



Pima County Clerk of the Board

Melissa Manriquez

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Via Email: dspitza@achen.com

August 3, 2026

Achen-Gardner Construction, L.L.C.
Attn: Daniel J. Spitza, PE, President
2195 W. Chandler Blvd., Suite No. 200
Chandler, AZ 85224

RE: Appeal of the Pima County Procurement Director's decision regarding Solicitation No. RFP-2600000677, Job Order Contract: Wastewater Conveyance System and Related Facilities Repair, Rehabilitation & Construction Services

Dear Mr. Spitza:

In accordance with Pima County Code 11.20.010(H), please be advised that we are in receipt of your request to appeal the decision of the Procurement Director in the aforementioned matter. A hearing has been scheduled before the Pima County Board of Supervisors on Tuesday, August 25, 2026, at 5:00 p.m. or thereafter, at the following location:

Pima County Administration Building
Board of Supervisors Hearing Room
130 West Congress, 1st Floor
Tucson, AZ 85701

If you have any questions concerning this hearing, please contact this office at 724-8449.

Sincerely,

A handwritten signature in black ink, appearing to read "Melissa Manriquez", is written over a horizontal line.

Melissa Manriquez
Clerk of the Board

c: Pima County Board of Supervisors
Jan Leshar, County Administrator
Sam E. Brown, Chief Civil Deputy County Attorney
Bobby Yu, Deputy County Attorney
Bruce Collins, Director, Procurement
Scott Loomis, Procurement Division Manager



July 31, 2026

VIA HAND DELIVERY AND ELECTRONIC MAIL (cob_mail@pima.gov)

Melissa Manriquez
Clerk of the Board of Supervisors
Pima County
130 W. Congress Street, 1st Floor
Tucson, Arizona 85701

**Re: Appeal of Procurement Director's Decision — Solicitation No. RFP-2600000677,
Job Order Contract: Wastewater Conveyance System and Related Facilities Repair,
Rehabilitation & Construction Services — Pima County Procurement Code Section
11.20.010(H)**

Dear Ms. Manriquez:

I. INTRODUCTION AND BASIS FOR APPEAL

Achen-Gardner Construction, LLC (“Achen-Gardner”) respectfully submits this written appeal of the Procurement Director’s decision dated July 27, 2026, dismissing Achen-Gardner’s protest regarding Solicitation No. RFP-2600000677 (Job Order Contract: Wastewater Conveyance System and Related Facilities Repair, Rehabilitation & Construction Services). This appeal is filed pursuant to Pima County Procurement Code Section 11.20.010(H), which provides that “[a] protester or any other interested party involved in the solicitation whose interests may be affected by the ruling may file a written appeal of the procurement director’s decision specifying the reason for the appeal.”

Achen-Gardner respectfully submits that the Procurement Director’s decision to dismiss its protest may not fully account for applicable legal standards, the express terms of the solicitation documents, and the public interest considerations at stake. For the reasons set forth below, Achen-Gardner requests that the Board of Supervisors reconsider the Procurement Director’s decision and grant the relief requested herein.

II. PROCEDURAL AND FACTUAL BACKGROUND

On January 29, 2026, Pima County issued RFQu-2600000677 (Step 1) soliciting Statements of Qualifications for a Job Order Contract for Wastewater Conveyance System and Related Facilities Repair, Rehabilitation & Construction Services. On April 29, 2026, the County issued RFP-2600000677 (Step 2) to qualified respondents, soliciting technical and pricing proposals pursuant to the two-step JOC evaluation process under A.R.S. § 34-604. The solicitation

contemplated award to up to four contractors under a shared Supplier Contract valued at \$25,000,000 annually.

Achen-Gardner timely submitted its Statement of Qualifications and a complete proposal, including a technical proposal and pricing proposal, accompanied by the required bid bond on the form provided in the RFP. Achen-Gardner's bid bond was executed by Kevin Nunez (Executive Vice President) on behalf of Achen-Gardner as principal, and by Stephanie L. Bucholz as Attorney-in-Fact for Liberty Mutual Insurance Company ("Liberty Mutual") as surety, dated May 19, 2026. An official seal for Liberty Mutual appeared on the face of the bid bond immediately next to Ms. Bucholz's signature.

On June 4, 2026, the County issued its Notice of Recommendation for Award ("NORFA") recommending award to four contractors: B & F Contracting, Inc.; Borderland Construction Company, Inc.; Ellison-Mills Contracting, LLC; and Hunter Contracting Co. Achen-Gardner was listed as "Other Respondent." The Board of Supervisors approved the award on or after July 14, 2026.

At a debriefing session on July 17, 2026, Achen-Gardner learned for the first time that its bid was deemed non-responsive soon after "bid opening" because the power of attorney for Ms. Bucholz was not included with Achen-Gardner's bid bond. The procurement officer relied on a federal regulation governing procurements by federal executive agencies, FAR 28.101-3 (48 C.F.R. § 28.101-3) which was not referenced anywhere in the solicitation documents in reaching this determination.

Achen-Gardner timely filed a protest on July 20, 2026. On July 27, 2026, Procurement Director, Bruce Collins, dismissed the protest. In his decision, Mr. Collins acknowledged that the County is not bound by the FAR but stated that, in the absence of explicit statutory or regulatory guidance, the County follows FAR 28.101-3 as "persuasive guidance" and considers the power of attorney submitted with a bid bond as establishing responsiveness. Nothing in the RFP (or any other bid document) informed Achen-Gardner or other bidders that the County considered compliance with this federal regulation to be a matter of responsiveness.

Based on information provided to Achen-Gardner during the July 17 debriefing, Achen-Gardner believes its pricing was among the lowest of the proposals received in response to the RFP. As a result, Achen-Gardner would likely have been included on the list of awardees in the NORFA had its proposal been considered. Achen-Gardner has performed high-quality work for Pima County under similar prior JOC contracts for approximately 16 years, building and maintaining a substantial presence in Pima County and employing an average of 25 individuals and as many as 75 individuals at the same time in the region. Achen-Gardner is a 100% employee-owned company.

Achen-Gardner now timely files this appeal within five days of the Procurement Director's decision, as required by Section 11.20.010(H) of the Pima County Procurement Code.

III. ARGUMENTS IN SUPPORT OF APPEAL.

A. The FAR Does Not Apply to Pima County Procurements.

The Procurement Director's decision rests upon the application of FAR 28.101-3 (48 C.F.R. §28.101-3), a federal regulation that governs procurements conducted by federal executive agencies. Pima County is a political subdivision of the State of Arizona and is not subject to the FAR. Pima County procurements are governed exclusively by the Pima County Procurement Code, Arizona Revised Statutes (particularly A.R.S. §§ 34-201 and 34-604), and the Arizona Administrative Code.

The Procurement Director acknowledged in his decision that the County is not bound by the FAR but stated that the County follows FAR guidance as "persuasive." While Achen-Gardner understands the value of consistent internal practices, non-binding federal guidance not referenced in the RFP should not be applied to impose requirements beyond those expressly stated in Arizona law and the County's own solicitation documents—particularly when doing so results in the exclusion of an otherwise compliant bid from a qualified, experienced, and competitively priced contractor.

None of the authorities that actually govern Pima County procurements, the Pima County Procurement Code, A.R.S. § 34-201, A.R.S. § 34-604, or the Arizona Administrative Code, require submission of a power of attorney with a bid bond as a condition of responsiveness.

B. Neither the Solicitation Documents Nor Arizona Law Requires Submission of a Power of Attorney with a Bid Bond.

The RFP's bid bond requirement states:

Bids must be accompanied by a scan of an original certified check, cashier's check or surety bond for 10% of the shared Supplier Contract amount currently valued at \$25,000,000.00 annually, made payable to Pima County pursuant to A.R.S. § 34-201(A)(3). The Arizona Statutory Bid Bond form included in these documents is included for surety bonds. Bonding companies must be licensed in Arizona.

RFP Request for Proposal General Information at 2. This language required three things: (1) a surety bond for 10% of the contract amount; (2) use of the Arizona Statutory Bid Bond form provided in the RFP; and (3) that the bonding company be licensed in Arizona. Achen-Gardner satisfied all three requirements.

Nowhere in the RFP, the RFQ, the Arizona Statutory Bid Bond form, A.R.S. § 34-201, A.R.S. § 34-604, or the Pima County Procurement Code is there a requirement that a power of attorney be submitted with the bid bond. A.R.S. § 34-201 requires that every public construction bid "be accompanied by . . . a surety bond for ten percent of the bid amount . . . , executed solely by a surety company or companies holding a certificate of authority to transact surety business in this

state.” The statute prescribes conditions and the form of the bid bond but nowhere requires a power of attorney.

Arizona’s durable power of attorney statute, A.R.S. § 14-5501, establishes that a durable power of attorney is a written instrument by which a principal designates another person as the principal’s agent. The statute sets forth specific execution requirements but it does not require that a copy of the power of attorney accompany any document subsequently signed by the agent.

The absence of any such requirement in the procurement context is significant because Arizona law does require evidence of the authority of an agent in some contexts. For example, A.R.S. § 40-345 provides that a protest or objection signed by an agent or attorney in fact in the context of public utility conversion proceedings shall be disregarded unless the authority of the agent has been recorded with the county recorder, or written or telegraphic authority is attached to the protest or objection before the expiration of the time for filing. Similarly, A.R.S. § 48-918 imposes the same requirement in the context of protests against proposed improvements by improvement districts. These provisions are expressly limited to their specific statutory context and do not reflect a general rule or policy applicable to all legal documents.

It is a fundamental principle of public procurement law that bidders are entitled to rely on the express terms of a solicitation. Requirements not stated in the solicitation documents cannot be imposed after the fact to disqualify an otherwise responsive bid.

C. The County Cannot Rely on Undisclosed Criteria in Evaluating Achen-Gardner’s Proposal.

The County conducted this procurement under the two-step process for procurement of job order contracts set forth in A.R.S. § 34-604(F). After completing the RFQ process, the County issued a Request for Proposals under A.R.S. § 34-604(F)(2) and (3). The County then opened and scored the technical proposals under A.R.S. § 34-604(F)(7). The County then proceeded to open the price proposals under A.R.S. § 34-604(F)(8). That section provides:

8. After completion of the evaluation and scoring of all final technical proposals, the selection committee shall open the price proposals, evaluate the price proposals, score the price proposals and complete the scoring of the entire proposals using the scoring method in the request for proposals. No other factors or criteria may be used in the evaluation and scoring.

A.R.S. § 34-604(F)(8). This statute unambiguously provides that factors or criteria not included in the request for proposals cannot be used in the evaluation and scoring of proposals. The County’s reliance on the absence of a power of attorney for Ms. Bucholz’s signature on the bid bond when this criterion was not included in the RFP runs afoul of this provision and requires the Board to address and resolve this protest in a manner that ensures Achen-Gardner’s participation.

Although Arizona does not have any legal decisions addressing this issue, it has been addressed by the United States Court of Federal Claims.¹ In *G4S Secure Integration LLC, et al. v. United States*, 161 Fed. Cl. 387 (2022), the Department of State’s solicitation for foreign United States embassy security required offerors to be registered in SAM, a registration system used for federal contracting, and to have a DUNS number, a unique business identifier, credit profile link, and global corporate fingerprint issued by Dun & Bradstreet. *Id.* at 395. The solicitation for security services explicitly provided: “if the [joint venture] has not formally registered under a single DUNS, all JV partners must be registered and provide proof of registration or submission of registration.” *Id.*

The protestor was a Joint Venture whose individual members were registered with individual DUNS numbers. The joint venture itself, however, did not have a separate DUNS number. *Id.* The Department of State initially determined Plaintiff to be the low bidder and to have a “technically acceptable” proposal. *Id.* at 396.

Before an award was made, the Court of Federal Claims determined in a separate case then pending before it that the FARs required the Joint Venture itself to be separately registered with SAM and to have a DUNS number. After that decision was published, the Department of State reversed its earlier determination that the Plaintiff was the low bidder and had a technically acceptable proposal and found that Plaintiff was ineligible for the award because it did not have a separate DUNS number. *Id.* That decision disqualified the plaintiff from the award and the disappointed bidder initiated a protest.

The plaintiff argued that the solicitation did not unambiguously require the JV to have its own SAM registration independent of the two joint venture partners and as such that requirement could not be the basis of disqualification. *Id.* at 398. The court granted the protest. It determined that the plain language of the solicitation did not require the JV to separately register for a DUNS number. *Id.* at 405. Explaining that agencies must evaluate proposals based on the criteria in the solicitation and “that the government may not rely upon undisclosed evaluation criteria in evaluating proposals,” the court found that the Department of State used a significantly different basis in evaluating the proposals than was disclosed and that the plaintiff was prejudiced as a result. *Id.* at 410. The Court determined that the proper agency action was not to disqualify Plaintiff’s proposal, but to amend and reissue the solicitation. *Id.* at 420.

The Court noted: “It is hornbook law that agencies must evaluate proposals and make awards based on the criteria stated in the solicitation.” *Banknote Corp. of Am. v. United States*, 56 Fed.

¹ Where no controlling Arizona authority governs a question of public contract law, Arizona courts look for guidance to the decisions of the federal Court of Claims and the federal boards of contract appeals. *New Pueblo Constructors, Inc. v. State*, 144 Ariz. 95, 101 (1985).

Cl. 377, 386 (2003), *aff'd*, 365 F.3d 1345 (Fed. Cir. 2004) (emphasis added). “It thus is beyond peradventure that the government may not rely upon undisclosed evaluation criteria in evaluating proposals, and, where appropriate, must disclose the factors’ relative importance.” *Id.* (internal quotations omitted).

Arizona courts follow decisions of the Court of Federal Claims when no Arizona law exists to provide guidance, as is the case here. Since the RFP did not anywhere disclose that the power of attorney was mandatory and that the failure to include that document would render the bid non-responsive, when the omission was discovered, the County had two choices. It could ignore the issue since it was not disclosed to prospective bidders as a mandatory criterion, or it could cancel the RFP and reissue it with the new and additional requirement included. Either of these avenues would have ensured a fair bidding process.

D. The Omission of the Power of Attorney Is at Most a Minor Informality That Does Not Affect Responsiveness Under Arizona Law

A bid is responsive if it complies with the mandatory requirements of the request for proposal and any governing statutes. *See* 1 Bruner & O’Connor Construction Law § 2:90. *See also Ry-Tan Const., Inc. v. Washington Elementary Sch. Dist. No. 6*, 210 Ariz. 419, 423 (2005) (“contract shall be awarded to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and evaluation criteria set forth in the invitation for bids”)(*quoting* A.A.C. R7-2-1031.A). Achen-Gardner’s bid complied with the mandatory requirements of the request for proposal and all governing statutes, and as explained above, an unstated requirement cannot be applied as a matter of responsiveness.

Even assuming *arguendo* that a power of attorney could be considered relevant to bid responsiveness, its omission here constitutes at most a minor informality that should be waived. Arizona courts have consistently held that technical deficiencies in bid submissions that confer no competitive advantage and cause no prejudice to other bidders do not render a bid non-responsive. *Singh v. State Land Commissioner*, 80 Ariz. 343, 346, 297 P.2d 930, 931 (1956) (a minor and insubstantial omission that confers no advantage on the bidder and causes no prejudice to competing bidders does not invalidate a bid); *City of Phoenix v. Superior Court*, 184 Ariz. 435, 438, 909 P.2d 502, 505 (App. 1995) (substantial compliance with bidding requirements is sufficient where the purposes of competitive bidding are served).

Under Arizona Administrative Code R7-2-1031 and AZ ST Code of Judicial Administration § 1-402(D), a “responsive bidder” is one whose bid conforms in all material respects to the solicitation requirements. Achen-Gardner’s response to the County’s RFP conformed in all material respects to the requirements in the RFP. The Procurement Director’s decision confirms this by finding that the County is not bound by the FAR and citing nothing within the RFP that required the submission of a power of attorney. The omission of the power of attorney did not and does not affect the validity, enforceability, or substance of Achen-Gardner’s bid bond and thus does not render the bid materially non-responsive.

E. The Power of Attorney Is Valid and Already in the County’s Possession

Achen-Gardner has previously submitted bid bonds (and payment and performance bonds) to Pima County signed by the same attorney-in-fact, Stephanie L. Bucholz of CBI Bonding, Inc., on behalf of Liberty Mutual. Those prior submissions included valid powers of attorney. The County thus had in its possession at the time Achen-Gardner submitted its response to the RFP documentation demonstrating that Ms. Bucholz is authorized to bind Liberty Mutual.

In any event, Achen-Gardner included with its initial protest (and again with this appeal) the power of attorney for the bid bond included with Achen-Gardner’s proposal. The power of attorney at issue (Certificate No. 8213077-975281) bears a certification by Renee C. Llewellyn, Assistant Secretary of Liberty Mutual, dated May 19, 2026, the same date the bid bond was executed. This contemporaneous certification establishes that Ms. Bucholz did, in fact, possess the requisite authority to bind Liberty Mutual when she signed the bid bond. The omission was at most a clerical oversight in assembling the bid package, not an indication of unauthorized execution.

F. No Competitive Advantage to Achen-Gardner or Prejudice to other Proposers Results from the Omission.

The omission of the power of attorney from the bid package conferred no competitive advantage on Achen-Gardner and caused no prejudice to any other bidder. It also did not impugn the integrity of the procurement process:

- The bid bond itself is fully valid and enforceable. Liberty Mutual is bound as a matter of law regardless of whether the power of attorney was included in the bid package.
- The bond is in the correct amount (10% of \$25,000,000).
- Liberty Mutual holds a valid certificate of authority to transact surety business in Arizona.
- Ms. Bucholz was a duly authorized attorney-in-fact, as confirmed by contemporaneous certification.
- No other bidder gained or lost competitive position as a result of the omission.
- The bid bond form included in the RFP did not reference or include a power of attorney, and the person assembling the proposal carefully confirmed all documents referenced in the RFP were included with Achen-Gardner’s proposal.

G. The Exclusion of Achen-Gardner Undermines the Stated Purposes of the Pima County Procurement Code.

The Pima County Procurement Code itself, at Section 11.04.010, declares that its purposes include “Foster[ing] effective broad-based competition within the free enterprise system” and “Ensur[ing] full and equitable economic opportunities to persons or businesses that compete for

business with Pima County government.” Excluding a qualified, experienced, and competitively priced contractor based on a requirement not stated in the solicitation documents or Arizona law does not serve these purposes. Including Achen-Gardner in the list of awardees would advance these legislative objectives.

H. Even Under the FAR Framework, the Matter Should Have Been Resolved as a Question of Responsibility, Not Responsiveness

Even under the FAR framework referenced by the Procurement Director, the distinction between responsiveness and responsibility is significant. FAR 28.101-3(d)(2) provides that “questions regarding the authenticity and enforceability of the power of attorney at the time of bid opening” should be treated “as a matter of responsibility,” not responsiveness. Here, the County had other powers of attorney for Ms. Bucholz in its possession at the time Achen-Gardner submitted its proposal. Moreover, the power of attorney at issue is indisputably authentic and valid, as confirmed by Liberty Mutual’s own contemporaneous certification dated the same day as the bid bond. Under the FAR’s own framework, therefore, this matter could appropriately have been resolved as a question of responsibility rather than responsiveness. Achen-Gardner respectfully suggests that, should the Board choose to consider the FAR provision, it should find that the issue relates to responsibility rather than responsiveness, given the information the County had in its possession at bid time demonstrating that Ms. Bucholz was authorized to sign bonds for Liberty Mutual.

I. Exclusion from a Multi-Award Contract Harms the Public Interest.

Achen-Gardner respectfully submits that its exclusion from a multi-award contract designed to maximize County capacity and competition among awardees does not serve the public interest. The solicitation contemplated award to up to four contractors to ensure the County had sufficient capacity and competition for its wastewater infrastructure needs. Including a qualified, competitively priced contractor would help ensure the County obtains the best value — a fundamental purpose of competitive procurement.

Based on information provided during the July 17 debriefing, Achen-Gardner believes its pricing places it at the low end of all proposals received. The exclusion of a contractor offering competitive pricing on a technical ground not required by the solicitation is contrary to the best value nature of this contract, as the County may be paying more for wastewater infrastructure services by excluding Achen-Gardner.

J. Achen-Gardner’s Qualifications, Experience, and Community Ties Further Support its Inclusion among Awardees.

Achen-Gardner has performed work for Pima County under prior JOC, design-build and competitive bid contracts for approximately 16 years without incident. This long-standing relationship demonstrates Achen-Gardner’s reliability, quality of work, and familiarity with County requirements and infrastructure. Achen-Gardner maintains a substantial presence in Pima

County, and its exclusion from this contract affects not only the company but also its employees and the broader Pima County community.

IV. CONSIDERATION OF RELEVANT FACTORS UNDER SECTION 11.20.010(G)(1)

The Pima County Procurement Code at Section 11.20.010(G)(1) identifies factors relevant to the resolution of protests. Achen-Gardner respectfully submits that application of those factors supports reconsideration and reversal of the Procurement Director's decision:

Seriousness of the deficiency: Not serious. The alleged deficiency at issue here does not relate to a mandatory requirement of the RFP. It is at most a minor clerical oversight involving a supporting document already in the County's possession from prior procurements and contracts currently being performed. The submission of the bid bond with Achen-Gardner's protest establishes by independent information that the bid bond signature was and is authorized. The bid bond itself is valid and enforceable.

Degree of prejudice to other parties or to the integrity of the procurement: None. The bid bond is fully enforceable, and no other bidder was affected. The omission conferred no competitive advantage on Achen-Gardner.

Good faith of the parties: Undisputed. Achen-Gardner has acted in complete good faith throughout this procurement. The omission was inadvertent and occurred because the solicitation documents and bid bond form did not reference a power of attorney requirement. The assembler of the proposal carefully confirmed all documents referenced in the RFP were included with Achen-Gardner's proposal.

Costs to the County: Including Achen-Gardner as an awardee provides the County with a highly qualified, competitively priced provider with 16 years of demonstrated performance on County JOC contracts. Excluding Achen-Gardner may result in higher costs.

Urgency of the procurement and impact on the department's mission: The Department's wastewater infrastructure needs are ongoing and important. The County will be able to address any needs that arise during a reprocurement, and including an additional highly qualified contractor in the award pool enhances the County's ability to meet these critical needs well into the future.

V. RELIEF REQUESTED

For the foregoing reasons, Achen-Gardner respectfully requests that the Board of Supervisors:

1. Reconsider the Procurement Director's decision in light of applicable law and public policy;
2. If the Board determines that Achen-Gardner's proposal should have been determined to be responsive and considered in step 2, reconsider your prior award; reject the staff

recommendation, rescore the pricing components; utilizing the existing technical scoring and rescored pricing components establish final rankings; and recommend award of a contract consistent with the Pima County Procurement Code, thereby including Achen-Gardner among the awarded contractors;

3. In the alternative, direct the County's Procurement Department to cancel the final recommendation resulting from Step 2, and resolicit beginning with Step 2;

4. In the alternative, if the County determines that it cannot reprocur beginning with Step 2, direct the County's Procurement Department to cancel the current procurement and resolicit beginning with Step 1 if the County concludes that is required;

5. Such other relief as the Board deems just and appropriate under the circumstances.

VI. CONCLUSION.

Achen-Gardner's bid fully complied with every requirement stated in the solicitation documents and governing Arizona law. The sole basis for its exclusion was neither required by the RFP nor by any applicable statute or regulation. The bid bond is valid, enforceable, and in the correct amount. The omission was at most a minor clerical oversight that conferred no competitive advantage and caused no prejudice to any party.

Achen-Gardner respectfully urges the Board to reconsider the Procurement Director's decision and grant the requested relief in the interest of fair competition, best value, and faithful adherence to the express terms of the County's solicitation.

Achen-Gardner appreciates your consideration and reserves all rights under the Pima County Procurement Code, Arizona Revised Statutes, and applicable law.

Respectfully submitted,

ACHEN-GARDNER CONSTRUCTION, LLC



Daniel J. Spitz, PE

President

Achen-Gardner Construction, LLC

2195 W. Chandler Blvd, Suite #200

Chandler, AZ 85224

Phone: (480) 940-1300

cc:

Bruce D. Collins, CPPO, Procurement Director (bruce.collins@pima.gov)

Scott Loomis, Procurement Division Manager (scott.loomis@pima.gov)

James Johnson, CPPB, Procurement Officer (james.johnson@pima.gov)

Julie Burch (julie.burch@pima.gov)

James Johnson (james.johnson@pima.gov)

Bryan Mueller (bmueller@achen.com)

Enclosures:

1. Procurement Director's Decision dated July 27, 2026
2. Achen-Gardner Protest Letter dated July 20, 2026 (Attached to decision)
3. Power of Attorney (Certificate No. 8213077-975281) (Attached to Protest Letter)



Via Email: dspitza@achen.com

July 27, 2026

Mr. Daniel J. Spitza, PE, VMA, President
Achen-Gardner Construction, LLC
2195 W. Chandler Blvd, Suite #200
Chandler, AZ 85224

RE: Protest –Solicitation No. RFP-2600000677, Job Order Contract: Wastewater
Conveyance System and Related Facilities Repair

Dear Mr. Spitza,

On July 20, 2026, the Pima County Procurement Department ("Pima County") received a protest from Achen-Gardner Construction, LLC ("Achen-Gardner") regarding the non-responsive determination for Solicitation No. RFP-2600000677, Job Order Contract: Wastewater Conveyance System and Related Facilities Repair ("Solicitation").

You raise two arguments as the basis for your Protest. First, you indicate that the non-responsive determination may have been based on a federal procurement regulation that does not govern this county solicitation. Second, you contend that Achen-Gardner's failure to include a power of attorney with its bid bond is at most a minor informality, and that it may be waived or addressed by Achen-Gardner's submission of the power of attorney with the protest letter.

The relief you seek is for Pima County to reverse the determination that Achen-Gardner's price proposal was non-responsive based upon not including the power of attorney, find Achen-Gardner's price proposal responsive, evaluate it on the merits of the submittal, and include Achen-Gardner in the awarded Contract.

After a thorough and careful review of your protest, we offer the following response:

Applicability of the Federal Acquisition Regulation

We acknowledge that we are not an executive branch of a federal agency. Consequently, this solicitation is not bound by the Federal Acquisition Regulations (FARs). However, Pima County has established, and adheres to, statutory requirements and industry best practices. Therefore, in the absence of explicit statutory or regulatory guidance regarding the submission of a power of attorney with a bid bond, Pima County follows the generally accepted practice for state and local agencies to look to the FAR for persuasive guidance. In following such persuasive guidance from FAR 28.101-3, Pima County considers the power of attorney with a bid bond in establishing responsiveness, and the failure to provide an associated power of attorney is a material deficiency. Our historic and current practice aligns with the FAR 28.101-3 guidance to reject any bond that cannot be verified as being a valid bond by inclusion of the power of attorney.

Bruce D. Collins, Director

150 W Congress Street, 5th Floor • Tucson, AZ 85701-1207 • Main: 520-724-8161 • Fax: 520-724-3646

www.pima.gov

Mr. Daniel J. Spitz, PE, VMA
Achen-Gardner
July 27, 2026
Page 2

The omission of a complete bid bond with the price proposal is not a minor informality. Pima County must ensure that all bonds received are complete, valid, and conform with both statutory requirements *and* industry's best practices. Completeness of a bond includes verifying signatures and execution by an attorney in fact who is authorized to bind the surety.

Determination

As your protest letter confirmed, Achen-Gardner inadvertently omitted the power of attorney document from the bid bond submission that accompanied the Price Proposal. Pima County does not accept late submissions or documents amending a bid submission after its due date and time have closed. Consequently, Pima County will not accept Achen-Gardner's proposed remedy to correct the deficient bid bond by accepting the late submission of the power of attorney with your protest letter.

Therefore, in accordance with Pima County Procurement Code Section 11.20.010(F), I have determined that your protest is without merit. As such, your Protest is hereby dismissed.

This decision may be appealed to the Board of Supervisors by filing an appeal with the Clerk of the Board within 5 business days of the date of this written decision pursuant to Pima County Procurement Code Section 11.20.010(H). If you file an appeal with the Board of Supervisors, the Board will consider the protest at a regularly scheduled meeting within 30 days of this decision. The Board may, with or without a hearing, either accept the decision or determine an appropriate remedy.

Pima County appreciates Achen-Gardner's continued dedication and interest in our projects and values our long-standing relationship.

Sincerely,

Bruce D Collins

Digitally signed by Bruce D
Collins
Date: 2026.07.27 14:44:01
-07'00'

Bruce D. Collins, CPPO
Procurement Director

Attachments: Achen-Gardner Construction, LLC Protest Letter received July 20, 2026

Cc: Scott Loomis, Procurement Division Manager
James Johnson, Procurement Officer
Bobby Yu, Deputy County Attorney



July 20, 2026

Via Email (7-20-26 bruce.collins@pima.gov) and Hand Delivery (7-21-26)

Bruce Collins
Procurement Director
Pima County Procurement Department
150 W. Congress Street
Tucson, Arizona 85701

RE: RFP for Job Order Contract: Wastewater Conveyance System and Related Facilities Repair, Rehabilitation & Construction Services

Protest of Non-Responsiveness Determination

Dear Mr. Collins:

Achen-Gardner Construction, LLC (“Achen-Gardner” or “Protester”) respectfully submits this bid protest pursuant to Pima County Code §11.20.010, challenging the determination that Achen-Gardner’s proposal submitted in response to RFP-2600000677 (Job Order Contract: Wastewater Conveyance System and Related Facilities Repair, Rehabilitation & Construction Services) was non-responsive.

Achen-Gardner values its long-standing relationship with Pima County and submits this protest in a spirit of professional collaboration. We believe the non-responsiveness determination may have been based on a federal procurement regulation that does not govern this county solicitation, and that Achen-Gardner’s failure to include a power of attorney with its bid bond is, at most, a minor informality that may be waived under applicable Arizona law or a matter of responsibility that can be addressed by Achen-Gardner’s submission of the power of attorney, which is included with this letter.

I. PROTESTER IDENTIFICATION

Pursuant to Pima County Code §11.20.010(D), we provide the following information:

Name, Address and Telephone Number of Protestor:

Achen-Gardner Construction, LLC
2195 W. Chandler Boulevard, Suite #200,
Chandler, AZ 85224
(480) 940-1300

Solicitation: RFP-2600000677

II. TIMELINESS OF PROTEST

This protest should be deemed to be timely filed pursuant to Pima County Code § 11.20.010(D), because Achen-Gardner did not and could not have known the basis for this protest until last Friday, July 17, 2026, when Bryan Mueller of Achen-Gardner participated in a debrief and for the first time learned that Achen-Gardner's bid had been deemed non-responsive due to the omission of the power of attorney for the attorney-in-fact who signed Achen-Gardner's bid bond. Prior to that date, the Notice of Recommendation for Award ("NORFA"), issued June 4, 2026, disclosed only the names of recommended awardees and other respondents—consistent with the confidentiality provisions of A.R.S. § 34-604(H), and the reason Achen-Gardner was not included on the list was not provided or disclosed in any manner to Achen-Gardner.

This protest is being filed on July 20, 2026, just one business day after Achen-Gardner first learned of the non-responsiveness determination. The protest should therefore be deemed to be timely. This is in the interest not only of Achen-Gardner as the disappointed bidder, but also of the County given Achen-Gardner's vast experience with the same work and its many years providing best value cost competitive services to the County.

III. FACTUAL BACKGROUND

This procurement was conducted as a two-step Job Order Contract ("JOC") evaluation pursuant to A.R.S. § 34-604. In Step 1, Pima County issued RFQu-2600000677 on January 29, 2026. In Step 2, the County issued RFP-2600000677 on April 29, 2026, with proposals due May 14, 2026. The solicitation contemplated award to up to four contractors under a shared Supplier Contract valued at \$25,000,000 annually.

Achen-Gardner timely submitted its Statement of Qualifications and submitted a complete proposal in response to the RFP consisting of a technical proposal and pricing proposal, including the required bid bond on the form provided in the RFP. Achen-Gardner's bid bond was executed by Kevin Nunez on behalf of Achen-Gardner, as principal, and by Stephanie L. Bucholz as Attorney-in-Fact for and on behalf of Liberty Mutual as surety.

On June 4, 2026, the County issued the NORFA, recommending award to four contractors: B & F Contracting, Inc.; Borderland Construction Company, Inc.; Ellison-Mills Contracting, LLC; and Hunter Contracting Co. Achen-Gardner was listed as an "Other Respondent." The Board of Supervisors approved the award on or after July 14, 2026.

At the debrief on July 17, 2026, Achen-Gardner was informed for the first time that its bid had been deemed non-responsive because the power of attorney for Ms. Bucholz was not included with the bid bond. We understand the procurement officer relied on FAR 28.101-3 (48 C.F.R. §28.101-3) in reaching this determination.

IV. THE OMISSION OF THE POWER OF ATTORNEY IS A MINOR INFORMALITY, NOT A MATERIAL DEFECT AFFECTING RESPONSIVENESS

A. The FAR Does Not Apply to Pima County Procurements

FAR 28.101-3 (48 C.F.R. §28.101-3) is a federal regulation that governs procurements conducted by federal executive agencies. Pima County is a political subdivision of the State of Arizona and is not subject to the Federal Acquisition Regulation. Rather, Pima County

procurements are governed by the Pima County Procurement Code, Arizona Revised Statutes (particularly A.R.S. §§ 34-201 and 34-604), and the Arizona Administrative Code. None of these authorities require submission of a power of attorney with a duly executed bid bond as a condition of a responsive bid.

B. Neither the Solicitation Documents Nor Arizona Law Require Submission of a Power of Attorney as a Condition of Responsiveness

The RFP-2600000677 bid bond requirement states:

“Bids must be accompanied by a scan of an original certified check, cashier’s check or surety bond for 10% of the shared Supplier Contract amount currently valued at \$25,000,000.00 annually, made payable to Pima County pursuant to A.R.S. § 34-201(A)(3). The Arizona Statutory Bid Bond form included in these documents is included for surety bonds. Bonding companies must be licensed in Arizona.”

This language required three things: (1) a surety bond for 10% of the contract amount; (2) use of the Arizona Statutory Bid Bond form; and (3) that the bonding company be licensed in Arizona. Achen-Gardner satisfied all three requirements. Nowhere in the RFP, the RFQu, the Arizona Statutory Bid Bond form, A.R.S. § 34-201, A.R.S. § 34-604, or the Pima County Procurement Code is there a requirement that a power of attorney be submitted with the bid bond as a condition of responsiveness. Moreover, under Arizona law, a signature made by an individual acting as attorney in fact, like the signature of Stephanie L. Bucholz on the bid bond in this instance, is valid even if a copy of the power of attorney does not accompany the signed document. Arizona statutes and case law do not impose a blanket requirement that a copy of the power of attorney be physically attached to a document signed by an agent in order for that signature to be effective.

A.R.S. § 34-201 requires that every public construction bid “be accompanied by a surety bond for ten percent of the bid amount, executed solely by a surety company or companies holding a certificate of authority to transact surety business in this state.” The statute prescribes the conditions and form of the bid bond but it nowhere provides that a power of attorney must be included with the bond in order for the bond to be enforceable, and it nowhere provides that a power of attorney must be included with the bond in order for a bid supported by the bond to be responsive.

Arizona's durable power of attorney statute, A.R.S. § 14-5501, establishes that a durable power of attorney is a written instrument by which a principal designates another person as the principal's agent. The statute sets forth specific execution requirements but it does not require that a copy of the power of attorney accompany any document subsequently signed by the agent.

The absence of any such requirement in the procurement context is significant because Arizona law does require evidence of the authority of an agent in some contexts. For example, A.R.S. § 40-345 provides that a protest or objection signed by an agent or attorney in fact in the context of public utility conversion proceedings shall be disregarded unless the authority of the agent has been recorded with the county recorder, or written or telegraphic authority is attached to the protest or objection before the expiration of the time for filing. Similarly, A.R.S. § 48-918 imposes the same requirement in the context of protests against proposed improvements by

improvement districts. These provisions are expressly limited to their specific statutory contexts and do not reflect a general rule or policy applicable to all legal documents.

C. The Omission Does Not Constitute a Material Deviation Under Arizona Law

A bid is responsive if the bid complies with the mandatory requirements of the request for proposal and any governing statutes. *See* 1 Bruner & O'Connor Construction Law § 2:90. *See also Ry-Tan Const., Inc. v. Washington Elementary Sch. Dist. No. 6*, 210 Ariz. 419, 423 (2005) (“contract *shall* be awarded to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and evaluation criteria set forth in the invitation for bids”); Under Arizona procurement law, a “responsive bidder or offeror” is one who “submits a bid that conforms in all material respects to the Invitation for Bids, Request for Proposals, or Request for Qualification.” AZ ST Code of Jud. Admin. § 1-402(D) (“Responsive bidder or offeror means a person who submits a bid that conforms in all material respects to the Invitation for Bids, Request for Proposals, or Request for Qualification.”); A.A.C. R2-7-B312(C) (An agency chief procurement officer shall conduct an evaluation to determine whether an offeror is responsive, based upon the requirements set forth in the solicitation. The agency chief procurement officer shall reject as nonresponsive any offer that does not meet the solicitation requirements.)

Not every deficiency in a bid submission renders the bid non-responsive—only those deficiencies that are *material* do so. The Arizona Supreme Court established the foundational rule in *Singh v. State Land Commissioner*, 80 Ariz. 343, 297 P.2d 930 (1956): a minor and insubstantial omission that confers no advantage on the bidder and causes no prejudice to competing bidders does not invalidate a bid. The Court held that “any variation from the technically correct amending procedure was merely a minor and insubstantial omission, and that no advantage accrued to the bidder from the manner in which his bid was presented, and that the competing bidder suffered no prejudice from it.” *Id.* at 347, 297 P.2d at 932.

As noted above, nothing in either the RFQu or the RFP required the inclusion of the power of attorney with an otherwise valid and authorized bid bond. Moreover, nothing in Arizona law required that a power of attorney accompany the duly executed bid bond in order to make the bid bond enforceable. Under these circumstances, Achen-Gardner’s bid complied with all of the requirements of both the bid documents and Arizona law, and its bid should have been deemed responsive. We understand the Procurement Officer may have relied on a provision in the Code of Federal Regulations in making this determination. We respectfully submit that the federal regulation does not govern this county procurement, and because the bid bond as presented to the County is and was fully enforceable, Achen-Gardner’s proposal should be found responsive.

V. THE POWER OF ATTORNEY WAS VALID AND IS ALREADY IN THE COUNTY’S POSSESSION

There is an additional reason that Achen-Gardner’s bid is responsive. Achen-Gardner has previously submitted bid bonds to Pima County signed by the same attorney-in-fact, Stephanie L. Bucholz of CBI Bonding, Inc., on behalf of Liberty Mutual Insurance Company. Those prior submissions included powers of attorney. The County therefore had the power of attorney for Ms. Bucholz in its files from prior procurements, confirming that Ms. Bucholz is a duly authorized attorney-in-fact for Liberty Mutual.

Moreover, the power of attorney issued by Liberty Mutual for Achen-Gardner's bid bond submitted with its bid (Certificate No. 8213077-975281) bears a certification by Renee C. Llewellyn, Assistant Secretary of Liberty Mutual, dated May 19, 2026—the same date the bid bond was executed. This contemporaneous certification establishes beyond question that Ms. Bucholz possessed the authority to bind Liberty Mutual at the time she signed the bid bond. The omission was a clerical oversight in assembling the bid package, not an indication of unauthorized execution.

A copy of the power of attorney is enclosed with this protest for the County's records and to confirm the validity of the bid bond.

VI. NO COMPETITIVE ADVANTAGE OR PREJUDICE

The reason the power of attorney was not included with the bid bond is because the bid bond form included with the RFP did not include or reference a power of attorney and the individual who assembled Achen-Gardner's proposal documents carefully checked to confirm all documents referenced in the RFP were included with Achen-Gardner's proposal. The omission of the power of attorney conferred absolutely no competitive advantage on Achen-Gardner and caused no prejudice to any other bidder or to the integrity of the procurement process.

Specifically:

- The bid bond itself is fully valid and enforceable. Liberty Mutual Insurance Company is bound by the bond regardless of whether the power of attorney was included in the submission package.
- The bond was in the correct amount.
- Liberty Mutual holds a valid certificate of authority to transact surety business in the State of Arizona, as required by A.R.S. § 34-201.
- Ms. Bucholz was, at the time of execution, a duly authorized attorney-in-fact for Liberty Mutual, as confirmed by the contemporaneous certification dated May 19, 2026.
- No other bidder gained or lost any competitive position as a result of the omission of this document from Achen-Gardner's bid package.

Because no advantage accrued to Achen-Gardner and no prejudice resulted to any competing bidder, the omission is a waivable minor informality.

VII. ACHEN-GARDNER'S QUALIFICATIONS AND COMMUNITY TIES

Achen-Gardner has an excellent track record performing similar Job Order Contracts and other public works projects for Pima County and throughout Arizona. The company has deep community ties in the region and is committed to delivering high-quality construction services. Including Achen-Gardner in the contract award would serve the County's operational interest in having a proven, community-rooted contractor available under this multi-award vehicle.

We note that the solicitation contemplated award to up to four contractors. Achen-Gardner's inclusion would provide the County with additional capacity and competition among awardees, furthering the objectives of the procurement.

VIII. RELIEF REQUESTED

Pursuant to Pima County Code §11.20.010(G)(2), Achen-Gardner respectfully requests the following relief:

1. Reverse the determination that Achen-Gardner's bid was non-responsive;
2. Find Achen-Gardner's bid to be both responsive and responsible;
3. Pursuant to §11.20.010(G)(2)(c), withdraw the staff recommendation, rescore the pricing components, utilizing the existing technical scoring and rescored pricing components establish final rankings and then recommend award of a contract consistent with the Pima County Procurement Code, thereby including Achen-Gardner among the awarded contractors;
4. In the alternative, if inclusion at this stage is not feasible, reprocur the solicitation pursuant to §11.20.010(G)(2)(a) or (b);
5. Pursuant to §11.20.010(G)(2)(d), grant other relief to Achen-Gardner as appropriate.

IX. CONSIDERATION OF RELEVANT FACTORS

We respectfully submit that the factors set forth in §11.20.010(G)(1) weigh in favor of sustaining this protest:

- Seriousness of the deficiency: The omission is a minor clerical oversight involving a document that is already in the County's possession from prior procurements and that was certified contemporaneously with the bid bond included with Achen-Gardner's bid.
- Degree of prejudice to other parties or to the integrity of the procurement: None. The bid bond is fully enforceable, and no other bidder was affected.
- Good faith of the parties: Achen-Gardner acted in complete good faith. The omission was inadvertent and is being promptly remedied by enclosure of the power of attorney with this protest.
- Costs to the County: Sustaining the protest and including Achen-Gardner provides the County with a highly qualified provider.
- Urgency of the procurement and impact on the department's mission: The Department can use interim measures to contract for any necessary remedial work during any delay caused by addressing this issue.

X. CONCLUSION

For the reasons set forth above, Achen-Gardner respectfully requests that the Procurement Director reverse the non-responsiveness determination and either include Achen-Gardner in the contract award or reinstate the procurement to address the issues raised herein. The omission of the power of attorney was a minor, technical irregularity that conferred no competitive advantage and caused no prejudice. The bid bond is fully enforceable, the surety is properly licensed, and

the attorney-in-fact was duly authorized at the time of execution. Under the governing Arizona legal standards, the power of attorney was not a required submission, and its omission should not serve as a basis to disqualify Achen-Gardner.

We appreciate the County's consideration of this matter and remain available to provide any additional information or documentation that may be helpful in resolving this protest. Achen-Gardner looks forward to continuing its productive working relationship with Pima County.

Respectfully submitted,

ACHEN-GARDNER CONSTRUCTION, LLC



Daniel J. Spitz, P.E.
President

Enclosures:

1. Power of Attorney (Certificate No. 8213077-975281) for Stephanie L. Bucholz
2. Copy of Achen-Gardner's Bid Bond dated May 19, 2026

Cc: Scott Loomis (scott.loomis@pima.gov)
Julie Burch (julie.burch@pima.gov)
James Johnson (james.johnson@pima.gov)
Bryan Mueller (bmueller@achen.com)



POWER OF ATTORNEY

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8213077-975281**

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Stephanie L. Bucholz, Andrew A. Farr, Gregory P. Griffith, Nicholas S. Griffith

all of the city of Mesa state of AZ each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 4th day of February, 2025.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: Nathan J. Zangerle

Nathan J. Zangerle, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 4th day of February, 2025 before me personally appeared Nathan J. Zangerle, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2029
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes Nathan J. Zangerle, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 19th day of May, 2026.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

ARIZONA STATUTORY BID BOND
PURSUANT TO TITLE 34, ARIZONA REVISED STATUTES

KNOW ALL MEN BY THESE PRESENTS THAT: Achen-Gardner Construction, LLC
hereinafter "Principal"), as Principal, and Liberty Mutual Insurance Company
(hereinafter "Surety"), a corporation organized and existing under the laws of the State of Massachusetts, with
its principal offices in the City of Boston, holding a certificate of authority to transact surety
business in Arizona issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article
1, as Surety, are held and firmly bound unto Pima County, Arizona, (hereinafter "Obligee"), in the sum of Ten
Percent (10%) of the amount of the bid of Principal, submitted by Principal to the Obligee for the work described
below, for the payment of which sum, the Principal and Surety bind themselves, and their heirs, administrators,
executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for the work titled:

RFP-2600000677
**Job Order Contract: Wastewater Conveyance System and Related Facilities Repair, Rehabilitation &
Construction Services**

NOW, THEREFORE, if the Obligee shall accept the proposal of the Principal and the Principal shall enter
into a contract with the Obligee in accordance with the terms of the proposal and give the bonds and certificates
of insurance as specified in the standard specifications with good and sufficient surety for the faithful performance
of the contract and for the prompt payment of labor and materials furnished in the prosecution of the contract, or
in the event of the failure of the Principal to enter into the contract and give the bonds and certificates of insurance,
if the Principal pays to the Obligee the difference not to exceed the penalty of the bond between the amount
specified in the proposal and such larger amount for which the Obligee may in good faith contract with another
party to perform the work covered by the proposal then this obligation is void. Otherwise, it remains in full force
and effect provided, however, that this bond is executed pursuant to the provisions of Section 34-201, Arizona
Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of that
section to the extent as if it were copied at length herein.

Witness our hands this 19th day of May, 2026.

Achen-Gardner Construction, LLC

Principal

By:


Kevin J. Nunez / Executive Vice President

Liberty Mutual Insurance Company

Surety

By:


Stephanie L. Bucholz, Attorney-in-Fact

