



14' x 20' Communications Equipment Buildings
Project Specifications
and
Contract Documents

DESCRIPTION: Construction of concrete and masonry buildings to house communications equipment at various locations

SPONSOR: CITY OF PRESCOTT, ARIZONA

BID OPENING: Thursday, March 27 2008, 2:00 PM
City of Prescott Council Chambers
201 South Cortez Street, Prescott, Arizona

PREPARED BY: Purchasing Division
March 2008

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SPECIAL NOTICE

BIDS WILL BE RETURNED UNOPENED IF NOT SUBMITTED PROPERLY SEALED AND PRIOR TO THE TIME SET FORTH IN THE NOTICE INVITING BIDS. ADDENDA SHALL BE ATTACHED INSIDE THE FRONT COVER OF THIS BOOKLET.

BIDS SHALL BE ENCLOSED IN SEALED ENVELOPES, ADDRESSED TO THE CITY OF PRESCOTT AND MARKED ON THE OUTSIDE LOWER RIGHT-HAND CORNER INDICATING:

1. The Bidder's name;
2. The Project Title;
3. The Time and Date bids are to be received;
4. Acknowledgment of Addenda received.

NOTICE INVITING BIDS

PROJECT: 14' x 20' Communications Equipment Buildings
DESCRIPTION: Construction of four (4) concrete and masonry buildings to house communications equipment at various locations. Including site work, electrical, and A/C units.
BID OPENING: Thursday, March 27, 2008, 2:00 PM

PRE-BID MEETING: Tuesday March 18, 2008, 11:00 AM. All interested bidders shall meet at the lower gate to the Peavine site, along Sun Dog Ranch Road, Approximately 500 yards South of Prescott Lakes Parkway. We will observe the Peavine site then proceed to the other 3 sites in this order: Yavapai Hills, Mingus Site and Northwest site. Attendance is not required however, the contractor is responsible for all construction materials delivered and installed onto the sites. Adequate access for construction related vehicles especially concrete, water and masonry deliveries will be challenging.

BID SECURITY REQUIRED: Certified check, cashier's check or bid bond in the amount of not less than 10% (TEN PERCENT) of the bid.

Sealed bids will be received at the office of the City Clerk, City of Prescott, 201 South Cortez Street (PO Box 2059), Prescott, AZ, 86302, before 2:00 P.M. on Thursday, March 27, 2008, for furnishing all materials, and labor and performing work for construction of the 14' x 20' Communications Equipment Buildings Project

The outside of the bid envelope shall indicate the name and address of the bidder, shall be addressed to the City Clerk, City of Prescott, 201 S. Cortez Street, Prescott, AZ 86303, and shall be marked: "Bid: 14' x 20' Communications Equipment Buildings Project." All bids will be opened and read aloud at 2:00 P.M. on Thursday, March 27, 2008 in City Hall Council Chambers, 201 South Cortez Street, Prescott, Arizona.

Any bid received at or after 2:00 P.M. on the above stated date will be returned unopened. The City of Prescott reserves the right to accept or reject any or all bids, and/or some or all of the alternates bid, and waive any informality deemed in the best interest of the City and to reject the bids of any persons who have been delinquent or unfaithful to any contract with the City of Prescott.

Copies of the Notice Inviting Bids, plans and contract documents, specifications, and necessary information are available for public inspection in the office of the Purchasing Manager, 216 S. Marina St., Suite 302, Prescott, Arizona, 86301, (Voice: (928) 777-1203; TDD: 777-1100).

ELIZABETH A. BURKE, City Clerk
PUBLISHED: March 9, 16, 2008

INFORMATION FOR BIDDERS

PROPOSAL. All work shall be in accordance with the City of Prescott Building Codes as adopted at the time of construction. All building inspections shall be by the City of Prescott. All standard specifications and details and materials noted shall conform to all the Yavapai County Governments Unified Construction Standards (Y.A.G. Standards), most current revision, and to the most current edition of the Uniform Standard Specifications and Details for Public Works Construction by the Maricopa Association of Governments, Arizona, including latest revisions.

BIDDING REQUIREMENTS AND CONDITIONS. Bids shall be delivered to the office of the City Clerk, City of Prescott, Arizona, before the day and hour set for the submittal of bids in the Notice Inviting Bids as published. Bids shall be enclosed in a sealed envelope bearing the title of the work and the name of the bidder. It is the SOLE responsibility of the bidder to see that his bid is received in proper time. Any bids received after the scheduled closing time for receipt of bids will be returned to the bidder unopened.

SUBCONTRACTORS LIST FORM. The Subcontractors List Form must be completed, attached and submitted along with the Bidding Schedule.

BID SECURITY. A bid bond in the amount of 10% of the bid shall be required at the time the bid or proposal is submitted, in accordance with ARS Section 34-201(A)(3).

ADDENDA. The final addenda (if any) will be issued no later than noon Thursday March 20, 2008. If contractors have questions or need clarification they must ask them prior to that time. All questions and clarifications will be issued on the written addenda. No verbal instructions or changes to these documents are allowed.

WITHDRAWAL OF BID. Any bidder may withdraw his bid, either personally or by telegraphic, or written request, at any time prior to the scheduled closing time for receipt of bids.

INTERPRETATION OF PLANS AND DOCUMENTS. If any person contemplating submitting a bid for the proposed Contract is in doubt as to the true meaning of any part of the plans, specifications, or other proposed Contract Documents, or finds discrepancies in or omissions from the Plans or Specifications, he shall submit to the Purchasing Manager a written request for an interpretation or correction thereof no later than five working days before bid or proposal opening. The person submitting the request will be responsible for its prompt delivery. Any interpretation or correction of the proposed documents will be made or delivered to each person receiving a set of such documents. Interested bidders may submit questions via fax at 928-777-1241 or email to dawn.foster@cityofprescott.net up to 5:00 PM on the last Thursday prior to the bid opening date. The City of Prescott will no longer address or interpret any general questions or comments after 5:00 PM on the last Thursday prior to the bid opening date. Comments or questions received after the above referenced time will be given consideration by the Purchasing Manager. Should any issue be determined significant to the project by the Purchasing Manager, appropriate action will be taken.

CONSTRUCTION SCHEDULE. The contractor must complete all work on all buildings in 80 calendar days from the date of the Notice to Proceed.

AWARD AND EXECUTION OF CONTRACT. The Contract will be awarded to the lowest qualified bidder complying with these instructions and with the Notice Inviting Bid. The City, however, reserves the right to accept or reject any or all bids if it deems it best for the public good, and to waive any informality in the bids received. The award, if made, will be within sixty (60) calendar days after the opening of bids.

ASSIGNMENT OF CONTRACT. No partial or full assignment by the Contractor of any contract to be entered into hereunder, or any part thereof, or of funds to be received thereunder by the Contractor, will be recognized by the City unless such assignment has had prior written approval of the City and the surety has been given due notice of such assignment in writing and has been given due notice of such assignment in writing and has consented thereto in writing.

PLANS AND SPECIFICATIONS TO SUCCESSFUL BIDDER. The successful bidder may download and reproduce as many copies as of this document as needed for use in preparing the bid. HOWEVER, be sure to check this website for addenda prior to the bid date. The final addendum if any will be issued prior to 5:00 PM on the last Thursday prior to the bid opening date. The bidder must acknowledge receipt of the addenda on the bid forms.

NON-PERFORMANCE OF WORK TASKS BY THE CONTRACTOR. If the Contractor fails, neglects, or refuses to perform work tasks necessary for the completion of the total job; replace defective work; to repair or resurface, in a manner that is acceptable to the City and Engineer, public rights-of-way disturbed by his work which are a

nuisance, hazard, impedes or endangers vehicular traffic and the public; the City may serve written notice upon the Contractor of its intention to have the work performed by others. Unless, within 3 calendar days after the service of such notice, the Contractor has made such arrangement & scheduled the accomplishment of said work tasks to the satisfaction of the City & Engineer, the City will proceed to have the work accomplished by others or by itself & deduct the costs thereof from amounts due to the Contractor.

INDEMNIFICATION OF CITY AGAINST LIABILITY. The Contractor agrees to indemnify and save harmless the City of Prescott, and its employee officers, agents and representatives from all suits, including attorneys' fees and cost of litigation, actions, loss, damage, expense, cost or claims, of any character or any nature arising out of the work done in fulfillment of the construction of the improvement under the terms of this contract or on account of any act, claim or amount whether arising or recovered under Workmen's Compensation law, or arising out of the failure of the Contractor or those acting under Contractor to conform to any statutes, ordinance, regulation, law or court decree. It is the intent of the parties to this contract that the City of Prescott shall, in all instances, be indemnified against all liability, losses and damages of any nature whatever for or on account of any injuries to or death of persons or damages to or destruction of property belonging to any person arising out of or in any way connected with the performance of this contract, whether the liability, loss or damage is caused by, or alleged to be caused in whole or in part by the negligence or fault of the Contractor or of its officers, agents or employees, or subcontractors.

DEFINITIONS.

- A. **AWARD:** The formal action of the governing body in accepting a proposal.
- B. **BID SECURITY:** Refers to the certified check, cashier's check, or surety bond, which is required to be submitted with the proposal to insure execution of the contract and the furnishing of the required bonds.
- C. **CITY:** City of Prescott
- D. **CITY'S REPRESENTATIVE:** The authorized representative of the City, which may be an individual or a firm, or his assistants assigned to the project work, the project site, or any part thereof during the performance of the work by the Contractor and until final acceptance.
- E. **PURCHASING MANAGER:** The City of Prescott Purchasing Manager or his designee, representative or assistants.
- F. **DESIGN ENGINEER:** The firm or person and his properly authorized assistants, designated by the City to prepare Plans and Specifications for the work.
- G. **NOTICE TO BIDDERS:** Refers to the standard forms inviting proposals or bids.
- H. **Addenda:** Any Addenda issued during the time of bidding, forming a part of the documents issued to the bidder for the preparation of his bid, shall be covered in the bid and shall be made a part of the contract.

BID FORM

Total Amount of Bid. (This amount includes \$25,000 to be used as an Owners Contingency Allowance Fund)

_____ \$ _____
(Words)

_____ Date
Company Name

_____ Date
Signature of Company Official

ADDENDA ACKNOWLEDGED _____

City of Prescott – 14' x 20' Communications Equipment Buildings

SUBCONTRACTORS LIST FORM

Company Name		Mailing Address	Phone Number		Item supplied
1					
2					
3					
4					
5					
6					
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8					
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11					
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21					

INSTRUCTIONS FOR PREPARING PROPOSAL

Payment for all work performed under this Contract shall be based on the work completed at the time the pay application is submitted. All pay applications shall be in the format of AIA Document G702, Application and Certification for Payment. Payment of the bid items as stated in the Contractor's proposal for the completed work, shall be compensation in full for the furnishing of all overhead, labor, materials, devices, equipment and appurtenances included in the work as are necessary to complete the total work under this Contract in a good, neat, and satisfactory manner as indicated on the Plans, as described in the Specifications, and as otherwise implied or required to fulfill the objective of the work. It is the intent of the contract that maximum payment shall not exceed the agreed price without duly authorized change orders. Each item, fixture, piece of equipment, work, etc., as indicated on the Plans, or specified anywhere in these Documents shall be completed with all necessary connections and appurtenances for the satisfactory use and operation of said item, and the total system or systems.

Any and all patents, license fees, insurance premiums, etc., for the right to use equipment or processes included in this Contract shall be included in the total bid price.

All incidental operations, profit and overhead cost, including the cost of supervision, temporary field offices, move-in, move-out, insurance, taxes, equipment not a permanent part of the job, and other incidental items, shall be included in the total bid price.

The bidder shall include an amount of \$25,000 in the Total Amount of Bid to be used as an Owners Contingency Allowance Fund. This amount shall be added into the bid amount after all other costs, bonds, profit and overhead and taxes have been totaled. This amount shall be used with the approval of the Purchasing Manager only. Extra work or Change Order items will be deducted from this amount and added to the contractor's amount for the construction of the work. Profit and overhead, bonds, insurance and taxes will be taken from this Contingency Allowance Fund as it is authorized. All unused funds from this Contingency Allowance Fund shall be retained by the Owner at the completion of the project.

The "Total Amount of Bid" must be filled out by the bidder. In case of any discrepancy between the price in figures and price in written words, as written or corrected, the price in written words shall be presumed to be correct unless obviously in error, and shall be considered as the Contractor's correct and intended bid.

Bids shall not contain any recapitulations of the work to be done. Alternative proposals will not be considered unless called for. If anyone is in doubt as to the true meaning of any part of the Plans, Specifications, or other Contract Documents, or finds discrepancies in or omissions from the Plans or Specifications, he must submit to the Purchasing Manager a written request for an interpretation or correction thereof. The person submitting the request will be responsible for its prompt delivery.

Testing and inspection services to determine the contractor's compliance with compaction, material, concrete mix, etc. will be supplied and paid for by the City. The contractor will coordinate the schedule of all inspections.

Any interpretation or correction of the Contract documents will be made only by an Addendum duly issued by the City and a copy of such addenda will be posted on the web site. It is the responsibility of the bidder to acknowledge all addenda on the bid form when submitted. The City will not be responsible for any other explanations or interpretations of the Documents.

If the Proposal is made by an individual, it shall be signed and his full name and address shall be given. If it is made by a partnership, it shall be signed with the partnership name and by a general partner of the firm who shall also sign his own name, and the name and address of each partner shall be given; and, if it is made by a corporation, the name of the corporation shall be signed by its duly authorized officer or officers.

The Subcontractors List Form must be completed, attached and submitted along with the Bidding Schedule.

PROPOSAL

Place: _____

Date: _____

Proposal of _____

(Firm Name)

Corporation organized and existing under the laws of the State of Arizona; a partnership consisting of _____ or an individual trading as _____

TO THE HONORABLE MAYOR AND COUNCIL
CITY OF PRESCOTT
PRESCOTT, ARIZONA

Ladies and Gentlemen:

The Undersigned hereby proposes and agrees to furnish any and all required labor, material, construction equipment, transportation, and services for completion of FOUR 14' x 20' Communications Equipment Buildings Project, in strict conformity with the plans and specifications, at the total bid price of:

_____ Dollars (\$_____).

This bid includes an amount of \$25,000 to be used as an Owner's Contingency Allowance Fund.

The Undersigned hereby declares that he has visited the site and has carefully examined the Contract Documents relating to the work covered by the above bid or bids.

The Bid Security (Certified Check, Cashier's Check, or Bid Bond) attached, payable to the City of Prescott in the sum of not less than ten percent (10%) of the total bid price bid for the complete project, to insure that the undersigned, if his bid is accepted, shall enter into contract and give the bonds and certificates of insurance required. In the event that the contract and bonds and certificates of insurance required are not furnished to the City within the time required, then and in that event the City may retain from the bid bond an amount, not to exceed the amount of the bid bond, representing the difference between the amount specified in the proposal or bid, and such larger amount that the City in good faith contracts with another party to perform the work covered by the proposal or bid.

The project shall be completed within 80 calendar days after the starting date set forth in the NOTICE TO PROCEED.

The undersigned hereby declares, as bidder, that the only persons or parties interested in this PROPOSAL as principals are those named herein; that no elected official or employee of the City is in any manner interested directly or indirectly in this PROPOSAL or in the profits to be derived from the Contract proposed to be taken, other than as permitted by law; that this bid is made without any connection with any other person or persons making a separate bid for the same purpose; that the bid is in all respects fair and without collusion or fraud; that he has read the NOTICE INVITING BIDS and the INFORMATION FOR BIDDERS hereto attached, and as more fully described in the attached contract and specifications, and agrees to furnish the items and perform the work called for in accordance with the provisions of said form of Contract and the Specifications and to deliver the same within the time stipulated herein, and that he will accept in full payment therefor the total bid price named in this Proposal.

The bidder further agrees that, upon receipt of written notice of the acceptance of this PROPOSAL, he will execute the Contract in accordance with the PROPOSAL as accepted and furnish the required bonds TEN (10) days from the date of mailing of said notice of award to him at his address as given below, or within such additional time as may be allowed by the City; and that upon his failure or refusal to do so within said time, then the certified or cashier's check or bid bond accompanying this bid shall be cashed or enforced and the money payable pursuant thereto shall be forfeited to and become the property of the City as liquidated damages for such failure or refusal; provided that if said bidder shall execute the Contract and furnish the required bonds within the

aforesaid time, his certified or cashier's check, if furnished, shall be returned to him within three (3) days thereafter, and the bid bond, if furnished, shall become void.

Bidder understands and agrees that the City reserves the right to reject any or all bids and to waive any informalities in the bidding.

The bidder agrees that this bid shall be good and may not be withdrawn for a period of sixty (60) calendar days after the scheduled closing time for receiving bids.

Bidder acknowledges receipt of the following Addenda: _____

The undersigned is the holder of Arizona State Contractor's License No. and Classification: _____

Respectfully submitted,

Bidder

Corporate Seal

By: _____

Title: _____

Bidder's Address: _____

Names and addresses of all members of the firm or names and titles of all officers of the corporation:

BIDDERS AFFIDAVIT

State of _____)
County of _____) ss.

_____, being first duly sworn, deposes and says:

That he/she is _____ of _____
(Title) (Bidder)

who submits herewith to the City of Prescott, Arizona, a proposal:

That all statements of fact in such proposal are true;

That said proposal was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation;

That said bidder has not, directly or indirectly by agreement, communication or conference with anyone attempted to induce action prejudicial to the interest of the City of Prescott, Arizona, or of any bidder or anyone else interested in the proposed contract; and further,

That prior to the public opening and reading of proposal, said bidder:

1. Did not directly or indirectly, induce or solicit anyone else to submit a false or sham proposal;
2. Did not directly or indirectly collude, conspire, connive or agree with anyone else that said bidder or anyone else would submit a false or sham proposal, or that anyone should refrain from bidding or withdraw his proposals;
3. Did not in any manner, directly or indirectly, seek by agreement, communication or conference with anyone to raise or fix the proposal price of said bidder or of anyone else, or to raise or fix any overhead, profit or cost element of his proposal price, or of that of anyone else;
4. Did not, directly or indirectly, submit his proposed price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association organization, bid depository or to any member or agent thereof, or to any individual or group of individuals, except the City of Prescott, Arizona, or to any person or persons who have a partnership or other financial interests with said bidder in his business.

By: _____

SUBSCRIBED AND SWORN to before me by _____ this _____ day of _____, 2007.

Notary Public

Commission Expiration

CONTRACTOR QUESTIONNAIRE

Pursuant to the City of Prescott – Procurement Code the contractor is required to complete the following questionnaire.

Yes - No

- 1. Has the City of Prescott or other governmental entity incurred costs as a result of contested change order (s) from the undersigned company?
- 2. Has the City of Prescott or other governmental entity been involved in litigation relative to contract performance with the undersigned company?
- 3. Has the undersigned company failed to meet bid specifications or time limits on other contracts?
- 4. Has the undersigned company abandoned a contract or refused to perform without legal cause after submitting a bid?
- 5. Has the undersigned company had bidding errors or omissions in two or more bid submissions within a thirty-six month period?
- 6. Has the undersigned company failed to perform or performed unsatisfactory of two or more contracts within a thirty-six month period.
- 7. Does the undersigned company have adequate equipment, personnel and expertise to complete the proposed contract?
- 8. Does the undersigned company have a record of safety violations in two or more contracts within a thirty-six month period?
- 9. Does the undersigned have a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such a contract or subcontract within a ten-year period?
- 10. Has the undersigned company been convicted of a criminal offense within a ten-year period of embezzlement, theft, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which might affect responsibility as a municipal contractor?
- 11. Has the undersigned company been convicted of state or federal antitrust statutes within a ten-year period arising out of submission of bids or proposals?
- 12. Has the undersigned company been disbarred or a similar proceeding by another governmental entity?

If you answered “yes” to Items 1-6 or 8-12 or answered “no” to Item 7, please attach a full explanation to this questionnaire.

Company: _____

Address: _____

Name: _____
(please print)

Title: _____
(please print)

Signature: _____

Date: _____

AWARD AND EXECUTION OF CONTRACT

INSURANCE

- A. MAG Specifications, Sections 103.1 through 103.8, including: Unless otherwise specifically required by the Special Conditions, the minimum limits of public liability and property damage liability shall be as follows:
- B. Public liability insurance for injuries, including accidental death, to any one person in an amount not less than \$1,000,000.00 (ONE MILLION DOLLARS). Subject to the same limits on account of one accident, in a total amount not less than \$1,000,000.00 (ONE MILLION DOLLARS). City shall be named as "an additional insured"
- C. Such policy shall not exclude coverage for the following:
 - 1. Injury to or destruction of any property arising out of the collapse of/or structural injury to any building or structure due to grading of land, excavation, borrowing, filling, backfilling, tunneling, pile driving, cofferdam work or caisson work.
 - 2. Injury to or destruction of wires, conduits, pipes, mains, sewers, or other similar property or any apparatus in connection therewith, below the surface of the ground, if such injury or destruction is caused by and occurs during the use of mechanical equipment for the purpose of grading of land, paving, excavating, drilling; or injury to or destruction of any property at any time resulting therefrom.
 - 3. Injury to or destruction of any property arising out of blasting or explosion.
 - 4. Motor vehicle public liability and property damage insurance to cover each automobile, truck, and other vehicle used in the performance of the Contract in an amount of not less than \$1,000,000.00 for one person, and \$1,000,000.00 for more than one person, and property damage in the sum of \$1,000,000.00 resulting from any one accident which may arise from the operations of the Contractor in performing the work provided for herein.
- D. The Contractor shall carry and maintain fire and extended coverage with an endorsement for vandalism and malicious mischief in his name and also in the name of the City in an amount of at least ONE HUNDRED PERCENT (100%) of the Contract amount.
- E. The Contractor shall secure "all risk"-type builder's risk insurance for work to be performed. Unless specifically authorized by the City, the amount of such insurance shall not be less than ONE HUNDRED PERCENT (100%) of the contract price. Such policy shall include coverage for earthquake, landslide, flood, collapse, or loss due to the results of faulty workmanship, during the contract time and until final acceptance of work by the City.

PERFORMANCE AND PAYMENT BONDS. These bonds will be required prior to execution of the contract in the amount of 100% of the bid amount.

NOTICE TO PROCEED. The Contractor or subcontractor shall not work on any part of the project or incur any expenses or obligations until a Notice to Proceed has been issued by the City. The Notice to Proceed will be sent to the Contractor by first class mail or delivered to him in person.

ASSIGNMENT OF PAYMENTS. MAG Specifications, Section 109.3, including assignment of contract clause included in the "Information for Bidders" in this set of specifications.

CONTRACT

14' x 20' Communications Equipment Buildings Project

THIS AGREEMENT, made and entered into this _____ day of _____, 2007, by and between _____ of the City of _____, County of _____, State of Arizona, hereinafter designated "Contractor", and the City of Prescott, a municipal corporation, organized and existing under and by virtue of the laws of the State of Arizona, hereinafter designated "City".

WITNESSETH: That the said Contractor, for and in consideration of the sum to be paid him by the said City, and of the other covenants and agreements herein contained, and under the penalties expressed in the bonds provided, hereby agrees, for himself, his heir, executors, administrators, successors and assigns as follows:

ARTICLE I - SCOPE OF WORK: The Contractor shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities, required to perform all work for the construction of the project described as City of Prescott: 14' x 20' Communications Equipment Buildings Project, and install the material therein for the City, in a good and workmanlike and substantial manner and to the satisfaction of the City through its Engineers and under the direction and supervision of the Purchasing Manager, or his properly authorized agents and strictly pursuant to and in conformity with the Plans and Specifications prepared by the Engineers for the City, and with such written modifications of the same and other documents that may be made by the City through the Purchasing Manager or his properly authorized agents, as provided herein.

ARTICLE II - CONTRACT DOCUMENTS: The Notice Inviting Bids, Plans, Standards Specifications and Details, Special Conditions, Addenda, if any, and Proposal as accepted by the Mayor and Council per Council Minutes of _____, 2008, Performance Bond, Payment Bond, Bid Bond, Certificate of Insurance and Change Orders, if any, are by this reference made a part of this Contract to the same extent as if set forth herein in full.

ARTICLE III - TIME OF COMPLETION: The Contractor hereby agrees to commence work on or before the tenth (10th) day after written notice to do so, and to fully complete the same within 80 calendar days after the date of the written notice to commence work, subject to such extensions of time as are provided by the General Conditions.

ARTICLE IV - COMPENSATION: Contractor shall be paid, pursuant to the provisions as set forth in the Contract documents, the total sum not to exceed _____ Dollars (\$_____), plus any approved change orders, for the full and satisfactory completion of all work as set forth in the Project Specifications and Contract Documents. Retention shall be in accordance with Arizona Revised Statutes Section 34-221.

ARTICLE V - CONFLICT OF INTEREST: Pursuant to ARS Section 38-511, the City of Prescott may cancel this contract, without penalty or further obligation, if any person significantly involved in initiating, negotiation, securing, drafting or creating the contract on behalf of the City of Prescott 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 of the contract with respect to the subject matter of the contract. In the event of the foregoing, the City of Prescott further elects to recoup any fee or commission paid or due to any person

significantly involved in initiating, negotiation, securing, drafting or creating this contract on behalf of the City of Prescott from any other party to the contract, arising as a result of this contract.

ARTICLE VI - AMBIGUITY: This Agreement is the result of negotiations by and between the parties. Although it has been drafted by the Prescott City Attorney, it is the result of the negotiations between the parties. Therefore, any ambiguity in this Agreement is not to be construed against either party.

ARTICLE VII - NONDISCRIMINATION: The Contractor, with regard to the work performed by it after award and during its performance of this contract, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and Executive Order 2000-4.

ARTICLE VIII - INDEMNIFICATION AND HOLD HARMLESS: The Contractor hereby agrees to indemnify and hold harmless the City, its departments and divisions, its employees and agents, from any and all claims, liabilities, expenses or lawsuits as a result of the undersigned's participation as set forth below, whether said claims, liabilities, expenses or lawsuits arise by the acts or omissions of the Contractor or his/her agents or employees, or whether by the acts or omissions of the Contractor's subcontractors, agents or employees.

ARTICLE IX - INDEPENDENT CONTRACTOR STATUS: It is expressly agreed and understood by and between the parties that the Contractor is being retained by the City as an independent contractor, and as such the Contractor shall not become a City employee, and is not entitled to payment or compensation from the City or to any fringe benefits to which other City employees are entitled other than that compensation as set forth in Article IV - Compensation above. As an independent contractor, the Contractor further acknowledges that he is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Agreement. As an independent contractor, the Contractor further agrees that he will conduct himself in a manner consistent with such status, and that he will neither hold himself out nor claim to be an officer or employee of the City by reason thereof, and that he will not make any claim, demand or application to or for any right or privilege applicable to any officer or employee of the City, including but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

ARTICLE X - CITY FEES: Prior to final payment to the Contractor, the City shall deduct therefrom any and all unpaid privilege, license and other taxes, fees and any and all other unpaid moneys due the City from the Contractor, and shall apply to those moneys to the appropriate account. Contractor shall provide to the City any information necessary to determine the total amount(s) due.

ARTICLE XI - LIQUIDATED DAMAGES: All time limits stated in the contract documents are of the essence and should the Contractor fail to complete the work required to be done on or before the time of completion as set forth in these contract documents, including any authorized extension of time, it is mutually agreed and understood by and between the parties that the public will suffer great damages; that such damages, from the nature of the project, will be extremely difficult and impractical to fix; that the parties hereto wish to fix the amount of said damages in advance; and that the sum of \$200 per day for each and every day's delay in completion and acceptance of the work required to be done by the Contractor subsequent to the time of completion, including any authorized extensions of time, is the nearest and most exact measure of damages for such breach that can be fixed now or could be fixed at or after such breach and that, therefore, the Owner and Contractor agree to fix said sum of **\$200** per day for each and every said day's delay as liquidated damages, and not as a penalty or forfeiture for the breach of the agreement to complete the work required to be done by the Contractor on or before the time of completion and acceptance and, in the case of such breach, the Owner shall deduct said amount from the amount due the Contractor under the contract. In the event the remaining balance due the Contractor is insufficient to cover the full amount of assessed liquidated damages, then the Contractor or the surety on the bonds shall pay the difference due the Owner.

ARTICLE XII – ALLOCATION OF RISK PERTAINING TO OTHER WORK IN PROJECT AREA

The City of Prescott, any other contractors whether under contract with the City or a third party, and/or utilities may be working within the project area while this Contract is in progress. The Contractor herein recognizes that delays and disruptions may, and in all likelihood will occur, due to other work. In recognition that delays and disruptions will inevitably occur, and that the City of Prescott is placing the risk of such delays and disruptions fully and totally upon the Contractor herein, the Contractor herein accepts such risk. In addition, the Contractor herein shall and does assume all liability, financial or otherwise, in connection with this Contract and shall release, protect and save harmless the City of Prescott from any and all damages or claims which may arise because of inconvenience, delay, disruption or loss experienced because of the work of others within the project area. The sole remedy of the Contractor herein is to seek an adjustment of the contract time in accordance with the Delays and Extension of Time, Section B requirements. The City of Prescott will not be responsible for any costs incurred due to such delays or disruptions.

ARTICLE XIII - BONDS

- A. On or before the execution of the contract, the Contractor shall obtain in an amount equal to the full contract price a performance bond pursuant to ARS Section 34-222, conditioned upon the faithful performance of this contract in accordance with the plans, specifications and conditions herein. Such bond shall be solely for the protection of the City of Prescott. A copy of this bond shall be filed with the Prescott City Clerk.
- B. Contractor shall also obtain a payment bond, pursuant to the provisions of ARS Section 34-222, in an amount equal to this full contract price herein, said bond to be solely for the protection of claimants supplying labor or materials to the Contractor or his subcontractors in the prosecution of the work provided for in this contract. A copy of this bond shall be filed with the Prescott City Clerk.
- C. All bonds must be written by an insurance company authorized to do business in the State of Arizona, to be evidenced by a Certificate of Authority as defined in ARS Section 20-217, a copy of which certificate is to be attached to the applicable bid bond, payment bond and performance bond. In addition, depending upon the nature of the contract and amount thereof, the City Manager may also require insurance companies and/or bonding companies to have an "A" rating or better with Moody's or A.M. Best Company, and/or to be included on the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended) by the audit staff, Bureau of Accounts, US Treasury Department.

ARTICLE XIV - MISCELLANEOUS

- A. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. The Contractor further agrees that this provision shall be contained in all subcontracts related to the project, which is the subject of this Agreement.
- B. The parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorneys fees, either pursuant to the Contract, pursuant to ARS Section 12-341.01 (A) and (B), or pursuant to any other state or federal statute. The Contractor further agrees that this provision shall be contained in all subcontracts related to the project that is the subject of this Agreement.

IN WITNESS WHEREOF, three (3) identical counterparts of this Contract, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties herein above named, on the date and year first above written.

ATTEST:

Witness, if Contractor is an Individual

Contractor

By: _____

Title: _____

City of Prescott, a municipal corporation

Jack D. Wilson, Mayor

Attest:

Approved as to Form:

Elizabeth A. Burke, City Clerk

Gary D. Kidd, City Attorney

GENERAL CONDITIONS

AIA 201, 1997, General Conditions of the Contract for Construction is hereby made part of this contract.

COMMENCEMENT, PROSECUTION AND PROGRESS

PRECONSTRUCTION CONFERENCE

Within 5 days of the Notice of Award, the Contractor is required to attend a Pre-construction Conference. The City will contact the Contractor to schedule a specific date, time and location for the Pre-construction Conference. The purpose of the meeting is to outline specific construction items and procedures and to address items, which require special attention on the part of the Contractor. The Contractor may also present proposed variations in procedures, which the Contractor believes may be of benefit to the project, reduce cost, or will reduce inconvenience to the public. Communication and coordination issues will be also addressed during the Pre-construction Conference. The Contractor will be required to provide the following information at the Pre-construction Conference:

- A. Names and emergency telephone number of key personnel involved in the project.
- B. A copy of each subcontractor's contract for each and every item of work under subcontract on the project.
- C. The Construction Schedule as defined elsewhere in the General Conditions.
- D. A payment schedule showing the estimated dollar volume of work for each calendar month during the life of the project.
- E. The Traffic Control and access management plan providing for continuous access to residents and businesses affected by the project.
- F. The Contractor's Quality Control Plan.
- G. An itemized list of shop drawings, materials, mix designs, equipment submittals and a schedule indicating the dates each of these items will be transmitted to the Purchasing Manager for review.

Each of the above items is subject to review and approval by the Purchasing Manager.

COMMENCEMENT

The Contractor shall commence work on or before the tenth (10th) calendar day after receiving the Notice to Proceed, and shall complete all work under the Contract within the period of time specified in the Special Conditions. The City reserves the right to issue Notice to Proceed at any time between zero (0) and sixty (60) days after contract award. Notice to Proceed will be issued not later than sixty (60) calendar days after the Contract has been awarded unless otherwise agreed upon in writing, or as may be specified in the Special Conditions. In addition, Contractor shall not commence work until all required documents, bonds, plans and schedules have been received and approved by the City. These submittals will not affect the issuance of Notice to Proceed by the City

ADDENDA, REVISIONS AND SUPPLEMENTARY DRAWINGS

- A. The work shall conform to such other drawings relating thereto as may be furnished by the City prior to the opening of proposals, and to such drawings in the explanation of details or minor modifications as may be furnished from time to time during construction, including such minor modifications as the Purchasing Manager may consider necessary during the prosecution of the work.
- B. Scaled dimensions shall not be used in the construction of the work.

ERROR AND OMISSIONS

The written dimensions, calculations and quantities on the plans are presumed to be correct, but the Contractor shall be required to check carefully all dimensions, calculations and quantities before beginning work. If any errors or omissions are discovered, the Purchasing Manager shall be so advised in writing and will make the proper corrections. If the Contractor claims that any such errors or omissions should change the cost of any Pay Item or the construction as identified in the plans, the Contractor shall also submit to the Purchasing Manager a written proposed Change Order. Any such adjustments made by the Contractor that are claimed to change the cost of any Pay Item or the construction as identified in the plans, without prior review and acceptance of a proposed Change Order, shall be at the Contractor's own risk. The settlement of any complications or disputed expenses arising from a Contractor's adjustment shall be borne by the Contractor at his own expense.

SUSPENSION OF WORK

- A. The Purchasing Manager shall have the authority to suspend the work wholly or in part, for such period as he may deem necessary, due to unsuitable weather, or to such other conditions as are considered unfavorable for the suitable prosecution of the work, or for such time as he may deem necessary due to the failure on the part of the Contractor to carry out orders given, or to perform any provisions of the Contract. The Contractor shall immediately comply with the written order of the Purchasing Manager to suspend work wholly or in part. The suspended work shall be resumed when conditions are favorable and methods are corrected, as reviewed and accepted in writing by the Purchasing Manager.
- B. In case of suspension of work for any cause whatever, the Contractor shall be responsible for all materials and shall properly store them if necessary and shall provide suitable drainage and erect temporary structures where necessary.
- C. In no event shall the suspension of work entitle the Contractor to any additional compensation or monies, unless expressly agreed to by the City in a duly executed and approved change order. In the event of a suspension of work not caused or necessitated by the default of the Contractor or due to termination of the Contract by the City, the Contractor may be entitled to actual demobilization and remobilization costs provided that same have been substantiated by the Contractor and agreed to by the City in a duly executed and approved change order. In no event shall the Contractor receive compensation for loss of anticipated profits, extended overhead, unabsorbed home office overhead, or any other payments other than demobilization costs and remobilization costs as provided for herein.

DELAYS AND EXTENSION OF TIME

- A. It is the Contractors responsibility to establish construction methods and a construction schedule, which will facilitate the completion of work required by this Contract within the contract period and with full consideration for the season during which the work is scheduled. Judgment as to hazardous conditions shall be made by the Purchasing Manager.
- B. To receive consideration for an extension of time, a request must be made in writing to the Engineer stating the reason for said request, and such request must be received by the Engineer immediately following the end of the delay-causing condition. The extension of time allowed shall be as determined by the Engineer and approved by the City. In setting the Contract time, it has been assumed that up to five (5) working days may be lost as a result of weather conditions which will slow down the normal progress of work; therefore no extensions in contract time will be allowed for the first five (5) working days lost due to bad weather conditions. An extension of time may be granted by the City after the expiration of the time originally fixed in the Contract or as previously extended, and the extension so granted shall be deemed to commence and be effective from the date of such expiration.
- C. Any extension of time shall not release the sureties upon any bond required under the Contract. Extensions of time in and of themselves will not be a basis for request of additional compensation by the Contractor.
- D. Any delays in this project, or extensions of time which may be granted, shall not entitle the Contractor to any additional compensation or monies whatsoever, including but not limited to compensation for loss of anticipated profits, extended overhead, unabsorbed home office overhead, or any other payments, unless expressly agreed to by the City in a duly executed and approved change order.

TERMINATION FOR BREACH OF CONTRACT

MAG Specifications, Sections 108.10 and 108.11, including: The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to the City.

METHODS AND EQUIPMENT

The methods and equipment adopted by the Contractor shall be such as will secure a satisfactory quality of work and will enable the Contractor to complete the work in the time agreed upon. The selection and use of these methods and equipment is the responsibility of the Contractor.

DATE OF ACTUAL COMPLETION

The date upon which the project will be considered as complete shall be that date upon which the work is accepted by the City.

FINAL ACCEPTANCE

- A. After all work under the Contract has been completed, as determined by the Purchasing Manager, the Purchasing Manager will recommend in writing to the City that final acceptance of the entire work under this Contract be made as of the date of the Purchasing Manager's final inspection. The City will make final acceptance promptly after receiving the Purchasing Manager's recommendation.
- B. No partial acceptance of any portion of the work will be made and no acceptance other than the final acceptance of the overall completed project shall be construed as final acceptance of any part until the overall final acceptance by the City is made.

SAFETY, HEALTH AND SANITATION PROVISIONS

- A. The Contractor shall provide suitable and adequate sanitary conveniences for the use of all persons employed on the project. All sanitary conveniences shall conform to the regulations of the public authority having jurisdiction over such matters. At the completion of the project, all such sanitary conveniences shall be removed and the premises left in a sanitary condition.
- B. On all projects, with respect to sanitation facilities, for which Federal funds are allocated, the Contractor shall cooperate with and follow directions of representatives of the Public Health Service and the State. State and County public health service representatives shall have access to the work wherever it is in preparation or progress, and the Contractor shall provide proper facilities for such access and inspection.

TRAFFIC CONTROL

Traffic control is the responsibility of the Contractor and shall be in accordance with MAG Specifications, Section 401. The Contractor shall submit to the City of Prescott, for approval, a traffic control plan for all activities connected with the proposed work.

WATER

- A. None of the building sites has water available for use by the contractor for construction purposes. It shall be the responsibility of the Contractor to provide and maintain, at his own expense, an adequate supply of water for his use for construction and to install and maintain necessary supply connections and piping for same. Before final acceptance of the completed project, all temporary connections and piping installed by the Contractor shall be removed.
- C. The Contractor shall apply for a fire hydrant meter for all construction water used if the Contractor desires to obtain water from the City of Prescott distribution system at any point. All contractors requesting construction water from the City must submit a Construction Water Meter Application to the Environmental Services Department. A \$1,000 deposit will be required for hydrant meters. If construction water use occurs during the months of May through September the Contractor shall also include a dust abatement program. Potable water may not be allowed for dust abatement during these months. Potable water can be used to process embankment fill and base materials year round. However, contractors are encouraged to use treated effluent for construction activities. The City of Prescott has two outlets for effluent, the Sundog Wastewater Treatment Plant and the Airport Wastewater Treatment Plant. The City will provide metered standpipes for effluent at both plants. The Contractor will be required to estimate daily and total potable/effluent water usage for the project as identified on the Construction Water Meter application. The Contractor will be responsible for all costs associated with obtaining and delivering construction water.

PROTECTION OF WORK

MAG Specifications, Section 107.10.

CLEANUP AND DUST CONTROL

Salvage material shall be stored at areas designated by the Purchasing Manager.

GUARANTEE OF WORK

The contractor shall provide a written document prior to final payment indicating that he and all the subcontractors are providing a full 2 year guarantee of all material and workmanship provided on this project. During the two year (2 year) guarantee period, should the Contractor fail to remedy defective material and/or workmanship, or to make replacements within five (5) calendar days after written notice by the City, it is agreed that the City may

make such repairs and replacements and the actual cost of the required labor and materials shall be chargeable to and payable by the Contractor.

CONTINGENCIES

All loss or damage arising from obstruction or difficulties which may be encountered in the prosecution of the work, from the action of the elements, or from any act or omission on the part of the Contractor or any person or agent employed by him shall be borne by the Contractor.

NOTICE AND SERVICE THEREOF

Any notice to the Contractor from the City relative to any part of this Contract shall be in writing and considered delivered and the service thereof completed when said Notice is posted, by first class mail, to the said Contractor at his last given address, or delivered in person to said Contractor or his authorized representative on the work.

PROJECT MEETINGS

- A. It shall be the responsibility of the Contractor to conduct weekly meetings to be attended by representatives of Subcontractors, utilities, the Purchasing Manager and other interested parties for the purpose of keeping the project on schedule and to provide for necessary coordination of the work of the various parties. The Contractor shall take minutes at each meeting for distribution to all attendees the following week. The minutes shall be of sufficient detail to accurately recount the meeting discussion, including but not limited to progress, work schedule, submittals and certifications, utilities, construction issues, contract changes, safety and traffic control, action items, resolved and unresolved issues.
- B. Additionally the Contractor shall furnish the Purchasing Manager with written weekly project status reports at the beginning of each weekly project meeting. The report shall cover the work of the preceding work week and shall include the following for each week.
 - 1. A comprehensive list of the Contractor's men and equipment performing the work on the jobsite.
 - 2. A comprehensive list of Contractor's subcontractors' men and equipment, if any, performing the work on the jobsite.
 - 3. A brief description of the work performed by the Contractor and Contractor's subcontractors, if any.
 - 4. The estimated percentage of each portion of the work performed for the period together with the total percentage of each portion of the work performed to the date of the report.
 - 5. A detailed summary of each work stoppage, if any, occasioned by the City of Prescott, other contractors, or other designated reasons, which were beyond the contractor's control.

CONSTRUCTION SCHEDULE

- A. The Construction schedule shall indicate the time of starting and completing each major phase of the project and such intermediate phases as will serve for well-defined control points. The schedule shall be of sufficient detail to define the Critical Path for project completion. It shall also indicate the scheduled receipt of major items of equipment and the items of equipment installation dates of which is critical to the scheduled progress of the project. Updated schedules shall be submitted bi-weekly. Such updates shall include and accurately reflect additional work, changes in the work, delays to individual items of work and reasons therefore along with the extent of delay and any other items affecting the progress of the project.
- B. Failure by the contractor to provide the bi-weekly updates will result in the City withholding an amount equal to 5% of the monthly pay estimate relative to the billing period in which the schedule updates are to be provided. Said 5% withholding will be retained by the City until the required schedule updates are submitted by the Contractor, reviewed by the City and found to be current. When the schedule updates are determined to be in conformance with the provisions herein the 5% retainer will be released with the next monthly payment.
- C. The construction schedule shall serve as an index of progress prosecution as contemplated by the Contractor. In the event the actual construction progress varies substantially from the scheduled progress, the Purchasing Manager will require and the Contractor shall be required, within ten (10) calendar days written notice, to provide a revised construction schedule, giving in detail the particular changes in production

as estimated by the Contractor to complete the work within the specified Contract Time. Time is of the essence in this regard.

ACCIDENT PREVENTION

- A. Machinery, equipment and other hazards shall be guarded or eliminated in accordance with the safety provisions of the Manual of Accident Prevention in Construction published by the Associated General Contractors of America, and the requirements of the Occupational Safety and Health Administration.
- B. First aid facilities and information posters conforming at least to the minimum requirements of the Occupational Safety and Health Administration shall be provided in a readily accessible location or locations.
- C. The Contractor shall make all reports as are, or may be, required by the Engineer or any authority having jurisdiction, and permit all safety inspections of the work being performed under this Contract. Before proceeding with any construction work, the Contractor shall take all the necessary action to comply with all provisions for safety and accident prevention. In the event the Contractor fails to comply with said safety provisions or directions of the Purchasing Manager, the Purchasing Manager without prejudice to any other rights of the City, may issue an order stopping all or any part of the work.
- D. Thereafter, a start order for resumption of the work may be issued at the discretion of the Purchasing Manager when in his opinion the defection from safety requirements has been corrected. The Contractor shall make no claim for an extension of time or for compensation or damages by reason of or in connection with such work stoppage.

CONSTRUCTION FACILITIES

All construction hoists, elevators, scaffolds, stages, shoring, and similar temporary facilities shall be of ample size and capacity to adequately support and/or move the loads to which they will be subjected. All railings, enclosures, safety devices, and controls required by law or for adequate protection of life and property shall be provided.

TEMPORARY FACILITIES

The Contractor shall provide all temporary facilities and utilities required for prosecution of the work; protection of employees and the public; protection of the work from damage by fire, weather or vandalism; and such other facilities as may be specified or required by any legally applicable law, ordinance, rule, or regulation.

WARNING DEVICES AND BARRICADES

Per MAG Specifications, Section 107.7.

HAZARDS IN PUBLIC RIGHT-OF-WAY

Per MAG Specifications, Section 107.7.

HAZARDS IN PROTECTED AREAS

Excavations on project sites from which the public is to be excluded shall be marked or guarded in a manner appropriate for the hazard.

PROTECTION OF EXISTING ITEMS

The Contractor shall protect all existing structures, trees, shrubs, and other items on the project site that are to be preserved, by substantial barricades or other devices commensurate with the hazard, from injury or destruction by vehicles, equipment, workmen, or other agents.

PROJECT SECURITY

The Contractor shall make adequate provision, subject to the approval of the Purchasing Manager, to protect the project and Contractor's facilities from fire, theft, and vandalism, and the public from unnecessary exposure to injury.

FIRE EXTINGUISHER

At least one (1) fire extinguisher, rated at least 2A, shall be provided on the job site.

OFF-SITE ROADS

Except as otherwise shown or specified, off-site access roads shall be adequately maintained, graded-earth roads. Such roads shall be built only in the public right-of-way or easements obtained by the City. If the Contractor elects to build along some other alignment, he shall obtain, without additional cost to the City, necessary rights-of-way or easements.

NOISE ABATEMENT

In inhabited areas, particularly residential, operations shall be performed in a manner to minimize unnecessary noise generation. Particular consideration shall be given to noise generated by repair and service activities during the night hours in residential areas. No repair or service activities shall be conducted between the hours of 6:00 p.m. and 7:00 a.m.

DRAINAGE CONTROL

In excavation, fill, and grading operations, care shall be taken to disturb the pre-existing drainage pattern as little as possible. Particular care shall be taken not to direct drainage water onto private property or into streets or drainage ways inadequate for the increased flow.

PROJECT CLOSE-OUT

It is the intent of these Specifications and Contract Documents that the Contractor shall deliver a complete and operable facility capable of performing its intended functions and ready for use.

WASTE DISPOSAL

- A. The Contractor shall provide for the disposal of all surplus materials, waste products, debris, etc., and shall make necessary arrangements for such disposal. The Contractor shall obtain written permission from property owners(s) prior to disposing of any surplus materials, waste products, debris, etc., on private property, and shall also obtain the approval of the Purchasing Manager prior to such disposal.
- B. The Purchasing Manager will not approve the filling of ditches, washes, drainage ways, etc., which may in his opinion create water control problems.
- C. The Purchasing Manager will not approve disposal operations, which will, in his opinion, create unsightly and/or unsanitary nuisances.
- D. The Contractor shall maintain the disposal site(s) in a reasonable condition of appearance and safety during the construction period as required by the Purchasing Manager. Prior to final acceptance of the project, the Contractor shall have completed the leveling and cleanup of the disposal site(s) to the satisfaction of the Purchasing Manager.

PROJECT RECORD DOCUMENTS

- A. The Contractor shall maintain at the site, available to the City and Engineer, one (1) copy of all Drawings, Specifications, Addenda, approved Shop Drawings, Change of Orders, and other modifications in good order and marked to record all changes made during construction. These shall be delivered to the City upon completion of the Project or the earlier termination of the parties' contract.
- B. The contractor shall maintain any and all documentation to substantiate all costs on the project, including but not limited to those items included in "Force Account" computations, computations reflecting the actual cost of work on the project and computations substantiating any claimed increases or additional costs incurred in the project by the contractor, and shall make those records available to the City (or provide copies thereof to the City) within 24 hours of request by the City. The failure of the Contractor to maintain and produce the foregoing documentation will preclude the Contractor from being entitled to any additional payments for any additional work in question.

CONTROL OF WORK

AUTHORITY AND DUTIES OF INSPECTOR

- A. An inspector is to be assigned to the project by the City to monitor the project and to keep the Purchasing Manager informed as to the progress of the work and the manner in which it is being done. Additionally, the inspector will call the Contractor's attention to any non-conformance with the Plans and Specifications. He

will not be authorized to approve or accept any portion of the work or to act as foreman for the Contractor. Inspection will be done on an as needed or on-call basis.

- B. The inspector will exercise such additional authority only as may from time to time be delegated to him by the Purchasing Manager.

INSPECTION

Inspection is to be done by the City of Prescott Environmental Services Department. Should the Contractor work more than forty (40) hours in a workweek, overtime for city inspections will be charged against the contract at the rate of \$29.34 per hour for each hour or portion thereof in excess of forty (40) hours. The charges will be deducted from the Contractor's monthly pay estimate. The need for overtime inspection will be determined solely by the Purchasing Manager. The Contractor shall furnish the Purchasing Manager with every reasonable facility for ascertaining whether or not the work as performed is in accordance with the requirements and intent of the Specifications and Contract. If the Purchasing Manager requests it, the Contractor at any time before acceptance of the work shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standards required by the Specifications. Should the work thus exposed or examined prove acceptable, the uncovering or removing and the replacing of the covering or making good of the part removed will be paid for as provided under CHANGES IN THE WORK, but should the work so exposed or examined prove unacceptable, the uncovering or removing and the replacing of the covering or making good of the parts removed shall be at the Contractor's expense. Inspection or supervision by the Purchasing Manager shall not be considered as direct control of the individual workman and his work. The direct control shall be solely the responsibility of the Contractor's foreman and superintendent.

CONSTRUCTION SCHEDULE

- A. Prior to the commencement of the work the Contractor shall prepare and submit to the Purchasing Manager for review, a written schedule covering the general sequence of the work to be performed on a bi-weekly basis. The work schedule, after review and acceptance by the Purchasing Manager, shall not be changed without written consent of the Purchasing Manager. The Contractor shall assume the full responsibility for performing the work in an orderly procedure under the Contract.
- B. The construction schedule shall serve as an index of progress prosecution as contemplated by the Contractor. In the event the actual construction progress varies substantially from the scheduled progress, the Purchasing Manager will require and the Contractor shall be required, within ten (10) calendar days written notice, to provide a revised construction schedule, giving in detail the particular changes in production as estimated by the Contractor to complete the work within the specified Contract Time. Time is of the essence in this regard.

AUTHORITY OF THE ENGINEER

References to "the Engineer" shall mean Purchasing Manager.

FORMAL PROTEST

If the Contractor considers any work demanded of him to be outside the requirements of the Contract, or if he considers any instructions, ruling, or decision of the Purchasing Manager to be unfair, he shall, within ten (10) calendar days after such demand is made, or instruction, ruling or decision is given, file a written protest with the Purchasing Manager, stating clearly and in detail his objections and the reasons therefore. Except for such protests as are made of record in the manner and within the time above stated, the Contractor shall be deemed to have waived and does hereby waive all claims for extra work, damages and extensions of time resulting from demands, instructions, rulings and decisions of the Purchasing Manager. Upon receipt of any such protest from the Contractor, the Purchasing Manager shall review the demand, instructions, rulings, or decisions objected to and shall promptly advise the Contractor in writing of his final decision, which shall be binding, unless within ten (10) calendar days thereafter the Contractor shall file with the City Manager a formal protest against said final decision of the Purchasing Manager. The City Manager shall consider and render a final decision of any protest within thirty (30) calendar days of receipt of same.

PLANS

- A. The Contract Plans consist of general drawings. These indicate such details as are necessary to give a comprehensive idea of the construction contemplated. All authorized alterations affecting the requirements and information given on the Contract Plans shall be in writing. The Contract Plans shall be supplemented by

such working or shop drawings prepared by the Contractor as are necessary to adequately control the work. No change shall be made by the Contractor in any working or shop drawing after it has been accepted by the Purchasing Manager.

- B. The Contractor shall keep a copy of the Plans and Specifications at the job site, and shall at all times give the Purchasing Manager access thereto. Any drawings or plans listed in the Detailed Specifications shall be regarded as a part thereof and the Purchasing Manager will furnish from time to time such additional drawings, plans, profiles, and information as he may consider necessary for the Contractor's guidance.
- C. All authorized alterations affecting the requirements and information given on the accepted plans shall be in writing. No changes shall be made of any plan or drawing after the same has been accepted by the Purchasing Manager except by consent of the Purchasing Manager in writing.

DEFINITION OF "OR EQUAL "

The quality of material and/or equipment offered by the Contractor, supplier, or manufacturer in lieu of the material and/or equipment specified by name herein shall be determined by the Purchasing Manager.

COORDINATION AND INTERPRETATION OF PLANS AND SPECIFICATIONS

- A. In the event of any doubt or question arising regarding the true meaning of these Specifications, the Special Conditions, or the Plans, reference shall be made to the Purchasing Manager, whose decision thereon shall be final. In the event of any discrepancy between any drawing and the figures written thereon, the figures shall be taken as correct.
- B. In the event of there being a conflict between one contract document and any of the other contract documents the document highest in precedence shall control and supersede the document which is contrary to it. The order of precedence of the contract documents is as follows:
 - 1. Supplemental Agreements, the last in time being the first in precedence.
 - 2. The formal Contract.
 - 3. Notice Inviting Bids.
 - 4. Information for Bidders.
 - 5. Special Conditions.
 - 6. Technical Specifications.
 - 7. Plans.
 - 8. General Conditions.
 - 9. Contractor Proposal.

ORDER OF WORK

- A. When required by the Contract Documents, the Contractor shall follow the sequence of operations as set forth therein.
- B. Full compensation for conforming with such requirements will be considered as included in the prices paid for contract items of work and no additional compensation will be allowed therefor.

WORK BY OTHERS

The City of Prescott, any other contractors whether under contract with the City or a third party, and/or utilities may be working within the project area while this Contract is in progress. The Contractor herein recognizes that delays may and in all likelihood will occur due to other work. In recognition that delays will inevitably occur, and that the City of Prescott is placing the risk of such delays fully and totally upon the Contractor herein. The Contractor herein accepts such risk, and notwithstanding anything to the contrary, the Contractor herein shall and does assume all liability, financial or otherwise, in connection with this Contract and shall release, protect and save harmless the City of Prescott from any and all damages or claims which may arise because of inconvenience, delay, or loss experienced because of the work of others within the project area. The sole remedy of the Contractor herein would be to seek an adjustment of the contract time in accordance with the Delays and Extension of Time, Section B requirements. Adjustment to the contract time, if any, shall not warrant additional compensation to the Contractor herein. **In no event shall the Contractor receive compensation for loss of anticipated profits, extended overhead, unabsorbed home office overhead, or any other payments**

COORDINATION OF WORK

- A. Prior to starting construction, the Contractor shall submit their construction schedule to the Purchasing Manager for approval.
- B. It shall be the responsibility of the Contractor to maintain overall coordination of the project. Based on the general contract construction schedule prepared in accordance with these Specifications, the Contractor shall obtain from each of his Subcontractors a similar schedule and shall be responsible for all parties maintaining these schedules or for coordinating changes necessitated by unforeseen difficulties.

LINES AND GRADES.

All work under this Contract shall be built in accordance with the detailed scope of work.

MATERIALS AND WORKMANSHIP

GENERAL

- A. Where equipment, materials, or articles are referred to in the Specifications as "or equal", or "equal to" any particular standard, the Purchasing Manager shall decide the question of equality.
- B. Wherever any standard published specification is referred to, the latest edition or revision, including all amendments, shall be used unless otherwise specified. Materials of a general description shall be the best of their several kinds, free from defects, and adapted to the use for which provided. The physical characteristics of all materials not particularly specified shall conform to the latest standards published by the American Society for Testing and Materials, where applicable. All material shall be new and of the specified quality and equal to the accepted samples, if samples have been submitted.
- C. All work shall be done and completed in a thorough, workmanlike manner notwithstanding any omission from these Specifications or from the Plans; and it shall be the duty of the Contractor to call the Purchasing Manager's attention to apparent errors or omissions and request instructions before proceeding with the work. The Purchasing Manager may, by appropriate instructions, correct errors and supply omissions, which instructions shall be binding upon the Contractor as though contained in the original Specifications or Plans.

SUBSTITUTION OF MATERIAL OR EQUIPMENT

Requests relative to substitutions for materials or equipment specifically designated on the Plans or in the Specifications shall be made in writing, and such requests shall be accompanied by complete data on which the Purchasing Manager can make determination on the merits of the proposed substitution. The written request shall state how the product proposed for a substitution compares with or differs from the designated product in composition, size, arrangement, performance, etc., and in addition, the request shall be accompanied by documentary evidence of equality in price and delivery or evidence of difference in price and delivery. Data on price shall be in the form of certified quotations from suppliers of both the designated and proposed items. All items accepted for substitution shall be subject to all applicable provisions of the Specifications. Should substitution be allowed under the foregoing provisions, and should the item subsequently prove to be defective or otherwise unsatisfactory for the service for which it was intended, the Contractor, shall without cost to the City, and without obligation on the part of the Purchasing Manager, replace the item with the material originally specified.

FABRICATED MATERIALS AND SHOP DRAWINGS

Fabricated materials and shop drawings shall be handled as set forth in the Special Conditions.

STORAGE AND HANDLING OF MATERIALS

Protection of materials and equipment stored on the site shall be the responsibility of the Contractor. The City reserves the right to direct the Contractor to provide proper means of protection for materials if such is deemed advisable by the Purchasing Manager; however, the exercise of or failure to exercise this right shall not be deemed to relieve the Contractor of his primary responsibility for protecting the material and equipment. The Contractor shall provide suitable warehouses or other adequate means of protection for such if the materials and equipment require storage and protection. The Contractor shall store and care for the materials and equipment in the most suitable manner to protect them from distortion, rain, dust, or other damage. The cost of replacing any

material or equipment damaged in storage shall be borne by the Contractor, and the fact that material or equipment has been damaged after partial payment has been made shall not relieve the Contractor of his primary responsibility. No motor shall be left uncovered or unprotected.

REJECTED MATERIALS

MAG Specifications, Section 106.7.

UTILITIES

The contractor shall provide all utilities required to construct this project. The various sites may not have electricity, water, gas, heat or light available.

DRIVEWAYS AND WALKS

Inconvenience caused by digging across driveways and sidewalks shall be kept to a minimum by restoring the serviceability of the drive or sidewalk as soon as possible. Before blocking driveways, the Contractor shall notify the property owner. The Contractor shall replace or repair any damage done to driveways and walks to not less than the condition existing prior to the Contractor's work. If it is necessary to leave an excavation open across driveways or sidewalks, the Contractor shall provide temporary relief in the form of steel plates over the excavation. Direct access shall be provided at all times to fire engine houses, fire hydrants, hospitals, police stations, and at all other agencies or services where emergencies may require immediate access to same.

ROADS FENCES AND GATES

Access to these sited should be considered primitive. 4-wheel drive high clearance vehicles may be required for the delivery of construction materials. The contractor will be issued a key to locked access gates and must maintain site security during his work at the site. Lock all gates upon leaving the site for any reason. Streets and roads subjected to interference by the prosecution of this work shall be kept open and maintained by the Contractor until the work is completed.

TREES AND SHRUBBERY

- A. All trees and shrubbery within the right-of-way or easements shall be protected by the Contractor insofar as practicable.
- B. In the event shrubbery or trees must be trimmed, or removed, the Contractor shall notify the property owner to do so within a reasonable time prior to construction. All shrubbery or trees not removed by the property owner shall be trimmed or removed by the Contractor and hauled from the job at the Contractor's expense.
- C. All trees, shrubs, hedges, brush, etc. designated on the Plans, or by the Purchasing Manager for removal, shall be completely removed and disposed of as indicated on the Plans or as specified by the Purchasing Manager.

IRRIGATION DITCHES AND STRUCTURES

The Contractor shall contact the owners of any ditches, irrigation lines, and appurtenances, which interfere with the work and shall make arrangements for dry- up or scheduling of water deliveries. The Contractor shall be liable for any damage due to irrigation facilities damaged by his operations and shall repair such damaged facilities to an "equal or better than" original condition.

SUBMITTALS

- A. In ample time for each to serve its proper purpose and function, the Contractor shall submit to the Purchasing Manager such schedules, reports, drawings, lists, literature samples, instructions, directions, and guarantees as are specified or reasonable required for construction, operation, and maintenance of the facilities to be built and/or furnished under this Contract.
- B. Shop drawings and data shall be submitted to the Purchasing Manager in such number of copies as will allow him to retain four (4) copies of each submittal. The submittal shall clearly indicate the specific area of the Specifications or Plans for which the submittal is made. The additional copies received by him will be returned to the Contractor's representative at the job site. The Purchasing Manager's notations of the action, which he has taken, will be noted on one (1) of these returned copies.

- C. The above drawings, lists, prints, samples, and other data shall become a part of the Contract and a copy of the same shall be kept with the job site plans and the fabrications furnished shall be in conformance with the same.

MATERIALS AND EQUIPMENT SCHEDULES

Drawings of minor or incidental fabricated materials and/or equipment may not be required by the Purchasing Manager. The Contractor shall furnish the Purchasing Manager tabulated lists of such fabrications, showing the names of the manufacturers and catalog numbers, together with samples of general data as may be required to permit determination by the Purchasing Manager as to their acceptability for incorporation in the work.

QUALITY CONTROL

- A. All material shall be of the specified quality and equal to the approved samples, if samples have been submitted. All work shall be done and completed in a thorough, workmanlike manner, notwithstanding any omission from these Specifications or from the Plans; and it shall be the duty of the Contractor to call the Purchasing Manager's attention to apparent errors or omissions and request instructions before proceeding with the work. The Purchasing Manager may, by appropriate instructions, correct errors and supply omissions, which instructions shall be as binding upon the Contractor as though contained in the original Specifications or Plans.
- B. Materials which will require testing and inspection at the place of origin shall not be shipped prior to such testing and inspection.

SAMPLES AND TESTS

- A. At the option of the Purchasing Manager, the source of supply of each of the materials shall be approved by him before the delivery is started and before such material is used in the work. Representative preliminary samples of the character and quality prescribed shall be submitted by the Contractor or producer of all materials to be used in the work for testing or examination as desired by the Purchasing Manager.
- B. Sieves used in determining the grading of samples of aggregates, select material, and other graded materials, shall conform to ASTM Designation E 11-81.

LEGAL RELATIONS AND RESPONSIBILITY

LAWS TO BE OBSERVED

ALIEN LABOR

The Contractor shall comply with the Immigration Reform and Control Act of 1986.

INDEPENDENT CONTRACTOR STATUS.

It is expressly agreed and understood by and between the parties that the Contractor is being retained by the City as an independent contractor, and as such the Contractor shall not become a City employee, and is not entitled to payment or compensation from the City or to any fringe benefits to which other City employees are entitled. As an independent contractor, the Contractor further acknowledges that he is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Agreement. As an independent contractor, the Contractor further agrees that he will conduct himself in a manner consistent with such status, and that he will neither hold himself out nor claim to be an officer or employee of the City by reason thereof, and that he will not make any claim, demand or application to or for any right or privilege applicable to any officer or employee of the City, including but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

NONDISCRIMINATION

The Contractor, with regard to the work performed by it after award and during its performance of this contract, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The

Contractor will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and Executive Order 2000-4.

AMERICANS WITH DISABILITIES ACT

Contractor shall comply with all federal, state and local nondiscrimination statutes in the operation, implementation and delivery of, including state and federal civil rights and disabilities laws. In particular the contractor shall ensure that the City of Prescott's obligations for program, facility and service accessibility in Title II of the Americans with Disabilities Act are complied with in all activities arising under this contract, and shall hold harmless the City for any and all loss, including but not limited to damages, costs or expenses, incurred or arising from any alleged violations of expenses, incurred or arising from any alleged violation of the Americans with Disabilities Act under the auspices of this contract unless resulting from an intentional or actual negligent act of the City and its employees. Failure to comply with the nondiscrimination or accessibility requirements herein shall be construed as nonperformance and may result in termination of funding, civil action or both.

PERMITS, TAXES AND LICENSES

THE CITY OF PRESCOTT WILL SUBMIT BUILDING PERMIT APPLICATIONS AND PAY ALL PERMIT FEES. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO PICK UP THE APPROVED PERMITS IN HIS NAME AND GIVE ALL NOTICES OF INSPECTION NECESSARY AND INCIDENT FOR THE PROSECUTION OF THE WORK. ALL APPLICABLE LICENSES AND CITY TAXES ARE THE RESPONSIBILITY OF THE CONTRACTOR.

SURVEY LAND MONUMENTS

Survey land monuments and property marks shall not be moved or otherwise disturbed by the Contractor until an authorized agent of the agency having jurisdiction over the land monuments or property marks setting, has witnessed or otherwise referenced their location, and only then in accordance with the requirements of the agency having jurisdiction. Any monuments displaced by the Contractor shall be replaced at the Contractors expense.

PROTECTION OF PERSON AND PROPERTY

The Contractor shall confine all aspects of his operations within the construction limits as identified in the project plans. Should the Contractor contemplate the use of any private property adjacent to the project, beyond the project limits, for materials and equipment storage or to perform any work, he shall first obtain the written permission of the property owner. The Contractor shall provide a copy of the owner's permission to enter the property and for what purpose to the Purchasing Manager prior to entering the property. The Contractor will be fully and solely responsible for any and all adverse impacts and / or damages caused by his operations on private property and the settlement of all claims pertaining thereto. Upon completion of his operations the Contractor shall obtain a signed release from the property owner pertaining to his activities on the owner's property and provide a copy of that document to the Purchasing Manager. The failure of the contractor to comply with these provisions will result in the retention of some portion of Contractor funds, payable under the contract, until such claims are resolved.

NON-RESPONSIBILITY OF THE CITY

Indebtedness incurred for any cause in connection with this work must be paid by the Contractor, and the City is hereby relieved at all times from any indebtedness or claim other than payments under terms of the Contract.

PROPERTY RIGHTS IN MATERIAL

Nothing in the Contract shall be construed as vesting in the Contractor any right of property in materials used after they have been attached or affixed to the work or the soil and accepted. All such materials shall become the property of the City upon being so attached or affixed and accepted.

PAYMENT TO CONTRACTORS

GENERAL

- A. The basis of payment for construction of this project shall be unit prices for all work actually performed in accordance with the Specifications and Scope of work, and shall include all labor and materials incorporated in the completed work.
- B. Upon final inspection and acceptance of the work, the City will pay the Contractor the amount earned under the Contract, as provided herein.

PARTIAL PAYMENT

- A. Once each month, the City will make a partial payment to the Contractor on the basis of an estimate prepared and certified by the Contractor's Surveyor and accepted by the Purchasing Manager for work completed through the last day of the preceding calendar month. The estimate will cover the work performed by the Contractor during the preceding calendar month.
- B. Contractor shall submit partial payment requests in a format subject to approval by the Purchasing Manager.
- C. The City will retain ten percent (10%) of the amount of each such estimate to insure full and faithful compliance with the terms of these contract documents. After fifty percent (50%) of the work on this project has been completed, one half (½) of the amount retained shall be paid to the Contractor provided the Contractor is making satisfactory progress on the contract and there is no specific clause or claim requiring a greater amount to be retained. After the contract is fifty percent (50%) completed, only five percent (5%) of the amount of any subsequent progress payments made under the contract shall be retained provided the Contractor is making satisfactory progress on the project, except that if at any time the City determines satisfactory progress is not being made, ten percent (10%) retention shall be reinstated for all progress payments made under the contract subsequent to the determination.
- D. The Contractor shall furnish a detailed breakdown showing unit prices and quantities for use in preparing the monthly estimate. No partial payment will be made until this breakdown is presented by the Contractor and has been reviewed and accepted by the Purchasing Manager. If requested, Monthly As-built plan sheets shall accompany each pay request illustrating line item quantities constructed for the period. The As-built plan sheets and pay estimate spreadsheets must reconcile with one another.

PAYMENT

For and in consideration of the faithful performance of the work, the City will pay to the Contractor the amount earned less retention as computed from the actual quantities of work performed under the Contract and to make such payment in the manner and at the time(s) specified, as follows:

- A. After final completion under the Contract, the Contractor shall render to the City a final estimate, which shall show the amount of work performed according to the Contract.
- B. Before the final payment will be made, the Contractor shall satisfy the City by affidavit that all bills for labor and materials incorporated in the work have been paid. See CONTRACTOR'S AFFIDAVIT REGARDING SETTLEMENT OF CLAIMS & CERTIFICATION OF COMPLETION & WARRANTIES, page **. Additionally, the Contractor shall furnish lien waivers for all completed labor and materials consumed during the project.
- C. Final payment constituting the entire unpaid balance of the Contract sum (including all retained moneys) shall be paid by the City to the Contractor within sixty (60) days after completion of the work or filing the Notice of Completion of the Contract unless a specific written finding by the City of the reasons justifying the delay in payment is provided to the Contractor, and further provided that all work has been completed, the Contract fully performed, and any final certificate has been issued by the City's architect, if any. Prior to the final payment to the Contractor, the City shall deduct therefrom any and all unpaid privilege, license and other taxes, fees and any and all other unpaid moneys due the City from the Contractor, and shall apply to those moneys to the appropriate account. Contractor shall provide to the City any information necessary to determine the total amount(s) due. The quantities appearing in the Bidding Schedule are approximate only, and are prepared for the comparison of bids. Payment to the Contractor will be made only by actual quantities of work performed and accepted in accordance with the requirements of the Contract. Only the items listed in the Bidding Schedule are pay items. The scheduled quantities of work to be done and materials to be furnished may each be increased, decreased or omitted.

- D. **Final project As-built plans shall verify line item quantities constructed for the project by individual plan sheet.** Contractor shall submit final payment request in a format approved by Environmental Services together with the City of Prescott Pay Request Application and Certification for Payment (form provided by Environmental Services).

PAYMENT OF ITEMS IN PROPOSAL

- A. Only those items listed in the Proposal under Bidding Schedule are pay items.
- B. Compensation for all work necessary for the completion of the project or improvement shall be included by the bidder in the price bid for the items shown in the Proposal.

CHANGES IN THE WORK

- A. The City, without invalidating the Contract, may order extra work, make changes by altering, or delete any portion of the work as specified herein, or as deemed necessary or desirable by the Purchasing Manager. All such work shall be executed under the conditions of the original Contract except that any claim for extension of time and additional cost caused thereby shall be adjusted at the time of ordering such change or extra work. All Change Orders shall be accounted for through the Owner's Contingency Allowance Fund provided in the Total Bid Amount.
- B. Extra work shall be that work not indicated or detailed on the Plans and not specified. Such work shall be governed by all applicable provisions on the Contract Document.
- C. In giving instructions, the Purchasing Manager shall have authority to make minor changes in the work, not involving extra cost, and not inconsistent with the purposes of the work, but otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless in pursuance of a written order by the Purchasing Manager, and no claim for an addition to the total amount of the Contract shall be valid unless so ordered. It is mutually understood that it is inherent in the nature of municipal construction that some changes in the Plans and Specifications may be necessary during the course of construction to adjust them to field conditions, and that it is of the essence of the Contract to recognize a normal and expected margin of change. The Purchasing Manager shall have the right to make such changes, from time to time, in the Plans, in the character of the work, and in the termination of the completion of the work in the most satisfactory manner without invalidating the Contract.
- D. Any change ordered by the Purchasing Manager which involves installation of work essential to complete the Contract, but for which no basis of payment is provided for herein, said payment therefor shall be subject to agreement prior to said work being performed.
- E. The prices agreed upon and any agreed upon adjustment in Contract time shall be incorporated in the written order issued by the Purchasing Manager, which shall be written so as to indicate acceptance on the part of the Contractor as evidenced by his signature. In the event prices cannot be agreed upon, the City reserves the right to terminate the Contract as it applies to the items in questions and make such arrangements as it may deem necessary to complete the work, or it may direct the Contractor to proceed with the items in question to be reimbursed pursuant to the unit prices in the Contractor's bid or on a force account basis as provided hereinafter, at the City's option.

CHANGE ORDER AND CONTINGENCY ALLOWANCE FUND USE

The compensation for Change Order and Allowance fund work performed by the Contractor shall be approved by the Purchasing Manager in the following manner: The value of such work or change shall be determined and paid for with a Change Order in one of the following ways.

- A. By unit prices in accordance with the Contractor's bid or as mutually agreed upon by the City and Contractor.
- B. By a lump sum based upon the Contractor's estimate and the Purchasing Manager's review and acceptance of the estimate. The Contractor shall do such extra work and furnish material and equipment therefor upon receipt of an accepted Change Order or other written order of the Purchasing Manager, and in the absence of such Contract Change Order or other written order of the Purchasing Manager, the Contractor shall not be entitled to payment for such extra work. Payment for extra work required to be performed pursuant to the provisions of this section, in the absence of an executed Contract Change Order, will be made by force account as provided herein, in accordance with the Contractor's unit prices bid or as agreed to by the Contractor and the Purchasing Manager. However, in no case shall work be undertaken without written notice from the Purchasing Manager to proceed with the work.

1. The Contractor may mark up his costs fifteen percent (15%) of the actual cost of wages and other costs to cover the Contractor's profit and overhead.

2. In case work is performed by a subcontractor, the said fifteen percent (15%) will be added only once to the actual cost of the work, however, the Contractor may add five percent (5%) to the Subcontractor's price to cover his own overhead and supervision.

- A. **MATERIALS:** For all materials accepted by the Purchasing Manager and used in the work the Contractor shall be paid the actual cost of such material, including transportation charges, to which cost shall be added a sum equal to fifteen percent (15%) thereof.
- B. **SUPERVISION OVERHEAD and HOME OFFICE OVERHEAD:** No allowance shall be made for general superintendence. The cost of supervision and all overhead is presumed to be included in the fifteen percent (15%) added in accordance with the above.
- C. **RECORDS:** The Contractor's representative and the Purchasing Manager shall compare the records of the work performed as ordered on a force account basis at the end of each day on which such work is performed. Copies of these records shall be made on suitable forms provide for this purpose and signed by both the Purchasing Manager and the Contractor's representative. All claims for work done on a force account basis shall be certified and submitted to the Purchasing Manager by the Contractor, and such statements shall be filed with the Purchasing Manager not later than the fifth (5th) day of the month following that in which the work was actually performed.
- D. **BONDS AND INSURANCE:** The Contractor shall be paid the actual cost for additional bonding and insurance pertaining to Change Order and allowance fund work when the Contractor can provide evidence of additional payment for premiums on required payment and performance bonds. No duplication of payment for Contractors costs associated with labor costs above will be allowed.

The Purchasing Manager's authorized representative has the authority to direct which labor and equipment will be used, to suspend operations, and to refuse to pay for any labor or equipment, which he feels is not doing

CLAIMS FOR EXTRA WORK

If the Contractor claims that any instructions involve extra cost under this Contract, he shall give the Purchasing Manager written notice thereof within forty-eight (48) hours after the receipt of such instructions, and in any event before proceeding to execute the work, except in emergency endangering life or property, and the procedure shall then be as provided for under CHANGES IN THE WORK. No such claim shall be valid unless so made.

PARTIAL ACCEPTANCE OF WORK

- A. After completion of certain units of work under this Contract, including all testing and other preparation necessary for operation of the unit by the City as herein specified, but prior to final project completion, provisions may be made for partial acceptance in writing by the City for these certain units only. The units to be included for partial acceptance prior to final project completion will be noted at the time of the pre-construction conference in accordance with Contractor's schedule, or by written notice to the Contractor at the earliest possible time.
- B. The guarantee period for these units shall commence with the date of final acceptance of the entire project by the City. Full payment for these units will not be made until final acceptance of the total work is made.
- C. Acceptance of any portion of the project prior to acceptance of the whole shall not be construed as absolving the Contractor of responsibility for any item of construction or incidental work included in the original Contract.

NOTIFICATION OF CHANGED CONDITIONS AND DISPUTE RESOLUTION

The parties hereto expressly covenant and agree that they will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement through negotiation. If, however, a matter has not been resolved within a reasonable period of time, upon written demand of either party, the matter shall be resolved by arbitration in accordance with the Uniform Arbitration Act, A.R.S. 12-1502 et seq. A party desiring arbitration shall serve upon the other, a writing (the "Notice") describing, in general terms, the controversy and naming such party's Arbitrator. Within ten (10) days after said

Notice the other party shall serve upon the party demanding arbitration a writing (the "Response"), describing, in general terms any additional issues to be arbitrated and naming it's Arbitrator. Within seven (7) days thereafter the two Arbitrators shall meet, and at that time or within seven (7) days thereafter shall appoint a third Arbitrator. If the two Arbitrators cannot agree upon the third Arbitrator, either party may apply to the Arizona Superior Court in and for Yavapai County pursuant to the provisions of A.R.S. 12-1503 for appointment of the third Arbitrator. The three Arbitrators, immediately after appointment of the third Arbitrator, shall appoint a time and place and otherwise proceed under the provisions of A.R.S. 12-1505

SPECIAL PROVISIONS

SCOPE OF WORK

14' x 20' Communications Equipment Buildings

Four buildings total -- one at each of four sites

PROJECT DESCRIPTION.

This project consists generally of the site excavation, foundation and construction of 4 concrete and masonry buildings for the housing of communications equipment. The buildings will be fully insulated, concrete tile roofing, duplicate A/C units, 200 amp electrical service with meter sets. Interior electrical outlets and lighting is required. Steel exterior doors with locks. The buildings are located at 4 different sites around the City of Prescott. All buildings will be essentially the same with possibly the only the location of the doors, A/C units or electrical panel changing depending on site conditions. The building located at Yavapai Hills will receive a exterior stucco finish.

INTENT OF PLANS AND SPECIFICATIONS

- A. The intent of the Specifications and Scope of Work is to prescribe a complete work for the CITY OF PRESCOTT: 14' x 20' Communications Equipment Buildings Project, which the Contractor shall perform in a manner acceptable to the City Purchasing Manager and in full compliance with the terms of the Contract.
- B. Unless otherwise specified in the Special Conditions, the Contractor shall furnish all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and incidentals, including, but not limited to, dust and traffic control measures, and to perform all work involved in executing the contract in a satisfactory and workmanlike manner within the specified time.

TIME OF COMPLETION

- A. The Contractor shall commence the work under this contract on or before the tenth (10th) calendar day after receiving written Notice to Proceed from the Owner. The Contractor shall fully complete all work under this contract within 80 calendar days beginning with the calendar day of receipt of the Notice to Proceed. The Contractor shall at all times during the continuance of the Contract prosecute the work with such work force and equipment as is sufficient to complete the project within the time specified.

SITE LOCATION AND ACCESSIBILITY – 4 SITES

Site locations and accessibility. Each site is on a hill top managed by the City of Prescott for water storage tanks, cell phone towers, or other uses. The sites are within areas usually fenced and locked.

- A. MINGUS SITE: 805 Douglas Ave. NE of the intersection of Rosser St and Willow Lake Rd. A multi use hilltop site with good dirt road access.
- B. NORTHWEST SITE: 3599 Williamson Valley Rd. SE of the intersection of Williams Valley Rd and Pioneer Parkway, the locked gate entrance is approximately 200 yards South of Pioneer Parkway off the East side of Williamson Valley Rd. A rough dirt road goes approximately ½ mile to the top of the hill leads to a fenced and locked gate with water tanks and communications tower.
- C. PEAVINE SITE: South of Prescott Lakes Parkway off the East side of Sun Dog Ranch Road. Approximately ½ mile on a rough dirt road to the top of the hill. This road is very steep and soft at the top and may require special material delivery methods for concrete and masonry products. It shall be the responsibility of the contractor to determine and make arrangements for the delivery of all materials and or any special construction methods required to access this site.
- D. YAVAPAI HILLS: North of Hwy 69, turn North at North Lee Blvd, past the fire station then Right on Yavapai Hills Drive. Continue through the neighborhood and turn right on Bar Circle "A" Rd., proceed to the locked gate on the left side of this culdesac.

BUILDING SPECIFICATIONS.

- A. All foundation and floor concrete shall be 2500 psi. Submit the mix design for approval prior to placement.
- B. Install the shown exterior generator pad per drawing.
- C. Masonry shall be 100% all solid filled split faced 8 x 8 x 16 CMU with bond beams and rebar as shown. All joints to be struck. Masonry to be cleaned when complete. The City will require and locate block outs to be placed in the exterior masonry walls for future communications cable entrances and electric generator wiring. Provide block samples for owner color selection.
- D. Trusses shall be engineered by the truss company. Submit this engineering for approval prior to ordering.
- E. All interior insulation shall be fiberglass batt insulation R-15 in the walls, R30 above the ceiling. All insulation shall be installed according to manufacturer's instructions.
- F. All interior walls and ceiling shall be faced with ¾ inch AC plywood, clean paint grade one side. Installed with screws.
- G. Paint all interior plywood walls and ceiling white semi gloss. Paint the doors and HM frames with 2 coats of Behr exterior premium grade enamel, color by owner.
- H. Roof shall be a standard weight concrete tile system; Monier Lifetile Saxony Slate or equivalent. Provide color selection to the owner. The tile shall be installed over ½ inch OSB sheathing, with 2 layers of felt paper, one 90lb over one 30 lb. provide full coverage break metal fascia all around to cover wood. Facia metal shall be factory baked paint.
- I. Solid core steel doors. Each exterior door shall be a steel clad insulated flush faced door set in a well anchored hollow metal steel frame. Hardware shall include 3 security pinned hinges, a Schlage commercial grade long throw deadbolt and a matching lockable entrance hand set. Install with an exterior security plate that covers the hand set and deadbolt strikes.
- J. Electrical panel. Supply and install a 200 amp, 220V 1 phase, exterior entrance panel with a meter box approved for future APS electric power. The interior breaker panel must have breakers for both A/C units, all lighting as shown on the plans, all interior elect outlets dedicated as shown and panel space for additional breakers as may be required in the future. The panel location on each building may vary depending on electrical feed. Provide Ufer grounding with 20 of #4 copper.
- K. Electrical power to the building is not included in this contract. APS electrical engineering is on order and may not be completed by the time the buildings are complete. The contractor must proceed to a "green tag" inspection from the City of Prescott Building Department on the meter socket.
- L. Special electrical ground system. Provide #2 bare copper wire ground cable completely around the entire building buried 30 inches deep at 2 feet away from the edge of the footing. CAD weld 4 extensions to the building loop that run underground to each of the 4 corners of the building, Bring each of the 4 extension up to the surface at the edge of the building and leave 12 ft coiled at each corner for future runs into the building. This exterior building loop will be CAD welded to an adjacent (already in place) loop which is located around the adjacent radio communications tower. The tower has the necessary wire already coiled and waiting to connect to this building loop.
- M. Interior electrical conduit and outlets and lights. All interior metal conduit and metal j-boxes shall be run on the outside of the interior plywood walls. All outlets, switches and light fixtures shall be surface mounted on the plywood. Provide 10 interior electrical duplex outlets from 8 dedicated circuits as shown on the plans. Each light fixture shall be a 100 watt incandescent single bulb fixture with protective wire cover. The exterior light fixture shall be 100 watt weather proof, switched separate from the interior.
- N. A/C units. Supply and install 2 duplicate air conditioner units on each building. Units shall be Bard 3-ton exterior wall mount units model no. WA37AOZBP4XXJ. These units shall include lead/lag controller, blank off plate to eliminate outside air, 2" pleated filter, gray color, standard opening front and factory installed control module. Units must be compatible with the supplied electrical service. The units must be spaced at least 36 inches apart from each other to allow for side access maintenance. The unit location on each building may vary. If electrical power is not available at the time of completion, the contractor must return to show operation of the A/C units when it becomes available.

SITE WORK

- A. SOILS. At the time of bid, soils reports are available for two of the sites. In order to standardize bidding the contractor shall assume footing over excavation to a maximum depth of 4 feet. Footing will then set on undisturbed or re-compacted soils at a depth of 26 inches. If undisturbed bearing strata is found above 4 feet then the footings may set at that elevation. Floor slabs shall be set on at least 12 inches of non expansive imported engineered material. The City will reimburse the contractor if individual site conditions require hard rock digging or if quality control testing requires the excavation and re compaction or the import of material in addition to what is hereby specified.
- B. All over excavated material must be hauled from the sites and properly disposed of.
- C. The contractor shall be responsible for calling and coordinating Blue Stake activities in order to determine underground utilities that may be in conflict or a hazard.
- D. The City will locate all building corners on each site.