

DATE: September 23, 2011

TO: Chairman Tommie Martin
Vice-Chairman Shirley Dawson
Supervisor Michael Pastor
Don McDaniel, County Manager
Steve Stratton, Director of Public Works
Joseph Heatherly, Director of Finance

FROM: Marilyn Brewer, Deputy Clerk of the Board

SUBJECT: Certified Letter Received from Lewis & Rocha regarding Gila County
PWD Complex Roadyard Shop Area Paving Phase, Gila County, Arizona,
Bid No. 080211-1

Upon the suggestion of Supervisor Pastor, who received this certified letter from the law firm of Lewis & Roca, I took this certified letter to the County Attorneys' office for advice as to what should be done on this letter received as far as action needing to be taken within a certain time period, who I should forward the letter to etc. as the County Manager and Steve Stratton are both out of the office today. In Bryan Chambers' absence, I spoke with Attorney Ramai Alvarez in the County Attorney's office, and she advised that this letter be copied to Steve Stratton to establish if the successful bidder had been prequalified, and if so to have Mr. Stratton write a letter of response. If not, her suggestion was to place this item on the agenda for Board discussion.

September 21, 2011

VIA CERTIFIED MAIL AND FACSIMILE

Michael A. Pastor, Chairman
Tommie C. Martin, Vice Chairman
Shirley L. Dawson, Member
Gila County Board of Supervisors
1400 E. Ash Street
Globe, AZ 85501

*Copies given to
BOS & County Manager;
Steve Stratton & Joseph
Heatherly*

Re: Gila County PWD Complex Roadyard Shop Area Paving Phase
Gila County, Arizona
Bid No. 080211-1

Dear Chairman Pastor and Board Members:

Lewis and Roca represents Combs Construction Company, Inc. ("Combs").¹ Combs was the apparent second lowest bidder on the Gila County PWD Complex Roadyard Shop Area Paving Phase project (the "Project"). Combs protests an award of this Project to AJP Electric Inc. ("AJP Electric") because AJP Electric is not prequalified to perform the work included within the scope of work for the Project ("Proposed Work"). Combs, on the other hand, is properly prequalified to perform all of the Proposed Work. Accordingly, Gila County should reject AJP's bid and award a contract for the Project to Combs.

According to the Special Provisions appended to Gila County's Invitation for Bids for the Project, the Proposed Work consists of:

[S]ubgrade preparation (including any necessary minor clearing and grubbing), removal or relocation of any existing structures interfering with the work, installation of concrete sidewalks, concrete curbs and curb and gutter, masonry wall, aggregate base course, asphaltic concrete pavement, temporary chain link fence, chain link fence, chain link security fence, fence gates, barbed wire fence and as-built drawings other work as shown within the plans.

See Special Provisions at p. SP-1, attached as Exhibit A. The Proposed Work contains no electrical work.

¹ Combs Construction Company Inc., P.O. Box 10789, Glendale, Arizona 85318-0789, (602) 237-4029

Under the Special Provisions, Gila County identifies standard specifications that it considers a part of the Contract Documents and binding on the bidding contractors. See Exhibit A, at SP-1. In this list, Gila County includes the Arizona Department of Transportation, Highways Division, Standard Specifications for Road and Bridge Construction (2008) (“ADOT Standard Specs.”). Under section 102.02 of ADOT’s Standard Specs., “prior to submitting a bid, the bidder will (unless waived by the Department) be required to be prequalified with the Department to bid on the project.” A copy of section 102.02 of the Standard Specifications is attached as Exhibit B. Gila County did not waive the prequalification requirements for the Project.

AJP Electric is and was prequalified only for electric work with ADOT. Because AJP Electric is not prequalified to perform the Proposed Work, it may not be awarded a contract for the Project and its bid must be rejected.

Moreover, under Gila County’s Invitation for Bids’ General Provisions, Gila County “reserves the right to refuse to issue a proposal form to a prospective bidder should such bidder be in default for any of the following reasons: (a) Failure to comply with any prequalification regulations of the Owner, if such regulations are cited, or otherwise included, in the proposal as a requirement for bidding.” See General Provisions at GP-9, section 20-04, excerpts of which are attached as Exhibit C. Because the ADOT Specs.’ prequalification requirements were included in the Invitation for Bids, AJP Electric should not have even received a proposal form.

And because AJP Electric is in default for failing to comply with the prequalification requirements under Section 20-04 of the General Provisions, AJP Electric should be disqualified:

A bidder shall be considered disqualified for any of the following reasons:

- (c) If the bidder is considered to be in “default” for any reason specified in the subsection titled ISSUANCE OF PROPOSAL FORMS of Section 20-04.

See Exhibit C at p. GP-11.

AJP Electric should not have even requested the bid documents for the Project. Under ADOT’s Rules for Prequalification of Contractors, R17-3-201(H), “a contractor shall not request bid documents for a contract for which it is not prequalified.” See Rules for Prequalification of Contractors, attached as Exhibit D.

To enable Gila County to assess bidding contractors’ qualifications, the Invitation for Bids requires each applicant to submit a qualification and certification form (“QC Form”). See Qualification and Certification Forms, attached as Exhibit E. The QC Form requires each contractor to warrant and provide specific information, including the following:

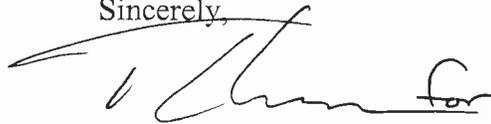
- c. A list of previous and current customers, which are considered identical or similar to the Scope of Work described herein; and
- e. List the specific qualifications the Contractor has in supplying the specified services.

AJP Electric's lack of the required prequalification for any of the specified services should be a determining factor for Gila County not to award the contract to AJP Electric.

The Project requires, at a minimum, grading, aggregate base, paving, fencing and riprap work. AJP Electric is prequalified only for electrical work. In contrast, Combs is prequalified to perform all of the Proposed Work. Under these circumstances, Gila County must reject AJP Electric's bid and award the Contract for the Project to Combs as the lowest pre-qualified responsive, responsible bidder.

Please feel free to contact me with any questions.

Sincerely,



Robert F. Roos

WTC/DR

cc: AJP Electric
11250 N. Cave Creek Road
Phoenix, AZ 85020

Visus Engineering Construction, Inc.
1831 North Rochester
Mesa, AZ 85205

EXHIBIT A

SPECIAL PROVISIONS

GILA COUNTY PWD COMPLEX ROADYARD SHOP AREA PAVING PHASE

1. PROPOSED WORK

The work consists of subgrade preparation (including any necessary minor clearing and grubbing), removal or relocation of any existing structures interfering with the work, installation of concrete sidewalks, concrete curbs and curb and gutter, masonry wall, aggregate base course, asphaltic concrete pavement, temporary chain link fence, chain link fence, chain link security fence, fence gates, barbed wire fence and as-built drawings other work as shown within the plans.

2. GENERAL REQUIREMENTS

The project has been designed utilizing the Arizona Department of Transportation (ADOT) Construction Standard Drawings (Latest Series), and 2008 Standard Specifications, with appropriate current revisions along with Uniform Standard Specifications for Public Works Construction (Latest Edition and Revisions), Maricopa Association of Governments. Wherever reference in the Standard Specifications is made to MAG, ADOT, the Owner, or the Department: it shall refer to Gila County.

In the event of any conflict between the plans and Standard Specifications, the plans shall prevail. In the event of any conflict between these Special Provisions and the plans or Standard Specifications, these Special Provisions shall prevail.

The following STANDARD SPECIFICATIONS and/or details are considered a part of these Contract Documents and are considered as binding as if actually attached hereto:

- Arizona Department of Transportation, Highways Division, Standard Specifications for Road and Bridge Construction, Edition of 2008,
- Arizona Department of Transportation, Highways Division, Standard Drawings, listed in the project plans and defined hereinafter,
- Manual on Uniform Traffic Control Devices, Millennium Edition, and Amendments.
- Uniform Standard Specifications for Public Works Construction (Latest Edition and Revisions). Maricopa Association of Governments.
- Arizona Water Company Specifications and Standard Details, April 2004.

EXHIBIT B

ARIZONA
DEPARTMENT OF TRANSPORTATION

**STANDARD
SPECIFICATIONS**

for

**ROAD AND BRIDGE
CONSTRUCTION**



2008

SECTION 101

Work:

Work shall mean the furnishing of all labor, materials, equipment and other incidentals necessary or convenient to the successful completion of the project and the carrying out of all the duties and obligations imposed by the contract.

Working Day:

A day, exclusive of Saturdays, Sundays and State-recognized holidays, on which weather and other conditions not under the control of the contractor permit construction operations to proceed for the major part of the day with the normal working force engaged in performing the controlling item or items of work which would be in progress at that time.

SECTION 102 BIDDING REQUIREMENTS AND CONDITIONS:

102.01 Advertisements for Bids:

The advertisement for bids may contain the following information:

- Project number and name of highway,
- Route number and mileposts or reference markers.
- Date, time and place of public opening of bids,
- Location and length of project,
- General description of work, principal items and approximate quantities,
- Specified contract time (working days, calendar days or fixed dates) for completion of contract work,
- Statement of proposal requirements,
- Manner in which project plans and specifications may be obtained and the cost of same.
- Type and amount of proposal guaranty.

Unc
ven
of c

102

Upc
pro
des
app

per
iter
sta
am
ope
Prc
Sta
the

102.02 Prequalification of Bidders:

Prior to submitting a bid, the bidder will (unless waived by the Department) be required to be prequalified with the Department to bid on the project. The submission of Prequalification information and determination of Prequalification shall be in accordance with the requirements of the Rules for Prequalification of Contractors as approved and adopted by the Department.

102.03 Suspension from Bidding:

The Department may suspend any person and any subsidiary or affiliate of any person from further bidding to the Department and from being a subcontractor or a supplier or otherwise participating in the work:

All
cor
Dra
wil

EXHIBIT C

GENERAL PROVISIONS

SECTION 20

PROPOSAL REQUIREMENTS AND CONDITIONS

20-03 CONTENTS OF PROPOSAL FORMS. The Owner shall furnish bidders with proposal forms. All papers bound with or attached to the proposal forms are necessary parts of the proposal. The proposal submitted by the bidder must include the entire bid packet.

The plans, specifications, and other documents designated in the proposal whether attached or not to the proposal are considered as a part of and included with the proposal.

20-04 ISSUANCE OF PROPOSAL FORMS. The Owner reserves the right to refuse to issue a proposal form to a prospective bidder should such bidder be in default for any of the following reasons:

- (a) Failure to comply with any prequalification regulations of the Owner, if such regulations are cited, or otherwise included, in the proposal as a requirement for bidding.
- (b) Failure to pay, or satisfactorily settle, all bills due for labor and materials on former contracts in force (with the Owner) at the time the Owner issues the proposal to a prospective bidder.
- (c) Contractor default under previous contracts with the Owner.
- (d) Unsatisfactory work on previous contracts with the Owner.

20-05 INTERPRETATION OF ESTIMATED PROPOSAL QUANTITIES. An estimate of quantities of work to be done and materials to be furnished under these specifications is given in the proposal. It is the result of careful calculations and is believed to be correct. It is given only as a basis for comparison of proposals and the award of the contract. The Owner does not expressly or by implication agree that the actual quantities involved will correspond exactly therewith; nor shall the bidder plead misunderstanding or deception because of such estimates of quantities, or of the character, location, or other conditions pertaining to the work. **Payment to the Contractor will be made only for the actual quantities of work performed or materials furnished in accordance with the plans and specifications.** It is understood that the quantities may be increased or decreased as hereinafter provided in the subsection titled ALTERATION OF WORK AND QUANTITIES of Section 40-02 without in any way invalidating the unit bid prices.

20-06 EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE. The bidder is expected to carefully examine the site of the proposed work, the proposal, plans, specifications, and contract forms. He shall satisfy himself as to the character, quality, and quantities of work to be performed, materials to be furnished, and as to the requirements of the proposed contract. The submission of a proposal shall be prima facie evidence that the bidder has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the proposed contract, plans and specifications.

Proposal Requirements & Conditions continued...

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 drawings or specifications, he may submit to the Owner's Engineer a written request for an interpretation or correction thereof. The person submitting the request will be responsible for its prompt delivery. Any interpretation or correction of the contract documents will be made only by addendum duly issued and a copy of such addendum will be made or delivered to each person having received a set of such documents. The Owner will not be responsible for any other explanations or interpretations of the contract documents.

Any addenda or bulletins issued during the time of bid preparations, forming a part of the contract documents furnished the bidder for the preparation of his bid, shall be covered in the bid, and shall be made a part of the contract.

20-07 PREPARATION OF PROPOSAL The bidder shall submit his proposal on the forms furnished by the Owner. All blank spaces in the proposal forms must be correctly filled in where indicated for each and every item for which a quantity is given. The bidder shall state the price (written in ink or typed) in NUMERALS for which he proposes to do each pay item furnished in the proposal. The TOTAL AGGREGATE AMOUNT bid shall be stated in both WORDS and NUMERALS. A minimum of one (1) original and two (2) copies all with original signatures shall be submitted.

The bidder shall sign his proposal correctly and in ink. If the proposal is made by an individual, his name and mailing address must be shown. If made by a partnership, the name and mailing address of each member of the partnership must be shown. If made by a corporation, the person signing the proposal shall give the name of the state under which the laws of the corporation were chartered and the name, titles, and business address of the president, secretary, and the treasurer. Anyone signing a proposal as an agent shall file evidence of his authority to do so and that the signature is binding upon the firm or corporation.

20-08 IRREGULAR PROPOSALS. Proposals shall be considered irregular for the following reasons:

- (a) If the proposal is on a form other than that furnished by the Owner, or if the Owner's form is altered, or if any part of the proposal form is detached.
- (b) If there are unauthorized additions, conditional or alternate pay items, or irregularities of any kind which make the proposal incomplete, indefinite, or otherwise ambiguous.
- (c) If the proposal does not contain a unit price for each pay item listed in the proposal, except in the case of authorized alternate pay items, for which the bidder is not required to furnish a unit price.
- (d) If the proposal contains unit prices that are obviously unbalanced.
- (e) If the proposal is not accompanied by the proposal guaranty specified by the Owner.

Proposal Requirements & Conditions continued...

The Owner reserves the right to reject any irregular proposal and the right to waive technicalities if such waiver is in the best interest of the Owner and conforms to local laws and ordinances pertaining to the letting of construction contracts.

20-09 PROPOSAL GUARANTY. Each proposal shall be accompanied by a certified check, cashier's check or surety bond for ten percent (10%) of the amount of the bid included in the proposal as a guarantee that the Contractor will enter into a contract to perform the proposed work in accordance with the plans and specifications.

20-10 DELIVERY OF PROPOSAL. Each proposal submitted shall be placed in a sealed envelope plainly marked with the project number, name of project, and name and business address of the bidder on the outside. When sent by mail, preferably registered, or courier, the sealed proposal, marked as indicated above, should be enclosed in an additional envelope. No proposal will be considered unless received at the place specified in the advertisement before the time specified. Proposals received after the specified time shall be returned to the bidder unopened.

20-11 WITHDRAWAL OR REVISION OF PROPOSALS. A bidder may withdraw or revise (by withdrawal of one proposal and submission of another) a proposal provided that the bidder's request for withdrawal is received by the Owner in writing or by telegram before the time specified for receipt of bids. Revised proposals must be received at the place specified in the advertisement before the time specified for receipt of bids.

20-12 PUBLIC OPENING OF PROPOSALS. Proposals shall be opened and read publicly at the time and place specified in the advertisement. Bidders, their authorized agents, and other interested persons are invited to attend.

Proposals that have been withdrawn (by written or telegraphic request) or received after the time specified shall be returned to the bidder unopened.

This will be the only time, until bid award, this information will be revealed.

20-13 DISQUALIFICATION OF BIDDERS. A bidder shall be considered disqualified for any of the following reasons:

- (a) Submitting more than one proposal from the same partnership, firm, or corporation under the same or different name.
- (b) Evidence of collusion among bidders. Bidders participating in such collusion shall be disqualified as bidders for any future work of the Owner until any such participating bidder has been reinstated by the Owner as a qualified bidder.
- (c) If the bidder is considered to be in "default" for any reason specified in the subsection titled ISSUANCE OF PROPOSAL FORMS of Section 20-04.
- (d) Failure to submit all required official bid forms.

Proposal Requirements & Conditions continued...

20-14 PROTESTS. Only other bidders have the right to protest. A protest of a proposed award or of an award must be filed within ten (10) days after the bid award by the Gila County Board of Supervisors and must be sent to the Board of Supervisors. A protest must be in writing and must include:

- (a) Name, address and telephone number of the protester.
- (b) Signature of the protester or its representative, and evidence of authority to sign.
- (c) Identification of the contract and the solicitation or contract number.
- (d) Detailed statement of the legal and factual grounds of protest including copies of relevant documents.
- (e) The form of relief requested.

All protests shall be sent to the attention of the Gila County Board of Supervisors, 1400 E. Ash Street, Globe, Arizona 85501

EXHIBIT D

ARIZONA DEPARTMENT OF TRANSPORTATION
INTERMODAL TRANSPORTATION DIVISION
RULES FOR PREQUALIFICATION OF CONTRACTORS
(R17-3-201 thru R17-3-204)

R17-3-201. General

A. Definitions.

1. "Application" means a request for contractor prequalification, consisting of an application booklet available from the Department's office of Contracts and Specifications, and a financial statement prepared according to the requirements of this subsection and R17-3-202.
2. "Board" means the Contractor Prequalification Board.
3. "Compiled financial statement" means a financial statement prepared for form, appropriateness, and arithmetic accuracy. It does not express an opinion or provide any assurance regarding the financial statement.
4. "Contractor" means the individual, partnership, firm, corporation, joint venture, or any combination acceptable to the Department, that seeks to contract with the Department for constructing or reconstructing state transportation facilities, unless the context requires otherwise.
5. "Contractor prequalification" means the Department's process of review and evaluation of a contractor's work history and current financial condition before a contractor is allowed to submit a proposal for constructing or reconstructing state transportation facilities.
6. "Department" means the Arizona Department of Transportation.
7. "Examined financial statement" means a financial statement that includes the amounts and disclosures in the firm's financial statement, an assessment of the accounting principles used and the significant estimates made by management, and an evaluation of the overall financial statement presentation.
8. "Financial statement" means a financial report prepared according to generally accepted accounting principles by an independent certified public accountant or an independent public accountant. The financial statement includes a cover letter on the accountant's letterhead, a balance sheet, a statement of cash flows, an income statement, and all notes and appropriate supporting schedules.
9. "Joint venture" means the combination of two or more contractors for the purpose of submitting a proposal to the Department and performing a contract for constructing or reconstructing state transportation facilities.
10. "Prequalification amount" means the dollar limitation of each contract, based on the Department's estimate of contract value, for which a contractor may submit a proposal to the Department for constructing or reconstructing state transportation facilities.
11. "Reviewed financial statement" means a financial statement that includes an inquiry of company personnel, and a review of the analytical procedures applied to the financial data. It does not express an opinion regarding the financial statement taken as a whole.
12. "State Engineer" has the meaning in A.R.S. § 28-6901(3).

B. Contractor Prequalification Board

1. The State Engineer shall appoint the Board to consider and decide on applications for contractor prequalification.
2. The Board will be comprised of three Department employees, one of whom shall be a professional engineer, registered by the Arizona Board of Technical Registration, and one a certified or licensed public accountant.
3. The Board's authority to determine prequalification does not limit the Department's ability to establish additional criteria for contracts.

R17-3-202. Contractor Prequalification

- A. Criteria.** An applicant for contractor prequalification shall include on the application and the Board shall consider the following information in determining the prequalification amount for a contractor:
1. Key personnel and their work experience.
 2. Organizational structure.
 3. History of past or current projects and contracts.
 4. Company affiliations.
 5. Equipment owned or controlled.
 6. Any applicable licenses.
 7. Type of work requested.
 8. Individuals authorized to act on behalf of the contractor.
 9. Any prequalification or bidding disputes with a government agency, and
 10. Financial condition.
- B. Joint Ventures.**
1. Each contractor in a proposed joint venture shall be prequalified. The joint venture shall submit a joint venture statement of intent at least 5 calendar days before the applicable bid opening date.
 2. If one or more of the parties to the joint venture are corporations, a copy of a resolution from the Board of Directors authorizing the corporation to enter into the joint venture and execute all contract documents shall be submitted with the statement of intent.
 3. Contractors operating as a joint venture on a continuing basis may file for prequalification as a joint venture.
 4. The Board may allow a contractor operating as a joint venture to prequalify for a pro rata share of the entire contract amount. The percentage share of work shall not exceed each individual contractor's prequalification amount.
- C. Prequalification Expiration and Extension.**
1. Prequalification expires 15 months after the end of a contractor's fiscal year, as reflected on the financial statement. Due to the time necessary to prepare an examined financial statement, the Board may grant up to a 60 day extension on the expiration of prequalification, if:
 - a) The contractor submits a letter from its accountant stating the reasons for delay in preparing the examined financial statement, and
 - b) The letter from the accountant states the anticipated completion date of the examined financial statement, and
 - c) The contractor submits an interim compiled or reviewed financial statement that was prepared within the previous six months.
 2. The Board will notify each contractor in writing of its decision on the contractor's prequalification amount.
- D. Classification of Contractors.** The Board shall categorize contractors into the following classifications:
1. **Inexperienced firms:** Firms that have no experience as contractors in transportation facilities construction work.
 2. **New firms:** Recently organized firms that have officers with experience with other contractors in positions of responsibility for transportation facilities construction.
 3. **Unknown firms:** Firms that have experience as contractors but have not completed a transportation facilities construction contract as a contractor for the Department within the past five years or at any time.
 4. **Known firms:** Firms that have successfully completed at least one transportation facilities construction contract within the past five years as a contractor for the Department.

E. Classification of Financial Statements.

1. All financial statements shall be examined, reviewed, or compiled according to generally accepted accounting principles, by either an independent certified public accountant or an independent public accountant, registered and licensed under the laws of any state. A contractor shall not submit a financial statement prepared by either a certified or public accountant who is directly or indirectly interested in or affiliated with the business of the contractor.
2. A contractor that submits a compiled financial statement will be limited to a maximum prequalification amount of \$300,000.
3. A contractor that submits a reviewed financial statement will be limited to a maximum prequalification amount of \$1.5 million.
4. A contractor that desires a prequalification amount in excess of \$1.5 million shall submit an examined financial statement.

F. Prequalification Limits. In determining the prequalification amount for each contractor, the amount set by the Board may be less than the maximum amount set out in this subsection due to the Board's evaluation of the contractor's information under R17-3-202(A).

1. **Inexperienced firms.** An inexperienced firm will be limited to a maximum prequalification amount of \$300,000 until the contractor has satisfactorily completed at least one transportation facilities construction contract for any public agency.
2. **New firms.** A new firm will be limited to a maximum prequalification amount of five times the firm's net worth.
3. **Unknown firms.** An unknown firm will be limited to a maximum prequalification amount of five times the firm's net worth or the amount of the largest transportation facilities construction contract it has successfully completed as a contractor for any other public agency, whichever is larger.
4. **Known firms.** A known firm will be limited to a maximum prequalification amount of ten times the firm's net worth. An unlimited prequalification amount may be granted if the product of ten times the firm's net worth exceeds \$100 million.
5. **All firms.** Evidence of additional assets pledged in behalf of a contractor or letters from a contractor's surety company may be considered in establishing higher prequalification amounts than stated in subsections (F)(2) through (F)(4). A parent company that pledges assets in behalf of a contractor shall submit a financial statement.

G. Reconsideration of Prequalification Determination.

1. If a contractor is dissatisfied with the Board's decision, the contractor may request in writing a hearing, within 15 days of receiving the Board's decision. The hearing shall be conducted under A.R.S. § 41-1062. The letter shall indicate the basis for the request and shall provide supportive data. The Board shall review the request and accompanying information and decide on the request within 30 calendar days of its receipt.
2. If the contractor is still dissatisfied with the decision of the Board, the contractor may appeal to the State Engineer. The Board shall notify the contractor about the appeal procedures.

H. Issuance of Bidding Documents. A contractor shall not request bid documents for a contract for which it is not prequalified.

I. The Department may waive the prequalification requirement on an individual contract when it is in the best interest of the state. The advertisement for bids shall identify if prequalification is waived.

R17-3-203. Reduced Prequalification Amounts or Disqualifications

- A. The Board may reduce the prequalification amount of a contractor already prequalified or disqualify a contractor from bidding if a contractor:
1. Falsifies any document or misrepresents any material fact in the information furnished to the Department;
 2. Fails to enter into a contract with the Department;
 3. Defaults on a previous contract with any public agency;
 4. Has an unsatisfactory work performance record with the Department on the basis of workmanship, competent superintendence, adequate and proper equipment, timely completion, or failure to submit required documentation for closing out a contract; or
 5. Fails to provide notification to the Board, within 30 calendar days of occurrence, of any change in ownership, corporate officers or general partners, bankruptcy, receivership, court supervised reorganization, or the entry of a judgement in a judicial or administrative proceeding adverse to the contractor.
- B. The Board shall notify a contractor in writing of its intention to reduce the prequalification amount or to disqualify a contractor. The Board's notice to reduce prequalification or to disqualify a contractor shall become a final determination unless the contractor requests a hearing with the Board within 20 calendar days after receiving such notification. The Board shall notify the contractor about the hearing procedures.
- C. The contractor may appeal the Board's decision to the State Engineer. The Board shall notify the contractor about the appeal procedures.

R17-3-204. Access to Department Prequalification Files.

Prequalification files are considered to be strictly confidential. The files will be available only to:

1. Members of the Board,
2. The Director of the Department or any authorized agents of the Department,
3. Members of the Arizona State Transportation Board,
4. The division administrator of the Federal Highway Administration or any authorized representatives,
5. Agents of surety upon the filing of an application for bond duly signed by an authorizing party of the prequalified firm contractor,
6. Members of the Arizona State Board of Accountancy or their duly authorized representatives, and
7. The contractor that is the subject of the file.

EXHIBIT E

GILA COUNTY
QUALIFICATION AND CERTIFICATION FORMS

Purpose

This exhibit shall serve as a requirement to enable the evaluation team to assess the qualifications of Contractors under consideration for final award.

The information may or may not be a determining factor in award.

Contract Number 080211-1 GILA COUNTY PWD COMPLEX ROADYARD SHOP AREA PAVING PHASE

The applicant submitting this Bid warrants the following:

1. Name, Address, and Telephone Number of Principal Contractor:

2. Had Contractor (under its present or any previous name) ever failed to complete a contract?
_____Yes _____No. If "Yes, give details, including the date, the contracting agency, and the reasons Contractor failed to perform in the narrative part of this Contract.

3. Has Contractor (under its present or any previous name) ever been disbarred or prohibited from competing for a contract? _____Yes _____No. If "Yes", give details, including the date, the contracting agency, the reasons for the Contractors disqualification, and whether this disqualification remains in effect in the narrative part of this Contract.

4. Has a contracting agency ever terminated a contract for cause with Contractor (under your firm's present or any previous name)? _____Yes _____No. If "Yes", give details including the date, the contracting agency, and the reasons Contractor was terminated in the narrative part of this Contract.

5. Contractor must also provide at least the following information:
 - a. A brief history of the Contractors Firm.
 - b. A Cost Proposal shall be submitted on the Price Sheet, attached hereon and made a full part of this contract by this reference.
 - c. A list of previous and current customers, which are considered identical or similar to the Scope of Work described herein; shall be submitted on the Reference List, attached hereon and made a full part of this contract by this reference.

- d. List of any subcontractors (if applicable) to be used in performing the service must accompany the Proposal. The subcontractors Arizona ROC, contact name and phone # must be included.
- e. List the specific qualifications the Contractor has in supplying the specified services.
- f. Gila County reserves the right to request additional information.

6. **Contractor Experience Modifier (e-mod) Rating in Arizona:** _____
A method the National Council on Compensation Insurance (NCCI) uses to measure a business' computed loss ratio and determine a factor, which when multiplied by premium, can reward policyholders with lower losses. E-mod rate may be a determining factor in bid award.

7. **Current Arizona Contractor License Number:** _____

Signature of Authorized Representative

Printed Name

Title