

**SMALL PROJECT AGREEMENT  
REGARDING THE INSTALLATION OF  
CONCRETE RAIL FENCE**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between:

**TURTLE RUN COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special purpose government established pursuant to Chapter 190, Florida Statutes, located in Coral Springs, Broward County, Florida, and with offices at 5385 N. Nob Hill Road, Sunrise, Florida 33351 (the "District"),

and

**SUPERIOR CONCRETE PRODUCTS, INC.**, a Texas corporation authorized to do business in the State of Florida, having as its principal business address, 1203 Raider Drive, Euless, Texas 76180 (the "Contractor").

**RECITALS**

**WHEREAS**, the District is a local unit of special purpose government established pursuant to and governed by Chapter 190, Florida Statutes; and

**WHEREAS**, the District desires to complete a concrete Superior 2-Rail fence installation project at along the east side Turtle Run Boulevard north of Sample Road and in the vicinity of the part of the northern boundary to the Florida Power & Light Easement, all as more particularly described in Contractor's Estimate dated August 29 2017 and as depicted as a redline on the aerial map, each attached hereto and incorporated herein as Composite Exhibit A and in the Construction Plans for \_\_\_\_\_, prepared by \_\_\_\_\_ and attached hereto and incorporated herein as Exhibit B (collectively referred to herein as the "Project"); and

**WHEREAS**, the Board of Supervisors of the District at its meeting of September 11, 2017, authorized the proper District officials to enter into this Agreement with Contractor; and

**WHEREAS**, Contractor represents that it is qualified and possesses the necessary equipment, skill, labor, licenses, and experience to perform and complete the Project and further agrees that upon approval by all parties to the License Agreement and receipt of a Notice to Proceed from the District, Contractor will take the necessary steps to undertake the Project in accordance with this Agreement.

**NOW, THEREFORE**, in consideration of the recitals, agreements, and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

**SECTION 1. RECITALS.** The recitals so stated are true and correct and by this reference are incorporated, inclusive of the above referenced exhibits, into and form a material part of this Agreement.

**SECTION 2. DUTIES.**

A. The duties, obligations, and responsibilities of the Contractor are those as more particularly described in this Agreement and the exhibits attached hereto and incorporated herein.

B. Contractor shall be solely responsible for the means, manner and methods by which its duties, obligations and responsibilities are met in accordance with this Agreement and industry standards.

C. Contractor shall report to the District Manager or his designee.

D. Contractor shall furnish all materials, supplies, machines, equipment, tools, superintendents, labor, insurance, bonds, maintenance of traffic, and other accessories and services necessary to complete said Project in accordance herewith and with the conditions and prices as stated herein and in Composite Exhibit A.

E. Contractor shall furnish all tools, equipment, materials and supplies necessary to do all the work associated with the Project in a substantial and workmanlike manner.

F. Contractor shall perform all the work and labor pursuant to this Agreement.

G. Contractor shall remove and clean up all rubbish, debris, excess material, tools and equipment from streets, rights-of-way, alleys, parkways, park properties and facilities, greenspace, and adjacent property in connection with the Project and Contractor's performance of this Agreement.

H. Contractor will be held responsible for the care, protection and condition of all work until final completion and acceptance thereof, and will be required to make good at his own cost any damage or injury occurring from any cause resulting from Contractor's acts or omissions or the acts or omissions of its subcontractors or suppliers.

I. Contractor shall be fully responsible for developing, maintaining, and implementing any plans required by the City or the County, or Florida Power & Light as part of the permitting process or in connection with the Contractor's work. Contractor acknowledges and understands that a portion of the Project is to be constructed within a Florida Power & Light Easement containing high voltage electrical wires and equipment, and that Contractor shall be responsible for complying with all easement and permit conditions imposed by Florida Power & Light for construction within the easement area.

**SECTION 3. COMPENSATION.** District agrees to compensate the Contractor in the lump sum amount of ONE HUNDRED TEN THOUSAND SEVEN HUNDRED NINE AND 60/100

(\$110,709.60) DOLLARS (\$48.90 per linear foot for 2,264 linear feet) in accordance with the payment schedule below:

### PAYMENT SCHEDULE

<u>Description</u>	<u>Amount</u>	<u>Payment Due</u>
Initial Payment	\$ 27,677.40	Execution of Agreement
Second Payment	\$ 27,677.40	Start of Work
Final Payment	\$ 55,354.80	Completion of Project
<b>TOTAL</b>	<b>\$ 110,709.60</b>	

Contractor shall not be entitled to any compensation hereunder until the notice to proceed has been issued to Contractor by District.

Payment of the Final Payment will be made upon completion of the work necessary to complete the Project and after the Project has passed final inspection by the District, the City, and any other applicable permitting agencies. Invoices shall be generated from the Contractor and delivered to the District so that payments can be made in accordance with this payment schedule.

**SECTION 4. INDEPENDENT CONTRACTOR.** This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the Contractor is an independent contractor under this Agreement and not the District's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. The Contractor shall retain sole and absolute discretion in the judgment of the manner and means of carrying out Contractor's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Contract shall be those of Contractor, which policies of Contractor shall not conflict with District, or other government policies, rules or regulations relating to the use of Contractor's funds provided for herein. The Contractor agrees that it is a separate and independent enterprise from the District, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Contract shall not be construed as creating any joint employment relationship between the Contractor and the District and the District will not be liable for any obligation incurred by Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

**SECTION 5. TERM.** This Agreement shall commence upon signature, and shall continue until the scope of work described herein and in Composite Exhibit A is completed. The Project shall be completed in an expeditious manner to limit the inconvenience to the residents of Turtle Run and the general public utilizing the pedestrian areas and rights-of-way within and ingress and egress points of the Turtle Run community. The Project shall be completed by Contractor within \_\_\_\_\_ days of the District's direction to proceed or issuance of a notice to proceed to Contractor.

**SECTION 6. INDEMNIFICATION.**

A. To the fullest extent permitted by law, Contractor shall at all times hereafter indemnify, hold harmless, and defend the Turtle Run Community Development District, its respective officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by intentional, reckless, or negligent acts of, or omission of, Contractor, its employees, agents, servants, or officers, or accruing, resulting from, or related to the services provided by Contractor under the agreement including, without limitation, any and all claims, losses, liabilities, expenditures, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property.

B. The Contractor and the District hereby agree and covenant that the Contractor has incorporated in the original cost proposal, which constitutes the contract sum payable by the District to the Contractor, specific additional consideration in the amount of ten dollars (\$10.00) sufficient to support this obligation of indemnification provided for in this paragraph. The indemnification required pursuant to the Agreement shall in no event be less than \$1 million per occurrence or no more than the limits of insurance required of the Contractor by the Agreement, whichever is greater. It is the District's and Contractor's full intention that this provision shall be enforceable and said provision shall be in compliance with Section 725.06, Florida Statute.

C. The execution of this Agreement by the Contractor shall obligate Contractor to comply with the foregoing indemnification provision, as well as the insurance provisions which are set forth in Section 11 of this Agreement. However, the indemnification provision, and the insurance provision are not interdependent of each other, but rather each one is separate and distinct from the other.

D. Nothing herein is intended to be construed, by either party, as a waiver of the protections, immunities, and limitations afforded a governmental entity pursuant to Section 768.28, Florida Statutes.

**SECTION 7. ENFORCEMENT.** A default by either party under this Agreement shall entitle the other party to all remedies available at law or in equity, which shall include, but not be limited to, the right of damages, injunctive relief and specific performance.

**SECTION 8. RECOVERY OF COSTS AND FEES.** In the event that either party is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party, to the extent permitted by Florida law, shall be entitled to recover from the other party all expenses, fees and costs incurred, including reasonable attorneys' fees and costs.

**SECTION 9. CANCELLATION.** The District shall also have the right to cancel this Agreement (1) for convenience at anytime prior to the issuance of a Notice to Proceed by District or (2) after

seven (7) days written notice to Contractor for Contractor's failure to perform in accordance with the terms of this Agreement and Contractor's failure to cure the non-compliance.

**SECTION 10. WARRANTY.** The Contractor warrants its work against defects in materials or workmanship for a period of five (5) years from final acceptance by District. Any defects noted within this time period shall be timely corrected by Contractor at Contractor's expense. Contractor shall make the necessary corrections within ten (10) days of receipt of the written notice from District. Contractor agrees that this warranty may be transferred to the City of Coral Springs or Broward County without further notification to Contractor.

**SECTION 11. INSURANCE.**

A. Contractor shall procure and maintain at its own expense and keep in effect during the full term of the Agreement a policy or policies of insurance which must include the following coverages and minimum limits of liability.

- (i) Worker's Compensation Insurance for statutory obligations imposed by Worker's Compensation or Occupational Disease Laws, including, where applicable, the United States Longshoreman's and Harbor Worker's Act, the Federal Employers' Liability Act and the Jones Act. Employer's Liability Insurance shall be provided with a minimum of one hundred thousand and xx/100 dollars (\$100,000.00) per accident. Contractor shall be responsible for the employment, conduct and control of its employees and for any injury sustained by such employees in the course of their employment.
- (ii) Comprehensive General Liability (occurrence form), with the following minimum limits of liability, with no restrictive endorsements:

\$1,000,000 Combined Single Limit, per occurrence, Bodily Injury & Property Damage Coverage shall specifically include the following with minimum limits not less than those required for Bodily Injury Liability and Property Damage Liability:

- 1. Premises and Operations;
- 2. Independent Contractors;
- 3. Product and Completed Operations Liability;
- 4. Broad Form Property Damage; and
- 5. Broad Form Contractual Coverage applicable to the Agreement and specifically insuring the indemnification and hold harmless agreement provided herein.

B. Prior to any work being performed pursuant to this Agreement, Contractor shall submit to District copies of its required insurance coverages, specifically providing that the Turtle Run Community Development District (defined to mean the District, its officers, agents, employees, volunteers, and representatives) is an additional insured with respect to the required coverages and the operations of the Contractor.

C. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then, in that event, Contractor shall furnish, at least thirty (30) calendar days prior to expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of that period of the contract and extension there under is in effect. District and Contractor shall not continue to complete the Project required by this Agreement unless all required insurance remains in full force and effect.

D. Insurance companies selected by Contractor must be acceptable to the District. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be canceled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to the District by certified mail, return receipt requested.

E. The required insurance coverage shall be issued by an insurance company authorized a licensed to do business in the state of Florida, with a minimum rating of B+ to A+, in accordance with the latest edition of A.M. Best's Insurance Guide.

F. All required insurance policies shall preclude any underwriter's rights of recovery or subrogation against the District with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above-described insurance.

G. Contractor understands and agrees that any company issuing insurance to cover the requirements contained in this Agreement shall have no recourse against the District for payment or assessments in any form on any policy of insurance.

H. The clauses, "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which the District is named as an additional insured shall not be applicable to the District. Any of the said Parties shall provide written notice of occurrence within fifteen (15) working days of that Party's actual notice of such an event.

## **SECTION 12. CHANGES IN THE WORK.**

A. District, without invalidating the Agreement, may order extra work or make changes by altering, adding to or deducting from the work, the Agreement sum being adjusted accordingly. All such work shall be executed under the conditions of the original Agreement and prices for additional concrete fence material shall be in accord with the unit price of \$48.90 LF in the Proposal. Any claim for extension of time caused thereby shall be made in writing at the time such change is ordered.

B. All change orders and adjustments shall be in writing and approved in advance, prior to work commencing, by the District, otherwise, no claim for extras will be allowed.

C. Claim of payment for extra work shall be submitted by the Contractor upon certified statement supported by receipted bills. No claim for extra work shall be allowed unless

same was ordered, in writing, as aforesaid and the claim presented at the time of the first estimate after the work is complete.

**SECTION 13. REMEDY FOR DELAY.**

A. In the event of any delay in the Project caused by any act or omission of the District, its agents or employees, by delays in the City's permitting/approval of the Project, by the act or omission of any other party other than the Contractor, its agents, employees or subcontractors, or delay caused by weather conditions or unavailability of materials, the sole remedy available to Contractor shall be by extension of the time allocated to complete the Project.

B. NO MONETARY DAMAGES SHALL BE CLAIMED BY OR AWARDED TO CONTRACTOR IN ASSOCIATION WITH ANY SUCH DELAY(S) IN THE PROJECT.

C. Failure on the part of Contractor to timely process a request for an extension of time to complete the work shall constitute a waiver by Contractor and Contractor shall be held responsible for completing the work within the time allocated by this Agreement.

D. All requests for extension of time to complete the work shall be made in writing to the District.

**SECTION 14. NOTICES.** Whenever any party is required to give or deliver any notice to any other party, or desires to do so, such notices shall be in accordance with Section 2.17 with General Conditions:

**DISTRICT:** **Turtle Run Community Development District**  
5385 N. Nob Hill Road  
Sunrise, Florida 33351  
Attention: District Manager

**With copy to:** **District Counsel**  
Billing, Cochran, Lyles, Mauro & Ramsey, P.A.  
SunTrust Center, Sixth Floor  
515 East Las Olas Boulevard  
Fort Lauderdale, Florida 33301  
Attention: Dennis Lyles, Esq.

**CONTRACTOR:** **Superior Concrete Products, Inc.**  
1203 Raider Drive  
Eules, Texas 76180  
Attention: President

**SECTION 15. INTERPRETATION OF AGREEMENT; AMBIGUITIES.** It is expressly agreed that, under no circumstances, conditions or situations, shall this contract be more strongly construed against the District than against the Contractor. Any ambiguity or uncertainties in the specifications shall be interpreted and construed by the District, whose decision shall be final and binding upon all parties.

**SECTION 16. ENTIRE AGREEMENT.** This instrument shall constitute the final and complete expression of the agreement between the parties relating to the subject matter of this Agreement.

**SECTION 17. AMENDMENT.** Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing, which is executed by both of the parties hereto.

**SECTION 18. ASSIGNMENT.** Neither the District nor the Contractor may assign their rights, duties, or obligations under this Agreement or any monies to become due hereunder without the prior written approval of the other.

**SECTION 19. BONDING.** The District Board of Supervisors has waived the requirement for payment and performance bond under Section 255.05, Florida Statutes.

**SECTION 20. APPLICABLE LAW.** This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida.

**SECTION 21. CONFLICTS.** In the event of a conflict between any provision of this Agreement and the terms and conditions of Composite Exhibit A or Exhibit B, then this Agreement shall control. In the event of a conflict between any provision of Exhibit B and Composite Exhibit A, then Exhibit B shall control.

**SECTION 22. VENUE.** In the event of any litigation arising out of this Agreement or the performance thereof, venue shall be Broward County, Florida.

**SECTION 23. PUBLIC RECORDS.**

A. Contractor shall, pursuant to and in accordance with Section 119.0701, Florida Statutes, comply with the public records laws of the State of Florida, and specifically shall:

1. Keep and maintain public records required by the District to perform the services or work set forth in this Agreement; and
2. Upon the request of the District's custodian of public records, provide the District with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law; and
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement if the Contractor does not transfer the records to the District; and



4. Upon completion of the Agreement, transfer, at no cost to the District, all public records in possession of the Contractor or keep and maintain public records required by the District to perform the service or work provided for in this Agreement. If the Contractor transfers all public records to the District upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the District, upon request from the District's custodian of public records, in a format that is compatible with the information technology systems of the District.

B. Contractor acknowledges that any requests to inspect or copy public records relating to this Agreement must be made directly to the District pursuant to Section 119.0701(3), Florida Statutes. If notified by the District of a public records request for records not in the possession of the District but in possession of the Contractor, the Contractor shall provide such records to the District or allow the records to be inspected or copied within a reasonable time. Contractor acknowledges that should Contractor fail to provide the public records to the District within a reasonable time, Contractor may be subject to penalties pursuant to Section 119.10, Florida Statutes.

**C. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT/CONTRACT, THE CONTRACTOR MAY CONTACT THE CUSTODIAN OF PUBLIC RECORDS FOR THE DISTRICT AT:**

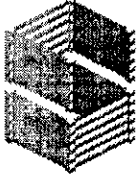
**GOVERNMENTAL MANAGEMENT SERVICES-SOUTH  
FLORIDA, LLC  
5385 N. NOB HILL ROAD  
SUNRISE, FLORIDA 33351  
TELEPHONE: (954) 721-8681  
EMAIL: DBALDIS@GMSSF.COM**

**[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**



**Composite Exhibit A**

**Proposal**



# SUPERIOR CONCRETE PRODUCTS

1203 Raider Drive, Euless, TX 76040  
Phone: 817-277-9255 Fax: 817-261-0194

## ESTIMATE

DATE: August 29, 2017

CONTACT: Dennis Baldes  
COMPANY: Government Management Services

PROJECT NAME: Turtle Run  
LOCATION: Corrol Gables , FL

PRODUCT: SUPERIOR 2-RAIL  
TYPE: Concrete Rail Fence  
TEXTURE: Wood Pattern  
COLOR: "Pueblo" Integral

SCOPE: Furnish & Install

QUANTITY: 2,264  
UNIT: LF  
HEIGHT (feet): 3

UNIT PRICE: \$48.90

SUB-TOTAL: \$110,709.60

TOTAL PRICE: \$110,709.60

*Todd Sternfeld*

Todd Sternfeld  
CEO

### NOTES:

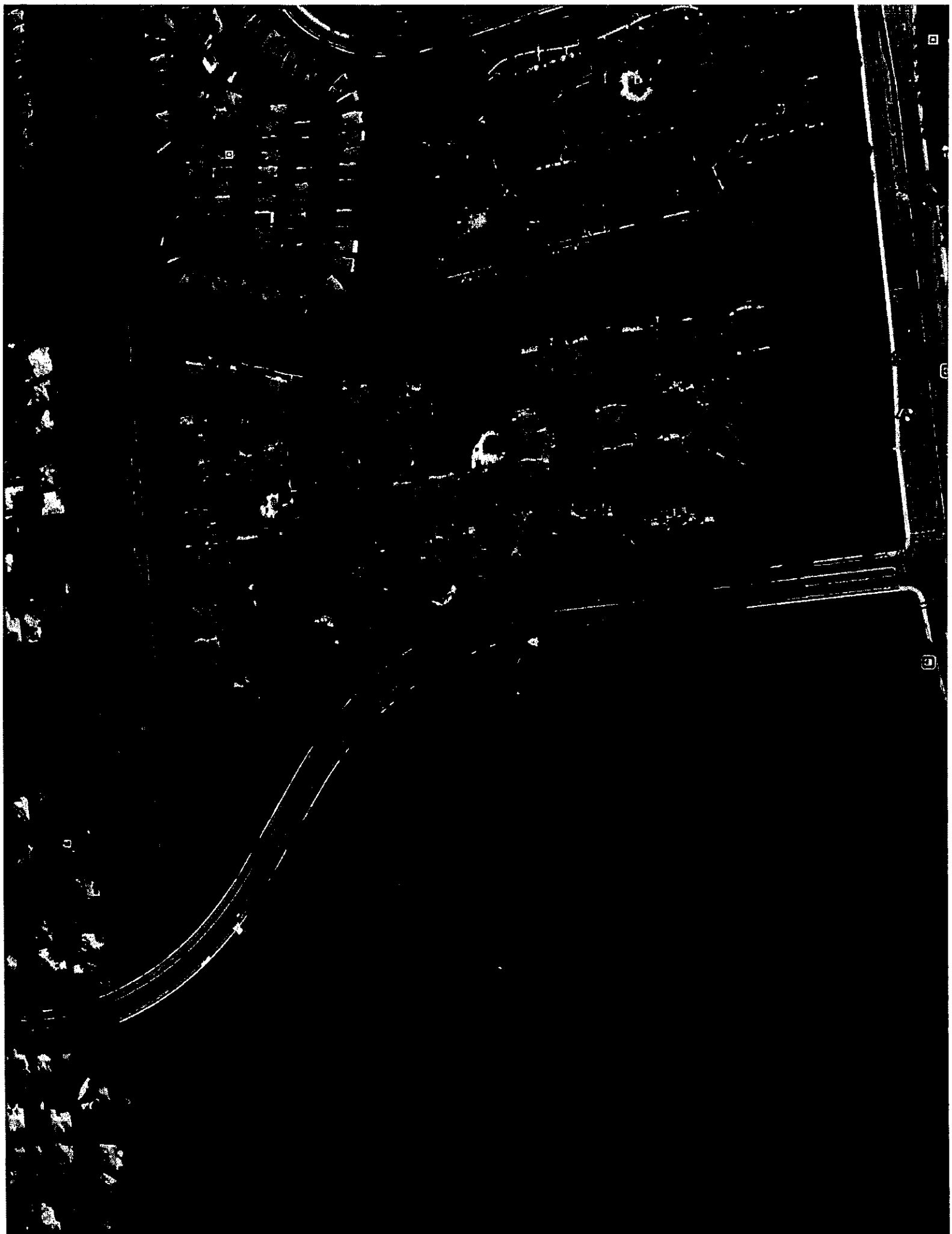
1. Superior Concrete Products will conduct project on a design-build basis (furnish and install).
2. Price includes engineering, permits, materials, installation, footings and freight.
3. Screening wall shall be manufactured from reinforced precast concrete having a strength of 5,000 psi @ 28 days (min)
4. All work guaranteed for five years after installation.
5. SUPERIOR 2-RAIL is a trademark of Superior Concrete Products, Inc.
6. Product made in the USA by Superior's NPCA Certified Plant.

## ADDENDUM

1. Superior Concrete Products will conduct project on a turnkey basis (furnish and install).
  - a. Price includes permits, engineering, materials, installation, footings, freight and a 5-year warranty.
  - b. All site plans, surveys and Metes & Bounds reports necessary to secure a fence permit are the owner's or buyer's responsibility. Superior Concrete Products is not responsible for any costs associated with obtaining these plans, surveys and reports..
  - c. All existing fence or fence line obstructions to be removed by owner prior to commencement of work
2. Estimate includes installation of Superior's Wall System as follows:
  - a. Wall design per the IBC 2012, 90 MPH wind load, Exposure B.
  - b. In ground installation:
    - i. 3' high wall (Typical) - in 12" diameter x 3'- 6" deep concrete piers, 8' on-center.
  - c. Price is based on installing fence in earth and does not include the cost of core drilling into existing concrete or asphalt which can be done at an additional cost to the buyer. Estimate is based on having at least 15' of clear access on one side of fence for use of skid steer and material staging. Additional cost to the buyer shall apply if access is insufficient to us equipment to excavate and handle materials.
  - d. Actual diameter and depth of postholes may be adjusted based on soil conditions and approval by structural engineer. These changes and/or rocky soil shall result in additional costs to customer Price is based on drilling piers with Bob Cat or equivalent. If the Bob Cat cannot be used, any or all piers shall be excavated by hand or by a 3rd party drilling rig at an additional costs to the customer.
3. Rail fence shall have decorative posts and rails.
4. Wall systems manufactured in a "Pueblo" Integral. Red, White and Custom colors are premium colors.
5. Clear access to the fence line for delivery and placement of materials by forklift from commencement throughout the completion of work. No trenches or other subcontractor's material and/or equipment in fence line location.
6. Owner to stake fence line location with a one to three foot offset prior to commencement of work.
7. Once fence line layout has been completed and approved by owner/contractor or superintendent on the site, no changes can be made unless accompanied by a signed change order, which would represent any additional costs that may apply.
8. All existing fence or fence line obstructions to be removed by owner prior to commencement of work.
9. Height of fence to be determined from finish grade with a two-inch tolerance.
10. Soil from footing to be spread along fence line. If any or all of the excavated soil cannot be spread along the fence line, the customer shall be responsible for the additional costs incurred by Superior Concrete Products to remove and haul-off the soil.
11. Superior Concrete Products shall be responsible for cleanup and hauling of all debris resulting from install.
12. Water to be provided by owner at job site.

ADDENDUM - continued

13. All materials installed are first quality. Panels with incidental chips on the board "edges" are characteristic of the rustic appearance of the fence. Panels with chips that expose the tongue and groove interlock will not be used in the construction of the wall.
14. Superior Concrete Products will not replace or replant any vegetation that is damaged due to installation.
15. At the commencement of work, a 2'x 2' free standing sign will be present on the job site throughout the duration of work, whereupon at the completion of work, at a pre-determined end position on the wall, a product sign will be affixed to the post.
16. All short sections will be billed and counted as a 8' section.
17. Payment schedule: Progress payments; net 30 days, for stored material and work performed.
18. All work guaranteed for five years after installation.
19. Final inspection and acceptance of the screening wall shall be made by the owner's representative. The screening walls surface shall be inspected at a viewing distance, which is representative of the screening wall's normal viewing distance.
20. Price does not include the cost for Traffic Control Plan or any associated labor, equipment and materials.
21. Estimate is based on Prevailing Wage labor rates and does not include provisions for union wage rates.
22. Estimate does not include Bonds (Maintenance, Payment/Performance).
23. The price is good for 30 days after receipt of this estimate.



**Exhibit B**  
**Construction Plans**