



**BID DOCUMENTS**

**ANNUAL GUARDRAIL INSTALLATION, MAINTENANCE, AND REPAIR**

**AT**

**VARIOUS LOCATIONS THROUGHOUT PIMA COUNTY**

**SOLICITATION NO. 186759**

**July 2015**

**Pima County Procurement Department  
Design & Construction Division  
130 West Congress Street, Third Floor  
Tucson, Arizona 85701  
(520) 724-3731 / Fax (520) 724-4434**

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**NOTICE OF INVITATION TO BID**  
**ANNUAL GUARDRAIL INSTALLATION, MAINTENANCE,  
AND REPAIR**

**SOLICITATION NO. - 186759**

Pima County is seeking bids for the Department of Transportation from Contractors to install, maintain and repair guardrail throughout Pima County. Sealed bids shall be delivered at or before the date and time indicated below to the Pima County Procurement Department offices located in the County Administration Building, 130 West Congress Street, 3<sup>rd</sup> Floor, Tucson, Arizona 85701. Bids must be accompanied by a surety bond of ten percent (10%) of the amount of the bid.

**Project Summary:** The intent of this solicitation is to award a contract to the lowest, responsive, responsible bidder to provide for the annual requirements of guardrail installation, maintenance and/or repair throughout Pima County. The annual amount budgeted for this service for the first year of the contract is estimated at \$175,000.00. The contract will include the option to extend up to four (4) additional one-year periods. There is no minimum guarantee of work during the term of the contract, and there is no guarantee the renewal option(s) will be exercised.

Due to the nature of this work a minimum goal for participation by Small Business Enterprises (SBE) will not be established, however Small Business Enterprise (SBE) firms are encouraged to participate.

The entire solicitation package can be downloaded from the Pima County website: [www.pima.gov/procure/ifbrfp-dc.htm](http://www.pima.gov/procure/ifbrfp-dc.htm). Information regarding the submittal requirements of this solicitation may be obtained at the Design and Construction Division of the Procurement Department located in the Pima County Administration Building, 130 W. Congress Street, 3<sup>rd</sup> Floor. Contact Ms. Christy Bustillos regarding documents at phone: (520) 724-8414; fax: (520) 724-4434; or email: [Christy.bustillos@pima.gov](mailto:Christy.bustillos@pima.gov).

**BID DUE DATE/TIME:** August 27, 2015, at or before 2:00 PM Local Tucson Time  
**LOCATION:** Procurement Department, 130 W. Congress Street, 3<sup>rd</sup> Floor, Tucson, AZ

**PRE-BID MEETING:** August 18, 2015, 2:00 AM Local Tucson Time  
**LOCATION:** Procurement Department, 130 W. Congress Street, 3<sup>rd</sup> Floor, Tucson, AZ

**DIRECT QUESTIONS IN WRITING TO:** Anthony V. Schiavone, Commodity / Contracts Officer  
Fax: 520-724-4434 / E-mail: [anthony.schiavone@pima.gov](mailto:anthony.schiavone@pima.gov)

**PUBLISH:** The Daily Territorial: August 5, 6, 10, 11, 2015

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## INSTRUCTIONS TO BIDDERS

### 1. SPECIFICATIONS

The work shall consist of the installation and/or repair of guardrail including excavating, placing and compacting backfill material all in accordance with applicable Arizona Department of Transportation (ADOT) standards, and with the following Specifications as modified by the Contract:

- Standard Specifications and Details for Public Improvements, 2003 Editions, Pima County-City of Tucson
- Arizona Department of Transportation Highways Division; Standard Drawings (latest editions):

- Part 1 – Construction Standard Drawings
- Part 2 – Structures Section Standard Drawings
- Part 3 - Traffic Signal and Lighting
- Part 4 – Signing and Marking Standard Drawings

- State of Arizona Department of Transportation Highways Division; Standard Specifications for Road and Bridge Construction, Latest Edition;
- Manual on Uniform Traffic Control Devices for Streets and Highways, 2003;
- Rental Rate Blue Book for Construction Equipment;

Guardrail installation locations shall be designated as required by the Contract Administrator.

### 2. PRE-BID MEETING

There will be a pre-bid meeting on the date, time, and place specified in the NOTICE OF INVITATION TO BID. Attendance is not mandatory, but is encouraged.

### 3. OMISSIONS, DISCREPANCIES, INTERPRETATIONS AND ADDENDA

In the event the bidder has questions or discovers an apparent error or omission in the specifications or plans, or be in doubt as to their meaning, the bidder shall submit their question or comment in writing to: Anthony V. Schiavone, Commodity/Contracts Officer, Pima County Procurement Department, Design and Construction Division offices, County Administration Building, Mailstop DT-AB3-126, 130 W. Congress, 3<sup>rd</sup> floor, Tucson, Arizona 85701, Fax 520-724-4434, or email [anthony.schiavone@pima.gov](mailto:anthony.schiavone@pima.gov). Requests received seven (7) calendar days or less prior to the original deadline for receiving bids may not be addressed. Any clarifications or interpretations of this solicitation that materially affect or change the scope or intent will be issued via addenda and posted by the County on the County's web site ([www.pima.gov/procure/ifbrfp-dc.htm](http://www.pima.gov/procure/ifbrfp-dc.htm)). County will make an effort to notify proposers of addenda; however, it cannot guarantee that every potential respondent will be notified each time. Therefore, **it is the responsibility of all respondents to check the website periodically for addenda and to obtain this information in a timely manner.** Failure to acknowledge any or all addenda may be cause for rejection of the proposal.

No oral interpretations shall be made to any bidder as to the meaning of any of the bid documents, or be effective to modify any of the provisions of the bid documents.

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**4. BID SUBMISSION**

All bids must be submitted on the Bid Proposal for Construction forms included with these Bid Documents. Provide the price for each item of work in the requested manner in clearly documented figures (typewritten is preferred). A duly authorized representative of the bidding firm must sign the Bid. All figures and signatures must be in ink. Changes or corrections must be in ink and initialed in ink by the individual preparing the bid.

It is not necessary to return the entire document. It is only necessary, and preferred, for respondents to complete, execute and return the following bid documents at time of bid opening: Bid for Construction, Bid Schedule, SBE compliance materials, and Arizona Statutory Bid Bond.

Submit the required pages in a sealed envelope clearly marked with the bidder's name and the name of the project.

**5. PRICES**

Unit prices are to include the furnishing of all materials, plant, equipment, tools, all applicable taxes, bonds, and the performance of all labor and services necessary or proper for the completion of the work, unless otherwise expressly provided in these bid documents.

**6. DATE AND PLACE FOR OPENING BIDS**

Pursuant to the "Notice of Invitation to Bid," sealed bids for performing the work will be received and opened at the Pima County Procurement Department Design and Construction Division offices, County Administration Building, 130 W. Congress, 3<sup>rd</sup> floor, Tucson, Arizona 85701. This facility is wheelchair accessible. Upon request, ten (10) working days prior to bid opening, a signer will be provided for the hearing impaired.

Bids will be received until the date and time stated in the Notice of Invitation to Bid. Bids will be opened publicly and read immediately thereafter. Late bids will not be considered, and will be returned unopened.

**7. EVALUATION AND AWARD**

Bidders shall guarantee bid prices for seventy-five (75) calendar days after the date of bid opening to allow adequate time for evaluation and award. If in the best interests of the County, the bid shall be recommended for award to the lowest, most responsive, responsible bidder, on the basis of the Total Bid Amount. Mistakes in bids shall be handled in accordance with § 11.12.010(G) of the Pima County Procurement Code. The County reserves the right to reject any and all proposals or to withhold the award for any reason.

The Pima County Procurement Department will return the Bid Guaranty of unsuccessful bidders as soon as practical after the opening of Bids and the determination of the low bidder.

Following approval of award by the Pima County Board of Supervisors, the Pima County Procurement Department Design and Construction Division will issue a Notice of Award to the successful bidder. This act constitutes the acceptance of a bid. The acceptance of a bid shall bind the successful bidder to execute the contract and complete the work at the price bid within the time stipulated or be responsible for liquidated damages as provided. The rights and obligations provided for in the contract shall become effective and binding upon the parties only with its formal execution by the County.

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**8. TIME FOR EXECUTING CONTRACT**

The successful bidder will be required to execute the contract and return it to the Pima County Procurement Department, Design and Construction Division within ten (10) days after receipt of Notice of Award, complete with required bond forms and insurance certificates. Failure or neglect to do so shall constitute a breach of the contract and may result in termination.

**9. PROPRIETARY SPECIFICATIONS-SUBSTITUTIONS AND PRIOR APPROVAL OF ALTERNATIVE PRODUCTS PROCEDURES.**

It is the intent that these Bid Documents comply with the provisions of the Arizona Revised Statutes, as amended, prohibiting the use of specifications proprietary to one supplier, distributor or manufacturer. When a specific reference to an article, manufacturer, proprietary name, device, product, material or fixture is made in these documents, it is to establish a standard of quality and shall not be construed as limiting competition, and is only used to describe more clearly the intended result.

Substitute products, materials, appliances, equipment, fixtures, or systems will be considered for prior approval. Any bidding contractor desiring to obtain prior approval(s) shall, at least eight (8) calendar days prior to the original deadline for receiving bids, submit, in a sealed envelope, catalog cuts, shop drawings, or other descriptive literature for products, materials, appliances, equipment, fixtures, or systems for which the bidder wished to make substitution. The bidder shall make request to County in triplicate on copies of form included. Submittal(s) shall include a complete and adequate analysis showing point-for-point comparison to specified item(s) or system(s) and shall prove equality or superiority. Include related Section and Drawing number(s), and fully document compliance with requirements for substitutions. Include product data/drawings, description of methods, samples where applicable, statement of effect on construction time (if any) and coordination with other affected Work. Anything less than the above submittal requirements will not be considered. If available, the bidder shall include identification of previous local use of proposed substitutions with dates and names of owner.

- A. Direct submittals from subcontractor's, material vendors, or manufacturers will not be accepted. All prior approval requests shall be made by bidding general contractors. Submissions from subcontractors or suppliers will not be considered.
- B. The County will be the sole judge of equivalency of proposed substitution(s).
- C. Prior to making a prior approval request, bidder shall satisfy itself that the item or system the bidder proposes is, in the bidder's best judgment, equal to that specified; that it will fit into space allocated; that it affords comparable ease of operation, maintenance, and service; that its appearance, longevity, and suitability for climate and use are comparable to that specified; and that substitution is in County's best interest.
- D. Manufacturer's data, which is readily available to the County, is not sufficient for establishing proof of quality.
- E. The bidder may be required to provide laboratory test data performed by a nationally recognized independent testing laboratory known for its testing expertise. Laboratory tests shall include types of materials used in substitute item or system, including thickness and strength, and a direct comparison to item or system specified for capacities, capabilities, coatings, functions, life cycle usage, and operations.
- F. Burden of proof that a proposed substitution is equal to a specified item or system shall be upon Contractor, who shall support the request with sufficient test data, samples, brochures, and other means to permit a fair and equitable decision on merits of proposal.

- G. The County Procurement Department will notify bidders of acceptance via a written addendum to the Bid Documents listing accepted substitutions.

Acceptance of substitutions shall not relieve Contractor from responsibility for complying with all other requirements of the Bid documents and coordinating substitution(s) with adjacent materials and other affected equipment.

Submit substitution requests to:  
Anthony V. Schiavone, Commodity/Contracts Officer  
Pima County Procurement Department, Design and Construction Division  
130 W. Congress, 3<sup>rd</sup> Floor  
Tucson, Arizona 85701

CLEARLY IDENTIFY ON SUBMITTAL ENVELOPE THAT IT CONTAINS A SUBSTITUTION REQUEST or the package may be mistaken for a bid and not be opened.

#### 10. NON-COLLUSION

Each bidder, by signing and submitting a bid, is certifying that the bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with this bid.

#### 11. SUBCONTRACTORS

Pima County does not support post-bid price competition (i.e. "bid shopping"). To discourage "bid shopping" on construction projects, the apparent low bidder must submit, by 4:00 P.M. local time on the first full business day following bid opening, a list of all first tier subcontractors with whom the bidder intends to subcontract for more than one percent (1%) of their total bid amount or \$10,000.00 whichever is greater. The list must be submitted on the form included in these bid documents and provide each subcontractor's name, license number(s), type of work and the dollar amount of their subcontract(s). Failure to submit the required list by the deadline shall result in the bidder being declared ineligible for award unless the County determines it would be contrary to the County's interests.

If the apparent low bid is nonresponsive or the bidder is otherwise ineligible for award, the County will notify the next low responsive bid submitted by a responsible bidder to submit their subcontractor list by 4:00 P.M. local time on the first full business day following actual notice of the requirement.

Submission of the subcontractor list shall constitute certification that the listed subcontractors will perform work on the project in an amount reasonably close to that stated on the subcontractor list. 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.

#### 12. SUSPENSION & DEBARMENT

By submitting this bid, the bidder is certifying that neither it nor any of its principals are currently suspended or debarred, or under consideration for suspension or debarment, by any public agency or entity at the local, state or Federal level. The County Board of Supervisors reserves the right to reject

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the bid/proposal response of any persons or corporations who have previously defaulted on any contract with Pima County or who have engaged in conduct that constitutes a cause for debarment or suspension as set forth in Pima County Code Chapter 11.28 and 11.32.

**13. ARIZONA CONTRACTOR'S LICENSE**

The contractor must have the appropriate license issued by the State of Arizona Registrar of Contractors in order to bid and maintain same through the duration of the project. Failure to have the appropriate license at the time of bid opening may result in rejection of the bid without further recourse and award of the contract to the next low responsive, responsible bidder.

**14. UNBALANCED BIDS**

The County reserves the right to reject a bid as non-responsive if the prices bid are materially unbalanced between line items. A bid is materially unbalanced when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated and there is a reasonable doubt that the bid will result in the lowest overall cost to County, even though it may be the low evaluated bid.

**15. JOINT VENTURES**

Bidders that submit a bid as a Joint Venture must include a copy of the Joint Venture Agreement at the time of bid. The bid must be executed by the Joint Venture Partners or by one Joint Venture Partner with a letter of authorization from the other Joint Venture Partners. The bid bond must be presented in the Joint Venture's name as the Principal.

**16. PUBLIC INFORMATION**

Responses to this solicitation shall be considered public information after award and execution of the contract. Handling of confidential information is reflected in Article XXV of the sample contract included in this solicitation.

**17. VENDOR REGISTRATION**

Pima County has implemented an internet-based vendor registration system for Pima County Vendor Self Service (VSS). This system allows Vendors to create and maintain their own Vendor record online using a standard internet browser. The internet link for Vendor Registration is <http://www.pima.gov/procure/venreg.htm> . All Contractors must register in VSS.

**18. PIMA COUNTY ONESTOP SYSTEM**

Pima County One Stop often has professional and administrative staff, managers, and experienced construction supervisors and workers available for immediate hire. Call (520) 243-6700 or contact One Stop at <http://webcms.pima.gov/cms/one.aspx?portalId=169&pageId=18397>

**19. PROTESTS**

The Pima County protest procedures are in Chapter 11.20 of the Pima County Procurement Code, available through <http://www.pima.gov/cob/code/>. The five-day period to file a protest of the award will be measured from the date the Notice of Recommendation for Award is posted on the Pima County Procurement website at <http://www.pima.gov/procure/awards/> without regard to whether individual notices were issued. It is the responsibility of bidders to check the website.



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## REQUEST FOR PRIOR APPROVAL OF SUBSTITUTE ITEMS OR SYSTEMS

### SOLICITATION NO. 186759 - ANNUAL GUARDRAIL INSTALLATION, MAINTENANCE, AND REPAIR

A complete reproduction of this form must accompany all requests for prior approval. Failure to submit this form with request may be cause for rejection. Substituted items or systems may be incorporated into the Work only after receipt of County's written approval in the form of an addendum.

Note: This request must be received at least eight (8) calendar days prior to the *original* deadline for receiving bids.

[Subcontractor] [Material Vendor] [Manufacturer]: \_\_\_\_\_

Item or System: \_\_\_\_\_

Specification Section Reference: \_\_\_\_\_

Drawing Reference: \_\_\_\_\_

Affect, if any, on Construction Time: \_\_\_\_\_

Summary of Related Work Requiring Coordination (if any): \_\_\_\_\_

(Contractor shall assume responsibility for complete coordination with Work of all trades involved if Request for Prior Approval is approved.)

Attached documentation: The following is herewith attached to provide complete documentation of requested substitution. (Indicate with a check next to those documents attached.)

- |                                      |                         |
|--------------------------------------|-------------------------|
| 1. Point-for-Point Comparison: _____ | 4. Shop Drawings: _____ |
| 2. Product Data: _____               | 5. Test Reports: _____  |
| 3. Samples: _____                    | 6. Other: _____         |

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINTED NAME & TITLE: \_\_\_\_\_

FIRM NAME: \_\_\_\_\_



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**BID FOR CONSTRUCTION**

**SOLICITATION NO. 186759 -  
ANNUAL GUARDRAIL INSTALLATION, MAINTENANCE, AND REPAIR**

The undersigned bidder hereby proposes and agrees to furnish any and all required labor, material, construction equipment, transportation and services for the project in strict conformity with the Bid Documents, at the unit prices set forth in Exhibit "A" on the following pages.

Bidder Shall Signify Receipt of All Addenda (if any):

ADDENDUM NO. \_\_\_\_\_ DATED \_\_\_\_\_ ADDENDUM NO. \_\_\_\_\_ DATED \_\_\_\_\_

ADDENDUM NO. \_\_\_\_\_ DATED \_\_\_\_\_ ADDENDUM NO. \_\_\_\_\_ DATED \_\_\_\_\_

ADDENDUM NO. \_\_\_\_\_ DATED \_\_\_\_\_ ADDENDUM NO. \_\_\_\_\_ DATED \_\_\_\_\_

The undersigned bidder acknowledges receipt of the complete bid documents for this project, and has examined and is familiar with all documents, including those incorporated by reference, which are applicable to this project.

Company/Firm Name: \_\_\_\_\_ DUNS Number: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Corporate Headquarters (City and State): \_\_\_\_\_

Telephone No.: (\_\_\_\_\_) \_\_\_\_\_ Fax No.: (\_\_\_\_\_) \_\_\_\_\_

Arizona Contractor's License Number(s) and Type(s)

\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATION:**

Bidder hereby certifies that it has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this bid.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINTED NAME & TITLE: \_\_\_\_\_



**EXHIBIT "A" – BID SCHEDULE**  
**SOLICITATION NO. 186759 -**  
**ANNUAL GUARDRAIL INSTALLATION, MAINTENANCE, AND REPAIR**

ITEM #	DESCRIPTION	ESTIMATED ANNUAL QUANTITY	UOM	UNIT PRICE \$	EXTENDED AMOUNT \$
1	Guardrail and posts, Installed in Place; Includes removal of damaged section and replacement with new construction (**labor only, material to be provided by Pima County**)	7000	L.F.		
2	Removal of Guardrail and posts	1000	L.F.		
3	Repair of Box Beam Guard Rail includes replacement and/or repair of rail and/or posts and painting as needed	300	L.F.		
4	Repair of Safety Barricade & Railing; includes replacement and/or repair of rail posts, gates and painting per Detail 105	2500	L.F.		
5	Labor to perform additional work similar to items 1 though 4	400	Hours		
6	Access Gate, Installed in Place; Type 1 – 14'	6	Each		
7	Access Gate, Installed in Place; Type 2 – 14'	6	Each		
8	Amount added Access Gate per foot for more than 14'	6	Foot		
9	Amount subtracted from Access Gate per foot for more than 14'	A. 6	Foot		
10	Post barricade; 10 A 4 inch, Complete In Place, per Detail 106	10	Each		
11	Post barricade; 10 B 6 inch, Complete In Place, per Detail 106	10	Each		
12	Removable post barricade, Complete In Place, per Detail 107	10	Each		
<b>GRAND TOTAL EXTENDED BID</b>					

**Note:** Item 1 is for labor only, material will be provided by Pima County. All other items are for labor and material provided by Contractor

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINTED NAME & TITLE: \_\_\_\_\_

FIRM NAME: \_\_\_\_\_





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

KNOW ALL MEN BY THESE PRESENTS THAT: \_\_\_\_\_  
hereinafter "Principal"), as Principal, and \_\_\_\_\_  
(hereinafter "Surety"), a corporation organized and existing under the laws of the State of \_\_\_\_\_, with  
its principal offices in the City of \_\_\_\_\_, 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:

**SOLICITATION NO. 186759 -  
ANNUAL GUARDRAIL INSTALLATION, MAINTENANCE, AND REPAIR**

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 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
By: \_\_\_\_\_

Principal

\_\_\_\_\_  
By: \_\_\_\_\_

Surety



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## SAMPLE CONTRACT

<p><b>PIMA COUNTY DEPARTMENT OF TRANSPORTATION</b></p> <p><b>PROJECT:</b> ANNUAL GUARDRAIL INSTALLATION, MAINTENANCE, AND REPAIR</p> <p><b>CONTRACTOR:</b></p> <p><b>AMOUNT:</b></p> <p><b>FUNDING:</b></p>	
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### 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 \_\_\_\_\_ hereinafter called CONTRACTOR.

#### WITNESSETH

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 provide ANNUAL GUARDRAIL INSTALLATION, MAINTENANCE, AND REPAIR ("**Project**"); and

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

**WHEREAS**, CONTRACTOR submitted the low responsive, responsible bid in response to Solicitation No. 186759 for the COUNTY for said work is qualified and willing to provide such services; 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 Procurement Director commences on the date of the Procurement Director's Signature, and terminates on <Termination Date>, 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 shall be as designated for each project. Liquidated damages shall be assessed based upon the construction completion time.

COUNTY shall have the option to extend the Contract termination date for four additional one year periods, or any portion thereof. Any modification or extension of the contract termination date shall be by formal written amendment executed by the parties hereto. Change orders must be approved by the Procurement Director or the Board of Supervisors, as required by the Pima County Procurement Code, before the work under the change commences.

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**ARTICLE 2 – SCOPE OF SERVICES**

CONTRACTOR shall provide for the COUNTY all labor, materials and equipment necessary to complete the ANNUAL GUARDRAIL INSTALLATION, MAINTENANCE, AND REPAIR Project. All work shall be as called for by Pima County Solicitation No. 186759. 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.

Payment for this Contract will be made based on **EXHIBIT A: Bid Schedule** (1 page) submitted by Contractor in response to Solicitation No. 186759, 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.

4.1 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, its departments, districts, boards, commissions, officers, officials, agents, and employees as additional insureds 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 its 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 or COUNTY 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 Department, 130 W. Congress, 3<sup>rd</sup> Floor, 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 coverages 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 the Pima County Procurement Department, 130 W. Congress, 3<sup>rd</sup> Floor, Tucson, AZ 85701. 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.

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**ARTICLE 5 – INDEMNIFICATION**

To the fullest extent permitted by law, CONTRACTOR indemnifies and holds harmless COUNTY, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, 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, its 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 Agreement. 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.

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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.

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**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:

<Project Manager>  
<Requesting Department>  
<Building Location>  
<Address>  
<City, State Zip>  
<Tel: (XXX) XXX-XXXX>  
<Fax: (XXX) XXX-XXXX>

CONTRACTOR:

<CONTRACTOR Contact, Position>  
<CONTRACTOR Name>  
<CONTRACTOR Address>  
<City, State Zip>  
<Tel: (XXX) XXX-XXXX>  
<Fax: (XXX) XXX-XXXX>

**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. 186759 - ANNUAL GUARDRAIL INSTALLATION, MAINTENANCE, AND REPAIR Project, EXHIBIT "A" - BID SCHEDULE, EXHIBIT "B" - SPECIAL TERMS AND CONDITIONS, EXHIBIT "C" - GENERAL CONDITIONS, BONDS (BID, PAYMENT, AND PERFORMANCE BONDS), 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" – Special Terms and Conditions
  - c) EXHIBIT "C" – General Conditions
  - d) Special Provisions, Technical Specifications, and Plans
  - e) Contractor Response to the Solicitation
  - f) Instructions to Bidders
  - g) 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

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services, but CONTRACTOR may retain record copies thereof. The Granting Agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes: (a) the copyright in any work developed under this Contract or any Subcontract; and (b) Any rights of copyright to which CONTRACTOR or COUNTY acquires ownership under this Contract.

#### **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.

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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.



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**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:

CONTRACTOR:

\_\_\_\_\_  
Procurement Director

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title (Please Print)

\_\_\_\_\_  
Date

ATTEST:

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

APPROVED AS TO FORM:

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

\_\_\_\_\_  
Name (Please Print)



**ARIZONA STATUTORY PERFORMANCE BOND**  
PURSUANT TO TITLE 34, ARIZONA REVISED STATUTES  
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS THAT: \_\_\_\_\_  
hereinafter "Principal"), as Principal, and \_\_\_\_\_  
(hereinafter "Surety"), a corporation organized and existing under the laws of the State of \_\_\_\_\_, with  
its principal office in the City of \_\_\_\_\_, holding a certificate of authority to transact surety  
business in Arizona issued by the Director 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 amount of \_\_\_\_\_  
\_\_\_\_\_, for the payment whereof, Principal and Surety bind themselves, and  
their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated  
\_\_\_\_\_ for:

**SOLICITATION NO. 186759 -  
ANNUAL GUARDRAIL INSTALLATION, MAINTENANCE, AND REPAIR**

which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at  
length herein.

NOW, THEREFORE, THE CONDITION OF THE OBLIGATION IS SUCH, that if the Principal faithfully  
performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of the contract during  
the original term of the contract and any extension of the contract, with or without notice to the Surety, and  
during the life of any guaranty required under the contract, and also performs and fulfills all of the undertakings,  
covenants, terms, conditions and agreements of all duly authorized modifications of the contract that may  
hereafter be made, notice of which modifications to the Surety being hereby waived, the above obligation is  
void. Otherwise it remains in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Title 34, Chapter 2,  
Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the  
provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the same extent as if it were copied at  
length in this contract.

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees  
that may be fixed by a judge of the court.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
By: \_\_\_\_\_

Principal

\_\_\_\_\_  
By: \_\_\_\_\_

Surety



**ARIZONA STATUTORY PAYMENT BOND**  
PURSUANT TO TITLE 34, ARIZONA REVISED STATUTES  
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS THAT: \_\_\_\_\_  
(hereinafter "Principal"), as Principal, and \_\_\_\_\_ (hereinafter  
"Surety"), a corporation organized and existing under the laws of the State of \_\_\_\_\_, with  
its principal office in the City of \_\_\_\_\_, holding a certificate of authority to transact surety  
business in Arizona issued by the Director of Department of Insurance pursuant to Title 20, Chapter 2, Article 1,  
as Surety, are held and firmly bound unto Pima County, Arizona, and Pima County (hereinafter "Obligee") in the  
amount of \_\_\_\_\_, for the payment whereof, Principal and Surety  
bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly  
by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated \_\_\_\_\_  
\_\_\_\_\_ for:

**SOLICITATION NO. 186759 -  
ANNUAL GUARDRAIL INSTALLATION, MAINTENANCE, AND REPAIR**

which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length  
herein.

NOW, THEREFORE, THE CONDITION OF THE OBLIGATION IS SUCH, that if the Principal promptly  
pays all monies due to all persons supplying labor or materials to the Principal or the Principal's subcontractors  
in the prosecution of the work provided for in the contract, this obligation is void. Otherwise it remains in full  
force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Title 34, Chapter 2,  
Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the  
provisions, conditions and limitations of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the same  
extent as if it were copied at length in this contract.

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees  
that may be fixed by a judge in the court.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
By: \_\_\_\_\_  
Principal

\_\_\_\_\_  
By: \_\_\_\_\_  
Surety

# **EXHIBIT “B”**

# **SPECIAL TERMS AND CONDITIONS**

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## SPECIAL TERMS AND CONDITIONS

### INTRODUCTION

The purpose and intent of this contract is to furnish Pima County for the annual requirements of Guardrail installation, maintenance and repair for a one (1) year period, with an option to renew for up to four (4) additional one-year periods, per the specifications, terms and conditions called for in this contract. The Contractor shall provide the required services throughout Pima County, including Ajo, Arizona.

### SPECIFICATIONS

The work shall consist of the installation and/or repair of guardrail including excavating, placing and compacting backfill material all in accordance with applicable Arizona Department of Transportation (ADOT) standards, and with the following Specifications as modified by the Contract:

- Standard Specifications and Details for Public Improvements, 2003 Editions, Pima County-City of Tucson
- Arizona Department of Transportation Highways Division; Standard Drawings (latest editions):
  - Part 1 – Construction Standard Drawings
  - Part 2 – Structures Section Standard Drawings
  - Part 3 – Traffic Signal and Lighting
  - Part 4 – Signing and Marking Standard Drawings
- State of Arizona Department of Transportation Highways Division; Standard Specifications for Road and Bridge Construction, Latest Edition;
- Manual on Uniform Traffic Control Devices for Streets and Highways, 2003;
- Rental Rate Blue Book for Construction Equipment;

Guardrail installation locations shall be designated as required by the Contract Administrator.

### PRICING

Quantities on the Bid Schedule are estimates only and Pima County reserves the right to increase or decrease the quantities as required during the contract period. No guarantee is made to the exact quantities to be ordered. Contractor shall guarantee the prices for the term of the contract. Price increases may be considered only at time of contract renewal. Contractor requests for Price increases shall be submitted in writing with timing that allows analysis, negotiation and agreement. Requests for price increases shall be specific, by "item". Requests for price increase will not be considered without evidence from a nationally published and professionally recognized and accepted source indicating a cost increase in the particular item, or its component items. If the cost increase is driven by an increase in an item's component items, the request shall also indicate the percentage of each component item as a percent of the item's current Unit Price.

### MATERIAL

1. For item # 1 of the Bid Schedule, Pima County shall furnish the material components such as guardrail, railroad rail, wood post, bolts, nuts etc., necessary for installation and delivery by the Contractor. For all other items on the Bid Schedule, the Contractor is responsible for furnishing all material components required.

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2. The Contractor shall be responsible for the protection and security of all materials at the various job locations until said materials have been installed in accordance with Specification of the Contract.
  3. The Contractor shall supply any and all concrete materials necessary to install or repair guardrails. Concrete cost shall be included and made a part of the item(s) unit price bid.

### **INSTALLATIONS AND REPAIR SERVICES**

All installation or repairs of guardrail shall be in accordance with the General Details (D-1 and D-2) Standard Specifications for Road and Bridge construction, Section 905 Guardrail, and Arizona Department of Transportation Standard Construction.

### **REMOVAL**

The total removal of guardrail and posts as needed by the Department includes the removal of the guardrail and posts filled of any holes left by the post removal and transport of removed guardrail and posts to the Mission Road Yard.

### **TRAFFIC CONTROL**

The Contractor shall be responsible for all Traffic Control. Traffic control costs shall be included and made a part of the unit price bid.

### **SAFETY BARRICADE INSTALLATION AND REPAIR**

1. Description: Safety barricade railing shall consist of furnishing all materials, labor, and equipment necessary for repairing steel handrail, including railing, posts, fittings, anchorages, and painting.
2. Materials: Materials furnished for the safety barricade railing shall conform to existing railing, including size, thickness and weight. THE 1½ inch inside diameter standard pipe for gates shall be Schedule 40, shall have a minimum wall thickness of 0.145 and 1.90 inch outside diameter. The 2 inch diameter standard pipe shall be Schedule 40, shall have a minimum wall thickness of .154 inch and be 2.067 inside diameter and 2.375 outside diameter pipe. The 4 inch I.D. standard pipe shall be Schedule 40, shall have a minimum wall thickness of .237 inch and shall be 4.026 inside diameter and 4.50 inch outside diameter for gate posts. Steel pipe shall conform to the requirement of ASTM A53, Grade A or B, or A500, Grade A or B, except hydrostatic testing will not be required.
3. Construction Details: Repair of the safety barricade railing shall conform to existing railing in size, shape and color. Welding of the safety barricade railing shall conform to latest A.W.S. specification for the material being welded. Joints shall be ground smooth and produce a straight rail or post. Safety barricade railing shall present a smooth, uniform appearance after repair.
4. Painting: Painting shall consist of furnishing paint and other labor, material, and equipment necessary to paint the safety barricade railing after repair.

### **MEASUREMENT OF PAYMENT:**

1. Measurement: Measurement shall be based on lineal feet of guardrail satisfactorily placed, or removed, including end treatment sections, excavations, backfill, and cleanup. Quantities of materials for this will be paid under the appropriate schedule at the applicable contract price per unit of measurement, with no allowance for waste.

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2. Payment: Payment for various items in the Bid will be made at the appropriate unit price and shall be compensation in full for furnishing all labor, taxes, tools equipment, traffic control, and appurtenances necessary to complete the work in a satisfactory manner as specified. No additional payment will be made for work related to any item unless specifically called for in the bid.
  3. Billing: The Contractor shall bill Transportation on a monthly basis utilizing the Contract Work Document. The billing shall include the lineal feet of guardrail of guardrail satisfactorily placed and the location of work completed.

#### **FINAL ACCEPTANCE**

Final Acceptance shall mean a written final acceptance of work by the Contract Administrator. The Contract Administrator shall promptly make inspection after receipt of notice by the Contractor that the work defined by each request has been completed, and upon verification that the work complies with the request & Contract specifications, the Contract Administrator shall promptly issue an executed Final Acceptance document to the Contractor.

#### **END EXHIBIT "B" – SPECIAL TERMS AND CONDITIONS**

# EXHIBIT “C”

# GENERAL CONDITIONS

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## GENERAL CONDITIONS

### ARTICLE 1. DEFINITIONS

Whenever in this document, or in any document of instructions where these General Conditions govern, in addition to those in the Standard Specifications, the following terms or pronouns in place of them are used, the intent and meaning shall be interpreted as follows:

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

**CONTRACT:** The written agreement between the COUNTY and the CONTRACTOR covering the performance of the work and the furnishing of labor, equipment, and materials in the construction of the work.

**DEPARTMENT:** The Pima County Department of Transportation.

**PROJECT MANAGER OR ENGINEER:** The person so designated by the COUNTY to oversee the project on its behalf.

**STANDARD SPECIFICATIONS:** The directions, provisions, and requirements contained in the current edition of the Pima County/City of Tucson Standard Specifications and Standard Details for Public Improvements, 2004 Editions, 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.

### ARTICLE 2. RESPONSIBILITY REGARDING EXISTING UTILITIES AND STRUCTURES

The existence and locations of underground utilities indicated on the plans are not guaranteed and shall be investigated and verified in the field by the CONTRACTOR before starting work. Excavations in the vicinity of existing structures and utilities shall be carefully done. The CONTRACTOR shall be held 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, CONTRACTOR shall 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.

The Contractor shall take full responsibility of costs incurred due to damage to utilities as a result of grading or excavation operations. Utility locations shown on the Plans are approximate, and all utilities are not necessarily shown. The possibility of conflicts with existing utilities-in-service exists. If conflicting utilities interfere with the Contractor's normal progress toward completion of this project, COUNTY may, at its option, authorize the Contractor to relocate said conflicting utilities by Force Account.

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

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

- a. Laws to be Observed -- The CONTRACTOR is presumed to be familiar with and at all times shall observe and comply with all Federal and State laws and local laws and 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 shall indemnify and hold harmless COUNTY and its representatives against any claim arising from the violations of such laws, bylaws, ordinances or regulations, whether by the

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CONTRACTOR itself or by the CONTRACTOR's employees.

- b. Permits and Licenses -- The CONTRACTOR shall procure all COUNTY building permits, and sewer connection fees. CONTRACTOR shall post required permits on site and give all notices necessary and incidental to the due and lawful prosecution of the work. All other permits, fees, and applications for water, gas, and electric etc., shall be procured and paid for by the CONTRACTOR.
- c. Sanitary Provisions -- The CONTRACTOR shall 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 State Department of Health or other authorities having jurisdiction therein.
- d. Public Convenience and Safety -- The CONTRACTOR shall have due regard for the public health and shall conduct the work in such a manner as to provide and ensure 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 -- The CONTRACTOR shall 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, signals, reflectors, signs, or other protective devices as are required to ensure 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 shall be considered as included and paid for in the contract prices for the work.

- f. Preservation and Restoration of Property -- The CONTRACTOR shall be responsible for the preservation of all public and private property on the surface or underground, along and adjacent to the work and shall conduct its operations so as to insure the prevention of injury or damage thereto. No land monuments or property shall 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 the CONTRACTOR, such property shall be restored by the CONTRACTOR 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 shall make good such damage or injury in an acceptable manner.

- g. CONTRACTOR'S Responsibility for Work -- Until written final acceptance of the work by the COUNTY, the CONTRACTOR shall have the charge and care thereof and shall 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 shall 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 shall bear the expense thereof.

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

- h. Waiver of Legal Rights -- The COUNTY shall 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 the 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 the COUNTY or by any representative of the 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 the COUNTY shall 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 shall not be held to be waiver of any other subsequent breach.

#### **ARTICLE 4. ACCIDENTS**

The CONTRACTOR shall 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.

The CONTRACTOR must promptly report in writing to the COUNTY all accidents whatsoever arising out of, or in connections with the performance of the work, whether on or adjacent to the site, which caused death, personal injury, or property damages, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to both the Project Manager and the Pima County Board of Supervisors.

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

#### **ARTICLE 5. EXECUTION, CORRELATION AND INTENT OF DOCUMENTS**

The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all, and the most stringent requirement shall 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 inferred from any heading, branch, class or trade of the specifications shall be supplied unless distinctly so noted on the drawings. Materials or work described in words which so applied have a well-known technical or trade meaning shall be held to refer to such recognized standards.

#### **ARTICLE 6. ORDER OF COMPLETION**

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

#### **ARTICLE 7. CONSTRUCTION DOCUMENTS ON THE JOB SITE**

The CONTRACTOR shall keep one copy of all construction documents on the job site, in good order, available to the COUNTY and to COUNTY representatives. This set of documents shall be kept current as to pending and approved changes in the work.

#### **ARTICLE 8. OWNERSHIP OF DRAWINGS**

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

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## **ARTICLE 9. CONTRACTOR'S UNDERSTANDING**

It is understood and agreed that the 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 the COUNTY, either before or after the execution of this contract, shall affect or modify any of the terms or obligations herein contained.

## **ARTICLE 10. MATERIALS, APPLIANCES, EMPLOYEES**

Unless otherwise stipulated, the CONTRACTOR shall 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 specified, all materials shall be new and both workmanship and materials shall be of good quality. The CONTRACTOR shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

The CONTRACTOR shall at all times enforce strict discipline and good order among CONTRACTOR's employees, and shall not employ on the work any unfit person or anyone not skilled in the work assigned by the CONTRACTOR.

## **ARTICLE 11. ROYALTIES AND PATENTS**

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

## **ARTICLE 12. SURVEYS, PERMITS, AND REGULATIONS**

The COUNTY shall furnish all property surveys unless otherwise specified. Permits and licenses of a temporary nature necessary for the prosecution of the work shall be secured and paid for by the CONTRACTOR except as noted in Article 3.b. Easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the COUNTY unless otherwise specified.

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

## **ARTICLE 13. PROTECTION OF WORK AND PROPERTY**

The CONTRACTOR shall continuously maintain adequate protection of all its work from damage and shall protect the COUNTY's property from injury or loss arising in connection with this Contract. It shall make good any such damage, injury, or loss, except such as may be directly due to errors in the Contract Documents or caused by Agents or employees of the COUNTY. It shall adequately protect adjacent property as provided by law and the Contract Documents. It shall 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, the CONTRACTOR, without special instruction or authorization from the COUNTY, is hereby permitted to act at its discretion, to prevent such threatened loss or injury, and shall so act, without appeal, if so instructed or authorized. Any compensation, claimed by the CONTRACTOR on account of emergency work, shall be determined by the COUNTY.

#### **ARTICLE 14. INSPECTION OF WORK**

The COUNTY and its representatives shall at all times have access to the work wherever it is in preparation or progress and the CONTRACTOR shall provide proper facilities for such access and for inspection.

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

Re-examination of questioned work may be ordered by the COUNTY and if so ordered the work must be uncovered by the CONTRACTOR. If such work be found in accordance with the Contract Documents, the Board shall pay the cost of re-examination and replacement. If such work be found not in accordance with the Contract Documents, the CONTRACTOR shall pay such cost.

#### **ARTICLE 15. SUPERINTENDENCE - SUPERVISION**

The CONTRACTOR shall keep on its work site during its progress a competent Superintendent and any necessary assistants, all satisfactory to the COUNTY. The Superintendent shall not be changed except with the consent of the COUNTY, unless the Superintendent proves to be unsatisfactory to the CONTRACTOR and ceases to be in its employ. The Superintendent shall represent the CONTRACTOR in its absence and all directions given to it shall be as binding as if given to the CONTRACTOR. Important directions shall be confirmed by written request in each case. The CONTRACTOR shall give efficient supervision to the work, using its best skill and attention.

If the 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 shall be its duty to immediately inform the COUNTY, in writing, and the COUNTY shall promptly verify the same. Any work done after such discovery, until authorized, will be done at the CONTRACTOR's risk.

Neither the COUNTY, nor the CONTRACTOR, shall employ an employee of the other without consent.

#### **ARTICLE 16. REMOVAL OF EQUIPMENT**

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

#### **ARTICLE 17. BUILDER'S RISK**

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

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#### **ARTICLE 18. GUARANTEE BONDS**

The COUNTY shall, prior to the signing of the Contract, require the CONTRACTOR to furnish bonds covering the faithful performance in such form as the COUNTY may prescribe. Such bonds are required and the premium shall be paid by the CONTRACTOR.

#### **ARTICLE 19. RIGHTS OF VARIOUS INTERESTS**

Wherever work being done by the COUNTY's forces or other contractors is contiguous to work covered by this contract the respective rights of the various interest involved shall be established by the COUNTY to secure the completion of the various portions of the work in general harmony.

#### **ARTICLE 20. COUNTY'S STATUS**

The COUNTY shall have general review of the work. The COUNTY shall have the authority to reject all work and materials which do not conform to the contract.

#### **ARTICLE 21. CLEANING UP**

The CONTRACTOR shall remove from the 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 22. WASTE DISPOSAL FACILITIES**

The CONTRACTOR shall legally dispose of all construction debris in appropriate COUNTY operated waste disposal facilities and pay any applicable fees.

#### **ARTICLE 23. ARCHAEOLOGICAL SALVAGE**

Whenever, during the course of construction, historical ruins or objects are encountered, such objects will not be destroyed, or moved, unless otherwise specified. Work shall be stopped and notification shall be given to the COUNTY. Work will be rescheduled to avoid disturbing such areas, and the COUNTY shall be notified immediately. The salvage of all archaeological materials belongs to the COUNTY. (Ariz. Revised Statutes 41-841 et. seq.)

#### **ARTICLE 24. HAZARDOUS MATERIALS/ HAZARDOUS WASTES / HAZARDOUS SUBSTANCES ABATEMENT**

Should the 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 shall be served immediately to the COUNTY, and all work surrounding said materials or substances shall be ceased until directed to proceed. The CONTRACTOR is hereby advised that construction delays due to Hazardous Materials, Hazardous Wastes or Hazardous Substances abatement may occur.

#### **ARTICLE 25. AS-BUILT DRAWINGS**

The CONTRACTOR shall 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 shall be drawn and submitted in such a format as prescribed by COUNTY.

**END GENERAL CONDITIONS**