

RESOLUTION NO. 2893

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ("PAYSON") APPROVING THE GREEN VALLEY PARK FISH FENCE PROJECT CONTRACT WITH HIGH NOON CONSTRUCTION LLC ("CONTRACTOR"), UNDER THE BUREAU OF RECLAMATION ("BOR") ESTABLISHED TRUST FUND.

WHEREAS, pursuant to A.R.S. § 9-240 (B)(6), the Common Council shall have power to provide the Town with water, to construct public wells, cisterns and reservoirs in the streets and other public and private places within the town and beyond the limits thereof and to supply the same with pumps and conducting pipes or ditches; and

WHEREAS, pursuant to A.R.S. § 9-571 (A), the Town of Payson may construct, acquire from a willing seller or improve a wastewater treatment facility, drinking water facility or nonpoint source project; and

WHEREAS, Title 11, Chapter 7, Article 3 (A.R.S. § 11-952) authorizes two or more public agencies to enter into an Intergovernmental Agreement (IGA) or a Memorandum of Understanding (MOU), if authorized by their legislative or governing bodies; and

WHEREAS, on January 21, 1994, Payson entered into a Memorandum of Understanding with the United States of America acting through the Bureau of Reclamation ("BOR") for the creation of a Trust Fund for use in projects that benefit the environment, principally areas of riparian creation, enhancement and preservation; and

WHEREAS, Trust monies were deposited in the Trust Fund in the sum of \$325,000.00 for use in the Environmental Projects with the BOR acting as additional Trustee and Payson exercising its powers to direct the investment of monies and to establish a Commission to make recommendations to Payson on specific projects to spend Trust monies; and

WHEREAS, the Town of Payson created an Environmental Projects Commission ("EPC") for the purpose of recommending projects to be funded under the Trust Fund and on September 3, 2015, the EPC made its recommendations to Mayor and Council at its City Council meeting which were adopted; and

WHEREAS, the Town of Payson desires to contract the Construction Services of High Noon Construction LLC, c/o Ronald Garrison, P.O. Box 5053, Tubac, Arizona 85646 for the Construction and Installation of the Green Valley Park Fish Fence Project; and

WHEREAS, the Town of Payson shall pay High Noon Construction LLC Fifty Two Thousand Nine Hundred Seventeen dollars and no/100 (\$52,917.00) for the services set forth in the Contract Scope of Services, Section 2.1.

Page 1

Prepared by Town of Payson Legal Department

HMF:drs December 22, 2015 (12:44PM)

O: Civil Resolutions 2800-2893 GVP FISH FENCE CONTRACT (High Noon Construction).doc

JAN 07 2016 G.L

NOW, THEREFORE, THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1: The Green Valley Park Fish Fence Contract with High Noon LLC is approved in the amount of \$52,917.00.

Section 2: Kenny J. Evans, Mayor of the Town of Payson, is authorized to execute the Contract in substantially the form attached hereto as Exhibit 1.

Section 3: That the Town and the Town Manager are authorized to take such other and further actions as may be necessary or appropriate to carrying out the intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this 7th day of January, 2016, by the following vote:

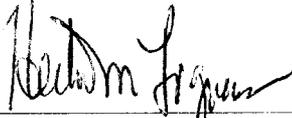
AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk



Hector M. Figuerod, Town Attorney

EXHIBIT 1

to Resolution No. 2893

**2016 GREEN VALLEY PARK FISH FENCE PROJECT
CONTRACT
BETWEEN
HIGH NOON CONSTRUCTION LLC
AND
THE TOWN OF PAYSON**

1. **Parties.** The parties to this Contract are High Noon Construction LLC, an Arizona limited liability company (“Contractor”), and the Town of Payson, an Arizona municipal corporation (“Town”) (collectively, the “Parties”). The Town and the Contractor agree as follows:

2. **Scope of Services**

2.1 The proposed work consists of the construction of approximately 580 linear feet of welded steel posts with welded wire mesh panels (“the Work”). This work will include the procurement of materials, foundation excavation, pouring concrete foundation, steel post fabrication, installation of prefabricated welded wire mesh panels and any other additional items as required for the completion of the project as shown on the plans, as called for in the Special Provisions, or as directed by the Town of Payson Water Department. This contract shall include the Total Bid Amount.

2.2 The term "Contract Documents" means and includes the following when prepared in conjunction with this Contract:

- A. Advertisement for bids or proposals;
- B. Information for bidders;
- C. Bid;
- D. Bid bond;
- E. Contract;
- F. General conditions;
- G. Supplemental general conditions;
- H. Payment bond;
- I. Performance bond;
- J. Notice of award;
- K. Notice to proceed;
- L. Drawings;
- M. Specifications;
- N. Addenda;
- O. Special provisions;
- P. Details;
- Q. Proposal;
- R. Plans.

2.3 The Contractor represents that it has visited the site or otherwise familiarized

itself with the conditions necessary to complete the Project.

2.4 The Contractor represents that: (a) it validly exists and is in good standing under the laws of Arizona, (b) it is appropriately licensed by the Arizona State Registrar of Contractors to perform this work, and (c) it is authorized to perform the work contemplated by the Contract Documents in the Town of Payson, County of Gila, State of Arizona.

2.5 The Contractor shall initiate, maintain, and supervise all safety precautions and programs in connection with the Project, and shall provide all reasonable protection to prevent damage, injury, or loss to: (a) employees on the Project and other persons who may be affected; (b) the Project, raw materials, and equipment to be incorporated therein; and (c) other property at the site or adjacent thereto, including, but not limited to trees, shrubs, walks, pavements, lawns, roadways, structures and utilities not designated for removal, relocation, or replacement in the course of construction.

3. **Effective Date and Term.**

This Contract shall be effective on the date of the last signature of the Parties and shall terminate as agreed herein. All work under this contract shall be completed within one hundred eighty (180) calendar days from the date specified in the Notice to Proceed.

4. **Compensation and Payment.**

The Contractor agrees to perform the work specified in Section 2.1 for the sum of Fifty-two Thousand, Nine Hundred and Seventeen Dollars (\$52,917.00).

5. **Insurance.** Contractor shall provide and maintain the minimum insurance coverage as follows:

5.1 Workers' Compensation Insurance to cover obligations imposed by Federal and State Statutes having jurisdiction of its employees engaged in the performance of the Services, and Employer's Liability insurance with a minimum limit of ONE HUNDRED THOUSAND DOLLARS (\$100,000).

5.2 Comprehensive General Liability insurance with a minimum combined single limit of ONE MILLION DOLLARS (\$1,000,000) for each occurrence. The policy shall include coverage for bodily injury liability, property damage liability, personal injury liability (including coverage for contractual and employee acts), and blanket contractual coverage. The policy shall contain a severability of interests provision.

5.3 Comprehensive Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) for each occurrence with respect to Contractor's vehicles.

- 5.4 The policies required by Sections 5.2 and 5.3 shall be endorsed to include Town, its officers and employees as additional insureds, and shall stipulate that the insurance afforded for Town, its officers and employees shall be primary insurance and that any insurance carried by Town, its officers and employees shall be excess and not contributory insurance.
- 5.5 Contractor and its insurers providing the required coverages shall waive all rights of subrogation against Town and its officers, employees, and agents.
- 5.6 Prior to commencing Services, Contractor shall furnish Town with Certificates of Insurance as evidence that policies providing the required coverages, conditions, and limits are in full force and effect. Such certificates shall provide that not less than thirty days advance notice of cancellation, termination, or alteration shall be sent directly to Town's representative as identified in Paragraph 15.2. Such Policies and Certificates of Insurance shall comply with the requirements set forth in Exhibits "A" and "B" hereto.
- 5.7 Town reserves the right to request and receive certified copies of any or all of the above insurance policies and/or endorsements.

6. **Indemnity.**

- 6.1 To the fullest extent permitted by law, Contractor, its successors and assigns shall indemnify and hold harmless Town, its officers and employees from and against all liabilities, damages, losses and costs (including reasonable attorney fees and court costs) to the extent caused by the negligence, recklessness, or intentional wrongful conduct of Contractor or other persons employed or used by the Contractor in the performance of this Agreement. Contractor's duty to indemnify and hold harmless Town, its officers and employees shall arise in connection with any claim, damage, loss, or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use of resulting there from, caused by Contractor's negligence, recklessness, or intentional wrongful conduct in the performance of this Agreement and the negligence, recklessness, or intentional wrongful conduct by Contractor or by any person used by Contractor in the performance of this Agreement.
- 6.2 Insurance provisions set forth in this Agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

7. **Modification.** This Contract may only be amended or modified by a written instrument executed by the Town and the Contractor.

8. **Termination.** In case of a breach of any provision in this Contract by Contractor, the Town may terminate this Contract, in whole or in part, by written notice to Contractor. Such termination will not limit or waive any other remedies available to the Town.
9. **Taxes.** Contractor shall have exclusive liability for and shall pay all taxes and fees imposed in connection with any part of the Services. Contractor shall hold the Town harmless for these taxes and fees.
10. **Laws and Regulations.** Contractor and its employees shall comply with all applicable laws, ordinances, statutes, rules, and regulations, of the United States, State of Arizona, and local governments, including but not limited to those relating to wages, hours, discrimination, and safety (including OSHA).
11. **Dispute Resolution.**
 - 11.1 This Contract shall be governed and construed in accordance with the laws of the State of Arizona.
 - 11.2 With the written consent of the Parties, any dispute, controversy, claim, or cause of action arising out of or related to this Contract may be settled by submission to binding arbitration in accordance with the rules of the American Arbitration Association and the Arizona Uniform Arbitration Act, A.R.S. § 12-1501, et seq. Judgment upon any award rendered by the arbitrator(s), if filed in Arizona Superior Court, shall be filed in the Superior Court of Gila County, Arizona.
 - 11.3 The venue for any such dispute shall be Gila County, Arizona. Both Parties consent in advance to such venue and jurisdiction and waive any right to object that Gila County is an inconvenient or improper forum.
 - 11.4 Neither Party shall be entitled to recover from the other Party any of its attorneys' fees, costs, or expert witness fees incurred in any such dispute, controversy, claim, or cause of action. Each Party shall bear its own attorneys' fees without contribution from the other party.
12. **Cancellation (A.R.S. §38-511).** This Contract is subject to the provisions of A.R.S. § 38-511 which provides for cancellation of contracts by the municipality for certain conflicts of interest.
12. **Town Business License.** Pursuant to the bid documents, the Contractor shall obtain a Town business license.
14. **Authorized Presence Requirements/Government Procurement (A.R.S. §41-4401).**
 - 14.1 Contractor and any Subcontractor employed by Contractor warrants their compliance with all Federal immigration laws and regulations that relate to their employees and with Arizona Revised Statutes Section 23-214(A) (E-Verify Program).

- 14.2 A breach of the warranty under Section 14.1 above shall be deemed a material breach of this Contract and shall be subject to penalties up to and including termination of the Contract.
- 14.3 The Town retains the legal right to inspect the papers of the Contractor or Subcontractor who works on this Contract to ensure that the Contractor and Subcontractor is complying with Section 14.1.

15. **Other Provisions.**

15.1 **Assignment.** Contractor shall not assign or subcontract the Contract or any part without the written consent of Town. The Town may withhold its consent for any or no reason. Any attempted assignment or subcontracting in violation of this Paragraph shall render this Contract void and of no effect.

15.2 **Notices.** All notices, filings, consents, approvals, and other communications under this Contract shall be made, delivered, or served, to:

Town: Town of Payson 303 North Beeline Highway Payson, Arizona 85541 Attention: Town Manager	Contractor: High Noon Construction LLC P. O. Box 5053 Tubac, Arizona 85646 Attention: Ron Garrison
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or to such other addresses as either Party may from time to time designate in writing and deliver in a like manner. Communication delivered by certified mail shall be deemed delivered forty-eight (48) hours following deposit in the U.S. mail, postage prepaid. Notices delivered personally shall be deemed delivered upon delivery.

15.3 **No Partnership.** Contractor is an independent contractor. This Contract shall not create any employment relationship, partnership, joint venture, or other arrangement between the Parties.

15.4 **No Third Party Beneficiaries.** No term or provision of this Contract is intended to be for the benefit of any person or entity not a Party, and no other person or entity shall have any right or cause of action hereunder.

15.5 **Counterparts.** This Contract may be executed in counterparts.

15.6 **No Waiver.** No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the Town of a breach of any of the covenants of this Contract shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Contract.

15.7 **Non-Appropriation/Non-Receipt.** The Town shall not have any liability for any future payments of money or expenditures, except for those amounts

appropriated, authorized, and administratively allocated for this work. The Town shall not have any liability for payments for which it does not have sufficient revenues.

- 15.8 **Construction of Contract.** This Contract shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of or against the party drafting this Contract. The parties acknowledge that each has had the opportunity to seek legal counsel in the review of an entry into this Contract.
- 15.9 **Further Documentation.** Each Party agrees in good faith to execute such further documents as may be necessary to carry out the intent of this Contract.
- 15.10 **Time of Essence.** Time is of the essence in this Contract.
- 15.11 **Time Periods.** Except as expressly provided for herein, the time for performance of any obligation or taking any action under this Contract shall be deemed to expire at 5:00 p.m. (Payson time) on the last day of the applicable time period provided. If the time for the performance of any obligation expires on a Saturday, Sunday, or legal holiday, the time for performance shall be extended to the next succeeding day which is not a Saturday, Sunday, or legal holiday.
- 15.12 **Severability.** If any portion of this Contract is found to be invalid, such finding will not affect the validity of the remainder of this Contract.
- 15.13 **Authority.** The Parties represent that each is fully authorized to execute this Contract by the individual(s) executing below.
- 15.14 **Entire Contract.** This Contract contains the entire agreement between the Parties pertaining to the subject matter. All prior or contemporaneous oral or written agreements concerning the subject matter of this Contract shall have no effect.

WHEREFORE, the Parties have caused this Contract to be executed by their duly authorized representatives.

HIGH NOON CONSTRUCTION LLC
an Arizona limited liability company

By _____
Ronald Garrison, Member

_____ Dated

TOWN OF PAYSON,
an Arizona municipal corporation

By _____
Kenny J. Evans, Mayor

_____ Dated

ATTEST:

Silvia Smith, Town Clerk

APPROVAL AS TO FORM

The Town of Payson Legal Department has reviewed this contract and approved it as to form. When reviewing this contract for form, the Legal Department considers whether the following contract provisions have been addressed:

1. Identification of parties to the Contract;
2. Offer and acceptance;
3. Existence of contract consideration but not whether consideration is adequate;
4. Town authority to enter into the transaction;
5. Town Officials signatory authority;
6. That certain provisions specifically required by statute are included as contract terms (i.e., provisions concerning non - availability of funds and conflict of interest, A.R.S. § 38 -511).

The Town of Payson Legal Department has limited the legal review as noted herein. Therefore, approved as to form should not be deemed as approval of the appropriateness of the terms or conditions of the contract or the underlying transaction. In addition, approval as to the form should not be considered approval of the underlying policy considerations addressed by the contract.

APPROVED AS TO FORM

By _____
Hector M. Figueroa, Town Attorney

Date: _____

EXHIBIT "A"
INSURANCE REQUIREMENTS

The Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed, possessing a current A.M. Best, Inc. rating of B++6, or approved unlicensed in the State of Arizona with policies and forms satisfactory to the Town.

All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted; failure to do so may, at the sole discretion of the Town, constitute a material breach of this Contract.

The contractor's insurance shall be primary insurance as respects the Town, and any insurance or self-insurance maintained by the Town shall not contribute to it.

Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect coverage afforded under the insurance policies to protect the Town.

The insurance policies, except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against the Town, its agents, officers, officials, and employees for any claims arising out of the Contractor's acts, errors, mistakes, omissions, work or service.

The insurance policies may provide coverage which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the Town under such policies. The Contractor shall be solely responsible for the deductible and/or self insured retention, and the Town, at its option, may require the Contractor to secure payment of such deductibles or self-insured retentions by a Surety Bond or an irrevocable and unconditional letter of credit.

The Town reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. The Town shall not be obligated, however, to review same or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of, the Town's right to insist on strict fulfillment of Contractor's obligations under this contract.

The insurance policies, except Workers' Compensation and Professional Liability, required by the Contract, shall name the Town, its agents, officers, officials and employees as Additional Insureds.

COMMERCIAL GENERAL LIABILITY COVERAGE

Contractor shall maintain Commercial General Liability Insurance with a limit of not less than \$1,000,000 for each occurrence with a \$2,000,000 Products/Completed Operations Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations, and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Contract, which coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 00011093, or any replacements thereof. Such policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, nor any provision which would serve to limit third party action over claims.

The Commercial General Liability additional insured endorsements shall be at least as broad as the Insurance Service Office, Inc.'s Additional Insured, Form B, CG 20151185, and shall include coverage for Contractor's operations and products, and complete operations.

If required by the Contract, the Contractor subletting any part of the work, services or operations awarded to the Contractor shall purchase and maintain, at all times during prosecution of the work, services, or operations under this Contract, an Owner and Contractor's Protective Liability insurance policy for bodily injury and property damage, including death, which may arise in the prosecution of the Contractor's work, service, or operations under this Contract. Coverage shall be on an occurrence basis with a limit not less than \$1,000,000 per occurrence, and the policy shall be issued by the same insurance company that issues the Contractor's Commercial General Liability Insurance.

WORKERS' COMPENSATION

The contractor shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit.

In case any work is subcontracted, the Contractor will require the Subcontractor to provide Workers' Compensation and Employer's Liability to at least the same extent as required of the Contractor.

PROFESSIONAL LIABILITY

The Contractor retained by the Town, to provide the work or service required by the Contract will maintain Professional Liability insurance covering acts, errors, mistakes and omissions arising out of the work or services performed by the Contractor, or any person employed by the Contractor, with a limit of not less than \$1,000,000 each claim.

EXHIBIT "B"
CERTIFICATES OF INSURANCE

Prior to commencing work or services under this Contract, Contractor shall furnish the TOWN with Certificates of Insurance, or formal endorsements as required by the Contract, issued by Contractor's insurer(s), as evidence that policies providing the required coverages, conditions, and limits required by the Contract are in full force and effect.

In the event any insurance policy(ies) required by this contract is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Contractor's work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the Contract, a renewal certificate must be sent to the TOWN fifteen (15) days prior to the expiration date.

All Certificates of Insurance shall be identified with bid name and/or number. A \$25.00 administrative fee will be assessed for all certificates received without the appropriate bid name and/or number.

CANCELLATION AND EXPIRATION NOTICE

Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the TOWN.

ARIZONA STATUTORY PAYMENT BOND
PURSUANT TO TITLE 28, 34, AND 41,
ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS: That, _____ (hereinafter "Principal"), as Principal, and _____, (hereafter "Surety"), a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____, holding a certificate of authority to transact surety business in Arizona issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, as Surety, are held and firmly bound unto the **Town of Payson, Arizona** (hereinafter "Oblige"), in the amount of _____ Dollars and _____/100 (\$ _____), for the payment whereof, Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Oblige, dated the _____ day of _____, 2015, for the construction of the Green Valley Park Fish Fence Project of the Town of Payson, Arizona which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

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

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

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

Witness our hands this _____ day of _____, 2015.

SEAL

Principal

BY: _____

SURETY

BY: _____

AGENCY OF RECORD

AGENCY ADDRESS

ARIZONA STATUTORY PERFORMANCE BOND
PURSUANT TO TITLE 28, 34, AND 41,
ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS: That, _____, (hereinafter "Principal"), as Principal, and _____, (hereafter "Surety"), a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____, holding a certificate of authority to transact surety business in Arizona issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, as Surety, are held and firmly bound unto the **Town of Payson, Arizona** (hereinafter "Oblige"), in the amount of _____ Dollars and _____/100 (\$_____.____), for the payment whereof, Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Oblige, dated the _____ day of _____, 2015, for the construction of the Green Valley Park Fish Fence Project of the Town of Payson, Arizona which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

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

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

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

Witness our hands this _____ day of _____, 2015.

SEAL

Principal

BY: _____

SURETY

BY: _____

AGENCY OF RECORD

AGENCY ADDRESS

TOWN OF PAYSON, ARIZONA
WATER DEPARTMENT
CONTRACTOR'S AFFIDAVIT REGARDING SETTLEMENT OF CLAIMS
Part 100, Section 109, General Conditions

PROJECT: "The construction of the Green Valley Park Fish Fence Project ", which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length herein.

To the Town of Payson, Arizona

Ladies and Gentlemen:

This is to certify that all lawful claims for materials, rental of equipment and labor used in connection with the construction of the above project, whether by subcontractor or claimant in person, have been duly discharged.

The undersigned, for the consideration of \$ _____, as set out in the final pay estimated, as full and complete payment under the terms of the Contract, hereby waives and relinquishes any and all further claims or right of lien under, in connection with, or as a result of the above described project. The undersigned further agrees to indemnify and save harmless the Town of Payson against any and all liens, claims of liens, suits, actions, damages, charges and expenses whatsoever, which said City may suffer arising out of the failure of the undersigned to pay for all labor, performance and materials furnished for the performance of said installation.

Signed and dated at _____,
this _____ day of _____, 2015.

CONTRACTOR

By: _____

STATE OF ARIZONA)

)§

COUNTY OF GILA)

The foregoing instrument was subscribed and sworn to before me this _____ day of _____, 2015.

Notary Public

My Commission Expires: _____