using its best skill and attention.

If Contractor, in the course of the work, finds any discrepancy between the construction documents and the physical conditions of the locality, or any errors or omissions in the construction documents or in the layout as given by points and instructions, it will be its duty to immediately inform County, in writing, and County will promptly verify the same. Any work done after such discovery, until authorized, will be done at Contractor's risk.

Neither County nor Contractor, will employ an employee of the other without consent.

**ARTICLE 20. RESERVED**

**ARTICLE 21. CLAIMS FOR EXTRA COST FOR ADDITIONAL WORK**

If Contractor claims that any additional instructions by drawings or otherwise involve extra cost under this Contract, it will give County written notice thereof within a reasonable time after the receipt of such instructions, and in any event before proceeding to execute the work, except in an emergency endangering life or property. No such claim will be valid unless so made.

**ARTICLE 22. DEDUCTIONS FOR UNCORRECTED WORK**

If COUNTY deems it not expedient to correct work injured or done not in accordance with the Contract, an equitable deduction from the Contract price will be made therefor.

Contractor will promptly remove from the premises all materials condemned by County as failing to conform to the Contract, whether incorporated in the work or not, and Contractor will promptly replace and re-execute its own work in accordance with the Contract and without expense to County and will bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

If Contractor does not remove such condemned work and materials within a reasonable time, fixed by written notice,

County may remove them and may store the material at the expense of Contractor. If Contractor does not pay the expense of such removal within ten days' time thereafter, County may, upon ten days written notice, sell such materials at auction or at private sale and will account for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by Contractor.

**ARTICLE 23. SUSPENSION OF WORK**

County may at any time suspend the work, or any part thereof by giving three (3) days' notice to Contractor in writing. When the reason for such suspension involves safety, health or welfare issues, the three (3) day written notice requirement may be waived at the decision of the COUNTY Management. Contractor will resume the work within ten (10) days after the date fixed in the written notice from County to Contractor to do so.

**ARTICLE 24. COUNTY'S RIGHT TO DO WORK**

If Contractor neglects to prosecute the work properly or fails to perform any provision of this Contract, County may, after three (3) days written notice to the Contractor, without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due Contractor.

**ARTICLE 25. COUNTY'S RIGHT TO TERMINATE CONTRACT**

If Contractor persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials, or if it fails to make prompt payment to subcontractors for material or labor, or persistently disregards laws, ordinances, or the instructions of County, or otherwise is guilty of a substantial violation of any provision of the contract, then County may, without prejudice to any other right or remedy and after giving Contractor ten (10) days written notice, terminate the employment of Contractor and take possession of the premises and of all materials, tools, and appliances thereon and finish the work by whatever method County may deem expedient. In such case Contractor will not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract price will exceed the expense of finishing the work, including compensation for additional managerial and administrative service, such excess will be paid to Contractor. If such expense will exceed such unpaid balance, Contractor will pay the difference to County. County will certify the expense incurred by County as herein provided, and the damage incurred through the Contractor's default.

**ARTICLE 26. REMOVAL OF EQUIPMENT**

In any case of annulment or termination of this Contract before completion from any cause whatever, Contractor, if notified to do so by County, will promptly remove any part or all of its equipment and supplies from the property of County, failing which County will have the right to remove such equipment and supplies at the expense of Contractor.

**ARTICLE 27. USE OF COMPLETED PORTIONS**

County has the right to take possession of and use any completed or partially completed portions of the work, notwithstanding the time for completing the entire work or such portions may not have expired, but such taking possession and use is not an acceptance of any work not completed in accordance with the Bid documents. If such prior use increases the cost of or delays the work, Contractor will be entitled to such extra compensation, or extension of time, or both, as County may determine.

**ARTICLE 28. PAYMENTS WITHHELD**

County may decline to certify payment or, because of discovered evidence or observations, may nullify the whole or any part of any certificate for payment previously issued, to such extent as may be necessary in its opinion to protect County from loss because of:

a. Defective work not remedied.
b. Third party claims filed or reasonable evidence indicating probable filing of such claims.

c. Failure of Contractor to make payments properly to Subcontractors or for labor, materials, or equipment.
d. Reasonable evidence that the work cannot be completed for the unpaid balance of the Contract sum.
e. Damage to another Contractor.

When the above grounds are removed, payment will be made for amounts withheld because of them.

**ARTICLE 29. WARRANTY**

Contractor will provide a written guarantee covering all costs for repair or replacement of defective work for a period of two (2) years (or longer if noted elsewhere in the construction documents) from substantial completion. Contractor will complete repair, or respond to County in writing with repair solution, within seventy-two (72) hours of notification by County. County may make emergency repairs to ensure life safety or to prevent property loss, without invalidating the warranty.

**ARTICLE 30. LIENS**

Neither the final payment nor any part of the retained percentage will become due until Contractor delivers to County a complete release of all liens arising out of this Contract, or receipts in full or in lieu thereof, and if required in either case, an affidavit that so far as it has knowledge or information, the release and receipts include all the labor for which a lien could be filed; but Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to County, to indemnify County against any lien. If any lien remains unsatisfied after all payments are made, Contractor will pay to County all monies that County may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

**ARTICLE 31. RIGHTS OF VARIOUS INTERESTS**

Wherever work being done by County's forces or other contractors is contiguous to work covered by this Contract the respective rights of the various interests involved will be established by the County to secure the completion of the various portions of the work in general harmony.

**ARTICLE 32. SEPARATE CONTRACTS**

County reserves the right to let other contracts in connection with this work. Contractor will afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and will properly connect and coordinate its work with theirs.

If any part of Contractor's work depends upon proper execution or results of the work of any other contractor, Contractor will inspect and its report will constitute an acceptance of the other contractor's work after the execution of its work.

To insure the proper execution of its subsequent work, Contractor will measure work already in place and will at once report to County any discrepancy between the executed work and the drawings.

**ARTICLE 33. COUNTY'S STATUS**

The COUNTY has general review of the work and has the authority to reject all work and materials that do not conform to the contract.

**ARTICLE 34. CLAIMS AND DISPUTES**

All claims, demands, disputes, controversies, and differences that arise between the parties hereto as result of or in connection with this Contract will be referred to County in writing with a request for review and response in accordance with this paragraph, which County will render in writing within a reasonable time.

Contractor will deliver written notice of each such claim, demand, dispute, controversy or difference to County within

fifteen (15) days of the occurrence of the event giving rise thereto and written supporting data will be submitted to County within forty-five (45) days of such occurrence unless County specifies a different period of time in writing to Contractor. The submission to County with respect to any such claim, demand, dispute, controversy or difference will be a condition precedent to any exercise by Contractor of such rights or remedies as Contractor may otherwise have under the Bid documents or at law in respect of any such claim, demand, dispute, controversy or difference.

If either County or Contractor is dissatisfied with any decision of County and both parties agree in writing, then the dispute may be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) will be entered in any court having jurisdiction thereof. All arbitration hearings must be held in Tucson, Arizona.

**ARTICLE 35. CLEANING UP**

Contractor will, as directed by County, remove from County's property and from all public and private property, at its own expense, all temporary structures, rubbish, and waste materials resulting from its operation.

**ARTICLE 36. FIRE PREVENTION AND PROTECTION REQUIREMENTS FOR CONSTRUCTION PROJECT**

(a) PURPOSE:

To provide guidelines for Contractor's practices in prevention of and protection against fire causes, property damage and losses on County Construction projects work.

(b) SCOPE:

Subject requirements will be applicable to new construction, facilities remodeling, additions, and improvements projects work conducted for Pima County. Contractor will also comply with all applicable ordinances, laws, rules, and regulations of public authority having jurisdiction for fire prevention and protection.

(c) CONTRACTOR REQUIREMENTS:

1. Make a survey of the suitability and effectiveness of existing fire control facilities, measures and devices.

2. Arrange for, provide and install a sufficient number of portable fire extinguishers suitable for work operations in accordance with the requirements of the National Fire Protection Association and local agencies having jurisdiction.

3. Fire extinguisher and devices will be inspected, serviced and maintained in accordance with manufacturer's instructions.

4. Fire Fighting and control equipment will be readily visible and unobstructed at all times; will not be made inoperative or used for other purposes.

5. Installation of fire protection piping and hydrants (as specified in bid documents) will be as prompt as possible so hose stream protection will be available when combustible materials arrive on site and potential fire causing operations begin.

6. Provide ready access for public fire department.

7. Provide safe temporary lighting and power services; properly insulate, ground, and substantially support strung wires; overloading of conductors and overfusing of circuits is prohibited; poor contacts and defective terminals, switches, wire and outlets will not be installed. Temporary electrical installations will be in accordance with National Electric Code and other applicable ordinances, regulations, specifications.

8. Bulk storage of lumber, gasoline, fuel oil, paint, solvents, gases will be kept outside of buildings under construction; one day's working supply of such items may be inside at any time. Flammable fluids will be in approved containers only; open containers are prohibited.

9. Only flame resistant tarpaulins or coverings will be used for protecting stored supplies and equipment.

10. Smoking is prohibited in all areas where flammable or combustible materials are stored and in other hazardous areas, as well as on any County-owned property. "No Smoking" signs will be posted accordingly.

11. Fires, welding, flame cutting, melting, and similar operations in combustible areas will not be left unattended.

12. Accumulations of flammable liquids on floors, walls, etc. are prohibited; spills will be cleaned up promptly.

13. All rags, waste, etc. soiled by combustible or flammable materials will be placed in tightly closed metal containers and disposed of daily.

14. Tar kettles will be located outside of and as far away as possible from building.

15. All portable cylinders of compressed gases will be constructed, maintained and marked in accordance with Interstate Commerce Commission regulations; will be properly secured against tipping or accidental upset, handled with care, protected against excessive heat and cold; valve protection caps will be in place when cylinders are not in use.

16. Welding and cutting operations will be performed only by competently proven personnel.

17. Construction debris will be removed from buildings and site daily. Reasonably good housekeeping will be maintained at all times.

18. All machines using cutting oil will have metal drip pans under them to catch oil drippings, oil turnings and shavings.

19. No solvent with flash point below one hundred degrees Fahrenheit (100 degree F). will be used for cleaning equipment or parts.

20. No smoking or open fire of any kind will be permitted in areas where spray guns are in operation.

21. Wood sawdust and shavings and wood rubbish will not be allowed to accumulate on project site.

22. Adequate precautions will be taken to protect extensive formwork and scaffolding from exposure to and spread of fire.

23. Moveable heating devices, when used, will have safe clearances at bottom, top, and sides from combustible materials. Use of salamanders is generally prohibited; exceptions may be granted when use is considered essential.

24. Regularly scheduled inspections will be made by Contractor's authorized personnel to assure compliance with these and other jurisdictional requirements. Contractor's supervisory personnel will be instructed in their duties concerning safe fire protection practices.

## ARTICLE 37. ARCHAEOLOGICAL FEATURES

Construction for this project may occur in an archaeological sensitive area. The County Office of Conservation and Sustainability Cultural Resources Division will determine prior to construction (other than emergencies) any special site monitoring requirements. Human burials, including human skeletal remains, cremations, and funerary objects are protected under A.R.S. section 41-844 on state, county, and municipal lands, and under A.R.S. section 41-865 on private lands. Should archaeological features and/or artifacts or human remains, including human skeletal or cremation remains be discovered, work at that location will cease immediately, and the area will be taped off and avoided until archaeological investigations are completed. Construction is subject to delay in that location pursuant to applicable State law, while consultation with the Arizona State Museum and appropriate documentation and data recovery takes place. To the extent permitted by law, all archaeological artifacts and other materials will belong to Pima County. No monetary compensation will be made to Contractor for any claims due to delays in the work schedule. Only the Contract construction time will be extended to permit the original scheduled number of days for completion of the project.

## ARTICLE 38. RESERVED

## ARTICLE 39. RESERVED

## ARTICLE 40. HAZARDOUS MATERIALS/ HAZARDOUS WASTES / HAZARDOUS SUBSTANCES ABATEMENT

Should Contractor uncover, or otherwise become aware of the presence of any Hazardous Materials, Hazardous Wastes or Hazardous Substances during the construction of this project, notice will be served immediately to the County Project Manager, and all work surrounding said materials or substances will be ceased until directed to proceed. Construction delays due to Hazardous Materials, Hazardous Wastes or Hazardous Substances abatement may occur.

If this contract does not otherwise require the services of a Hazardous Materials contractor, abatement of such materials will be provided by Pima County, at its expense and independent of this contract.

If this contract already employs the services of a Hazardous Materials contractor, the cost to abate any such additional materials will be added to the contract as Additional Services, in accordance with the provisions of Article 21 "Claims for Cost of Additional Work".

## ARTICLE 41. WASTE DISPOSAL FACILITIES

Contractor will legally dispose of all construction debris in appropriate County operated waste disposal facilities and pay any applicable fees. In the case of conflicts with the provisions of the Contract Specifications, this provision applies.

## ARTICLE 42. AS-BUILT DRAWINGS

Contractor will keep an accurate record of all changes and deviations from the Project Plans and Specifications and submit to County one set of "As-Built" drawings including dimension, location of underground utilities, etc., upon completion of the work. As-Built drawings will be drawn and submitted in such a format as prescribed by County.

## ARTICLE 43. RESERVED

## ARTICLE 44. BUILDER'S RISK

CONTRACTOR will be responsible for equipment, materials, and supplies until completion of the project and acceptance by COUNTY.

**END GENERAL CONDITIONS**