



**CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
HIGLEY UNIFIED SCHOOL DISTRICT NO. 60
AND
CHASSE BUILDING TEAM INC**

THIS CONSTRUCTION MANAGER AT RISK AGREEMENT (this "Agreement") is made this 7th day of July, 2022, by and between the Higley Unified School District No. 60, a political subdivision of the State of Arizona (the "District"), and Chasse Building Team Inc, a/n Arizona corporation (the "Construction Manager"), for design phase review and pre-construction services related to proposed additions, renovations, improvements for Higley High School (the "Project") and potentially for complete construction services should the parties agree to a Guaranteed Maximum Price. The District and the Construction Manager are referred to herein individually as a "Party" and collectively as the "Parties."

**ARTICLE 1
GENERAL**

1.1 Project Summary. The Construction Manager shall perform all pre-construction services set forth in Article 2 below (the "Pre-Construction Services") and, subject to Section 1.2 below, management and construction services set forth in Article 4 below (the "Construction Services") (the Pre-Construction Services and the Construction Services are collectively referred to as the "Services"), including providing all material, equipment, tools and labor necessary to complete the Work (as defined below) described herein and reasonably inferable from the Contract Documents (as defined below), including the upgrades and improvements to be encompassed in the Project. The Construction Manager will also coordinate with and provide comments to DLR Group, Inc. (the "Project Designer" or "Architect") to ensure that the Project design is constructible within the established budget.

1.2 Phased Agreement. The Services contemplated by this Agreement shall be carried out in several distinct phases. The initial Services shall be to provide Pre-Construction Services including (A) such environmental investigation services as applicable pursuant to Section 2.1 below, (B) review of the Project Designers' Construction Documents pursuant to Section 2.2 below and (C) the Pre-Construction Phase General Services, pursuant to Section 2.3 below (the "Pre-Construction Phase General Services"). The Construction Manager shall be compensated on an hourly basis, at the agreed-upon hourly rates and a stipulated not-to-exceed total fee, for the Pre-Construction Services as set forth in Section 7.1 below, provided that such services may extend through the construction phase for various components of the Project. At the point in the Pre-Construction Services that the Owner and Construction Manager agree the drawings and specifications are sufficiently complete, Construction Manager shall prepare and submit to District a proposal for a guaranteed maximum price ("GMP") for construction of the Project, which may be submitted as a single GMP or as multiple GMPs at the District's sole discretion. The Construction Manager shall prepare and submit the GMP Proposals pursuant to Article 3 below.

If the District and the Construction Manager agree upon the respective GMP Proposal(s), the Construction Manager shall furnish, with respect to each GMP Proposal, (A) such environmental investigation services as applicable pursuant to Section 2.1 below and (B) the Construction Services set forth in Article 4 below. If the District and the Construction Manager cannot, after good faith efforts, agree on the GMP, the District may, in its sole discretion, terminate this Agreement (subject to the terms and conditions set forth in Section 12.2 below).

1.3 Definitions.

A. "Additional Services" means services not initially included as part of the Work, but which are later identified as necessary or desirable by the District, as more fully described in Section 4.17 below.

B. "Applicable Law" means any law, rule, code, regulation, requirement, action, determination, guideline, or order of, or any legal entitlement issued by, any governmental body having jurisdiction, applicable or relating to the design, permitting, construction, equipping, financing, ownership, possession, or any other transaction or matter contemplated hereby relating to the design and construction of the Project.

C. "Change Directive" means a written order prepared and signed by the District and the Construction Manager, approving a change in the Work that does not require an adjustment in the Contract Price or the Contract Time.

D. "Change Order" means a contract amendment issued after execution of this Agreement or future GMP Amendments signed by the District, Construction Manager and other parties, as may be required or appropriate, agreeing to an addition, deletion or revision in the scope of Work, an adjustment to the Contract Price, an adjustment to the Contract Time or other modifications to Contract terms.

E. "District's Contingency" means a fund used at the discretion of the District, usually for costs that result from District-directed changes.

F. "Construction Documents" means the plans, Specifications and drawings prepared by the Project Designers after correcting for permit review requirements, and as approved by the District designee. The Construction Documents, once approved by the District as 100% complete, shall be attached hereto as Exhibit A and incorporated herein by reference.

G. "Construction Fee" means the portion of Construction Manager's compensation as set forth in Subsection 3.4 below.

H. "Contract Documents" means all of the following:

1. Change Orders and written amendments to this Agreement, including the amendments, if any, relating to the respective GMPs (the "GMP Amendments"), signed by both the District and the Construction Manager, attached hereto as Exhibit B and incorporated herein by reference.

2. This Agreement.
3. The Construction Documents.
4. The Construction Manager's Guaranteed Maximum Price Proposals (the "GMP Proposals"), attached hereto as Exhibit C and incorporated herein by reference, including but not limited to:
 - a. The Construction Manager's proposed scope of services and fee breakdown for each GMP Proposal (the "Scope").
 - b. The Master Schedule relating to the applicable Scope developed in accordance with Subsection 2.3(C) below and updated as set forth in this Agreement, attached hereto as Exhibit D and incorporated herein by reference.
5. The District's Request for Qualifications (the "RFQ") attached hereto as Exhibit E and incorporated herein by reference.
6. The Construction Manager's response to the District's RFQ attached hereto as Exhibit F and incorporated herein by reference.

In case of any inconsistency, conflict or ambiguity among the Contract Documents, the documents shall govern in the order in which they are listed above.

I. "Contract Price" means the total compensation to be paid to the Construction Manager, as more fully described in Article 7 below.

J. "Contract Time" means the Days, as set forth in Article 6, indicating the period of time, including authorized adjustments, allotted in the Contract Documents to achieve Substantial Completion of the Work.

K. "Cost Model" means the detailed cost information for the Project as described in Subsection 2.3(D) below.

L. "Cost of the Work" means the portion of Direct Construction Costs necessarily incurred by the Construction Manager in the proper performance of the Work as more specifically set forth in Section 3.3(B) below.

M. "Critical Path" means the sequence of activities from the start of the Work to Substantial Completion of the Project for which any delay in the completion of these activities will delay achieving Substantial Completion.

N. "Day(s)" means calendar day(s) unless otherwise specifically noted in the Contract Documents.

O. "Differing Site Conditions" means concealed or latent physical conditions or subsurface conditions at the Site that (1) materially differ from the conditions indicated in the

Contract Documents or (2) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized in the area of the Site as inherent in the Work.

P. "Direct Construction Costs" means General Conditions Costs and Cost of the Work as set forth in Section 3.3 below.

Q. "Environmental Conditions" means collectively, Hazardous Materials and Underground Storage Tanks.

R. "Environmental Damages" means all claims, judgments, damages, losses, penalties, fines, liabilities, encumbrances, liens, costs and expenses of investigation and defense of any claim, including, without limitation, attorney's fees, that are incurred at any time as a result of the existence of Environmental Conditions upon, about or beneath the Project Site or migrating or threatening to migrate to or from the Site, and including, without limitation:

1. Damages for personal injury, or injury to property or to natural resources occurring upon or off the Site.

2. Fees incurred for the services of attorneys, consultants, the Construction Manager, experts, laboratories and all other costs incurred in connection with the investigation or remediation of such Environmental Conditions or violation of Environmental Requirements.

3. Liability to any third party or governmental agency or political subdivision to indemnify such party, agency or political subdivision for costs expended in connection with the items listed in Subsections 1.3(R)(1) and (2) above.

S. "Environmental Requirements" means all applicable laws, statutes, regulations, rules, ordinances, common law codes, licenses, permits, orders and similar items of all governmental agencies or other instrumentalities of the United States, the State of Arizona, Maricopa County and all applicable, judicial, administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, including, without limitation:

1. (a) Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") (42 U.S.C. § 9601, *et seq.*), as amended by the Superfund Amendments and Reauthorization Act of 1986, and as further amended from time to time, and regulations promulgated thereunder; (b) defined as a "regulated substance" within the meaning of Subtitle I of the Resource Conservation and Recovery Act ("RCRA") (42 U.S.C. § 6691 *et seq.*), as amended from time to time, and regulations promulgated thereunder; (c) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act (33 U.S.C. § 1321), as amended from time to time, and the regulations promulgated thereunder, or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. § 1317), as amended from time to time, and the regulations promulgated thereunder; (d) the Clean Air Act (42 U.S.C. § 7401 *et seq.*), as amended from time to time, and regulations promulgated thereunder; (e) regulated under the Toxic Substances Control Act (15 U.S.C. § 2601, *et seq.*); (f) Federal Insecticide, Fungicide and Rodenticide Act (7

U.S.C. § 136 *et seq.*); (g) the Solid Waste Disposal Act (42 U.S.C. § 6901 *et seq.*), as amended from time to time, and regulations promulgated thereunder; or (h) defined as “hazardous”, “toxic”, or otherwise regulated, under any Environmental Requirements adopted by the state in which the Site is located, or its agencies or political subdivisions.

2. Asbestos or asbestos-containing materials.

3. All requirements, including but not limited to, those pertaining to reporting, licensing, permitting, investigation and remediation of emissions, discharges, releases or threatened releases of Hazardous Materials into the air, surface water, ground water or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

4. All requirements pertaining to the protection of the health and safety of employees or the public.

T. “Final Completion” means completion of the Project, including Punch List items, by the Construction Manager in accordance with the Contract Documents, certified to the District by the Construction Manager.

U. “Float” means the number of Days by which an activity can be delayed without lengthening the Critical Path and extending the Substantial Completion date.

V. “General Conditions Costs” means a portion of the costs incurred by Construction Manager during the construction phase, as set forth in Section 3.3(A) below.

W. “Hazardous Materials” means any substance as defined under Environmental Requirements including:

1. The presence of which requires notification, investigation or remediation under federal, state or local law, statute, regulation, ordinance, order, action, policy or common law.

2. Which is or becomes defined as a “hazardous waste”, “hazardous substance”, pollutant or contaminant under any federal, state or local law, statute, regulation, rule or ordinance or amendments thereto.

3. Which is petroleum, petroleum products, including crude oil or any fraction thereof not otherwise designated as a “hazardous substance” under CERCLA, including without limitation gasoline, diesel fuel or other petroleum hydrocarbons; and, ethanol, methyl tertiary butyl ether or derivatives or constituents of or vapors from any of the foregoing.

4. Which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority or instrumentality of the United States or the State of Arizona.

5. The presence of which on the Project Site causes or threatens to cause a nuisance upon the Project Site or to the adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Project Site.

6. The presence of which on adjacent properties could constitute a trespass by the Construction Manager or the District.

X. "Master Schedule" is defined as set forth in Subsection 2.3(C) below.

Y. "Project Record Document(s)" means the document(s) created pursuant to Section 4.12.

Z. "Punch List" means that list of items provided by District to the Construction Manager at the time of Substantial Completion indicating items to be completed or corrected, including the time for completion or correction by the Construction Manager after Substantial Completion.

AA. "Shop Drawings" means drawings, diagrams, schedules and other data specially prepared for the Work by the Construction Manager or a Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

AB. "Site" means the land or premises on which the Project is located.

AC. "Specifications" means the part(s) of the Contract Documents for the construction phase consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

AD. "Subcontractor" means a person or entity employed or engaged by the Construction Manager or any person or entity directly or indirectly in privity with the Construction Manager to perform any portion of the Work. The term Subcontractor does not include any separate contractor employed by the District.

AE. "Substantial Completion" means construction has been completed in accordance with the Contract Documents to the extent that the District can use or occupy the entire Project, or the designated portion of the Project for the use intended without any outstanding, concurrent construction at the Site, except as may be required to complete or correct Punch List items.

AF. "Underground Storage Tank" shall have the definition assigned to that term by § 9001 of RCRA, 42 U.S.C. § 6991, as amended, and also shall include: (1) any tank of 1,100 gallons or less capacity used for storing motor fuel; (2) any tank used for storing heating oil for consumption on the premises where stored; (3) any tank used for storing waste oil; (4) any septic tank; and (5) any pipes with oil dispensers connected to items listed in clauses 1.3(AA)(1) and 1.3(AA)(2) above.

AG. The "Work" means, collectively, the (1) environmental investigation set forth in Section 2.1 below, (2) Review of Construction Documents and design remedies set forth in Section 2.2 below, (3) Pre-construction Phase General Services set forth in Section 2.3 below, (4) Construction Services provided in accordance with Article 4 below, if applicable, (5) Additional Services that may be provided pursuant to an approved Change Directive or Change Order in accordance with Article 8 below and (6) other services that are necessary to complete the Project in accordance with the Contract Documents.

1.4 Cooperative Relationship. The District and the Construction Manager agree to proceed with the Project on the basis of trust, good faith and fair dealing, and shall take all actions reasonably necessary to perform this Agreement in an economical and timely manner, but without sacrificing quality. The District and the Construction Manager agree to consider design modifications and alternative materials or equipment if necessary to permit the Project to be constructed by the dates of Substantial Completion and Final Completion, as established by the mutually-agreed-upon Master Schedule attached hereto.

1.5 District Representations.

A. Project Designer Selection. The District has contracted separately with the Project Designer to provide engineering and design for the Project.

B. District's Project Manager. District has either designated a District staff member to act as District's Project Manager and/or has contracted separately with a person, firm or corporation to act as District's Project Manager. The District's Project Manager has no design responsibilities of any nature. None of the activities of District's Project Manager supplant or conflict with the design, budget, or any other services and responsibilities furnished by the Construction Manager, the Project Designers or sub-consultants. All instructions by the District relating to this Agreement will be issued or made through the District's Project Manager. All communications and submittals of Construction Manager to the District shall be issued or made through the District's Project Manager unless the District or the District's Project Manager shall otherwise direct. The District's Project Manager shall not unreasonably withhold approval for the Construction Manager to communicate directly with other District officials or the Project Designers. Throughout the term of this Agreement the District's Project Manager shall have the authority to establish procedures, consistent with this Agreement, to be followed by the Construction Manager and to call periodic conferences to be attended by the Construction Manager and the Construction Manager's Subcontractors.

C. Limited Project Management. None of the District's project management activities are intended to supplant or conflict with the design, budget, or any other services and responsibilities customarily furnished by the Construction Manager or its Subcontractors, except as otherwise specifically modified by this Agreement.

D. No Third Party Relationships. The Construction Manager assumes responsibility to District for the proper performance of the work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between District and any level of Subcontractor, including but not limited to any third-party beneficiary rights. Nothing contained

in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against the District or the Construction Manager.

E. Requests for Information. The District shall examine requests for information/direction submitted by the Construction Manager and shall render decisions thereto promptly. The District shall furnish required information and approvals and perform its responsibilities and activities in a timely manner to facilitate orderly progress of the Work (1) in cooperation with the Construction Manager, (2) consistent with this Agreement and (3) in accordance with the planning and scheduling requirements and budgetary restraints of the Project as determined by the District.

F. Notice to Construction Manager of Defect. If the District observes or otherwise becomes aware of any fault or defect in the Project, Construction Documents, or nonconformity with the Contract Documents, the District shall give written notice thereof to the Construction Manager.

G. Approvals. The District shall secure, submit and pay for necessary approvals, easements, assessments, permits and charges required for the Project.

H. Communication. The District, its representatives and consultants shall communicate with the Subcontractors only through the Construction Manager unless otherwise directed or permitted by the Construction Manager.

I. Notices. The District shall send to the Construction Manager, and shall require the Project Designers to send to the Construction Manager, copies of all notices and communications sent to or received by the District or the Project Designers relating to the Construction Manager's Services with respect to the Project.

1.6 Construction Manager Representations.

A. Standards. The Construction Manager shall provide the professional management and construction services for the Project in accordance with the terms and conditions of this Agreement. The Construction Manager covenants with the District to furnish its skill and judgment with due care and in accordance with the highest standards of its profession and with Applicable Law in effect on the date of this Agreement or as subsequently amended.

B. Subcontractor Selection Program. In conjunction with its response to the District's RFQ, the Construction Manager submitted to the District a written procedure in conformance with ARIZ. REV. STAT. § 34-601 *et seq.*, and ARIZ. ADMIN. CODE § R7-2-1108(B)(11), as amended, for qualifications-based selection of Subcontractors to be utilized in completion of the Project (the "Subcontractor Selection Program"), which is incorporated herein by reference. The Construction Manager shall conduct a campaign via email and telephone to attempt to create interest among Subcontractors. The Construction Manager shall develop and coordinate procedures to provide answers to Subcontractors' questions. The Construction Manager shall use best efforts to utilize minority business enterprises, woman business enterprises and local contractors or suppliers. The Construction Manager shall ensure that each Subcontractor has secured the required business licenses, permits, insurance and bonds. Construction Manager will

be allowed to substitute Subcontractor Default Insurance in lieu of subcontractor bonding. The Construction Manager shall be solely responsible for ensuring that (1) the Subcontractor Selection Program is in conformance with Applicable Law and (2) all Subcontractors are selected in accordance with the Subcontractor Selection Program. The Construction Manager shall defend, indemnify and hold harmless the District, its agents, representatives, officers, directors, officials and employees for, from and against all claims, damages, losses and expenses (including, but not limited to, attorney fees, court costs and the cost of appellate proceedings) relating to, arising out of, or alleged to have resulted from the Construction Manager's failure to appropriately select its Subcontractors. Additionally, as part of the Construction Manager's submittal of any GMP Proposal under this Agreement, the Construction Manager shall utilize the Subcontractor Selection Program to meet its requirements under Section 3.7 below.

C. Key Personnel. The Construction Manager shall provide to the District a list of the proposed key project personnel of the Construction Manager and its Subcontractors to be assigned to the Project. This list shall include such information on the professional background of each of the assigned individuals as may be requested by the District. Such key personnel and consultants shall be satisfactory to the District and shall not be changed except with the consent of the District. The Construction Manager will maintain an adequate number of competent and qualified persons, as determined by the District, to ensure acceptable and timely completion of the Services described in this Agreement. If the District objects, with reasonable cause, to any of the Construction Manager's staff, the Construction Manager will take prompt corrective action acceptable to the District and, if required, remove such personnel from the Project and replace with new personnel with qualifications acceptable to the District. The District's approval of substituted personnel shall not be unreasonably withheld.

D. Site Conditions. The Construction Manager represents that it has taken steps reasonably necessary to ascertain the nature and location of the Work related to the Project, and that it has investigated and satisfied itself as to the general and local conditions and constraints that are applicable to the Work such as (1) conditions bearing on transportation, disposal, handling and storage of materials, (2) the availability of labor, water, power and roads, (3) normal weather conditions, (4) observable physical conditions at the Site, (5) the surface conditions of the ground and (6) the character of equipment and facilities needed prior to and during the performance of the Work. To the extent the Construction Manager encounters subsurface or concealed conditions that differ materially from those which could reasonably have been determined from a Site surface investigation by the Construction Manager on the date of GMP or from those ordinarily found to exist and generally recognized as inherent in the activities of the character provided in the Contract Documents, then the Construction Manager shall give notice to the District promptly before conditions are disturbed and in no event later than seven Days after the first observance of the conditions if a Change Order is contemplated by the Construction Manager due to such conditions. Such materially different conditions, if discovered after a GMP is approved, may entitle the Construction Manager to an equitable adjustment in the applicable GMP or schedule pursuant to the Change Order provisions set forth in Article 8 below.

1.7 District and Subcontractors. The District will require the Construction Manager to contract directly with such Subcontractors as may be necessary for construction or supply of the Project. All such contracts shall be issued consistent with (A) the applicable provisions of this

Agreement and (B) Applicable Law, including, but not limited to, the requirements of ARIZ. REV. STAT. § 34-603(N) relating to inclusion of the Project's physical location in all subcontracts.

1.8 Construction Manager to Other Project Participants. In providing the Services described in this Agreement, the Construction Manager shall endeavor to maintain a working relationship with the Project Designers. The Project Designers are solely responsible for the Project design and shall perform in accordance with their respective agreements with the District. Nothing in this Agreement shall be construed to mean that the Construction Manager is responsible for the design of the Project or that the Construction Manager assumes any of the contractual or customary responsibilities or duties of the Project Designers or any other persons or parties not specified by this Agreement; provided, however, that the Construction Manager shall provide comment and input in the form of a value analysis and constructability review with respect to the Project Designers' designs as set forth in Section 2.2 below.

1.9 Data Confidentiality.

A. Data Defined. As used in this Agreement, "data" means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by or obtained by the Construction Manager in the performance of this Agreement.

B. Confidentiality. The Parties agree, subject to Arizona public records law, that all data, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the Construction Manager in connection with the Construction Manager's performance of this Agreement is confidential and proprietary information belonging to the District.

C. Use of Data. The Construction Manager will not divulge data to any third party without prior, written consent of the District; except that Construction Manager can use information and pictures concerning the project in its website/marketing, with written consent of the District. The Construction Manager will not use the data for any purposes except to perform the Services required under this Agreement. These prohibitions will not apply to any of the following data, provided the Construction Manager has first given the required notice to the District:

1. Data that was known to the Construction Manager prior to its performance under this Agreement, unless such data was acquired in connection with work performed for the District.

2. Data that was acquired by the Construction Manager in its performance under this Agreement, and which was disclosed to the Construction Manager by a third party, who to the best of the Construction Manager's knowledge and belief, had the legal right to make such disclosure and the Construction Manager is not otherwise required to hold such data in confidence.

3. Data that is required to be disclosed by the Construction Manager by virtue of law, regulation, or court order.

D. Disclosure Notice. In the event the Construction Manager is required or requested to disclose data to a third party, or any other information to which the Construction Manager became privy as a result of any other contract with the District, the Construction Manager will first notify the District as set forth in this section of the request or demand for the data. The Construction Manager will timely give the District sufficient facts, such that the District can have a meaningful opportunity to either first give its consent or take such action that the District may deem appropriate to protect such data or other information from disclosure.

E. Return After Completion. The Construction Manager, unless prohibited by law, within ten (10) Days after completion of services for a third party on real or personal property owned or leased by the District, will promptly deliver, as set forth in this Section, a copy of all data to the District. All data will continue to be subject to the confidentiality requirements of this Agreement.

F. Construction Manager Responsible. The Construction Manager assumes all liability for maintaining the confidentiality of the data in its possession. For the purposes of seeking injunctive relief, it is agreed that a breach of this Section will be deemed to cause irreparable harm that justifies injunctive relief in court.

ARTICLE 2 PRE-CONSTRUCTION SERVICES

2.1 Environmental Investigation.

A. Discovery. Upon written notice from the District or upon the Construction Manager's discovery of Environmental Conditions on the Site, the Construction Manager shall recommend to the District areas of evaluation to be undertaken and contracted for by the District, for purposes of performing an investigation and analysis of the Site prior to demolition and excavation activities, to determine the presence of any Environmental Conditions on, in or under the Site. The District shall engage qualified personnel ("Environmental Engineers") via separate contracts ("Environmental Contracts") which shall provide for a commercially reasonable scope of investigation and costs approved by the District, and may provide for conducting the investigation and testing in phases acceptable to the District. The environmental contracts shall also provide that the environmental engineers shall begin their tests and inspections at the Site as soon as the District is able to arrange access to the Site, or any portions thereof, for such purposes. The environmental contracts shall provide that the Construction Manager, acting as Construction Manager for the District, shall coordinate and cooperate in the activities of the environmental engineers with the Work.

B. Assessment; Remediation Analysis. The Environmental Contracts shall provide that the Environmental Engineers shall prepare such reports, feasibility studies and remedial plans in accordance with applicable local, state, and federal rules, regulations, and laws, including the federal "all appropriate inquiry" Standard and American Society for Testing and Materials, ASTM E §1527-13 ("Environmental Assessments") as may be reasonably necessary in

order to identify and explain the quantity, scope and nature of the Environmental Conditions found to exist at the Site. The Environmental Assessments shall contain a detailed analysis of the Environmental Conditions discovered, and the actions ("Remedial Actions") required for the response, removal, cleanup or remediation of such Environmental Conditions (1) that are required by Environmental Requirements, or (2) that are reasonably necessary to mitigate Environmental Damages.

C. Impact on Master Schedule. The Environmental Contracts shall provide that the Environmental Engineers shall promptly provide the District and the Construction Manager with a copy of each Environmental Assessment, together with any other reports and test results generated pursuant to the Environmental Contracts. The Construction Manager shall, promptly after receipt of the foregoing matters from the Environmental Engineers, prepare and submit to the District a written report setting forth the Construction Manager's understanding of whether and to what extent any recommended Remedial Actions may result in an amendment to the Master Schedule and the progress of the Work, at which time Construction Manager shall submit amended Master Schedule and Change Order for delays caused by District's Environmental Contracts.

D. Notice; Permitting. The Environmental Contracts shall require the Environmental Engineers to (1) give notice to the District of the presence of Environmental Conditions, (2) only upon the written consent of the District, give any necessary notice to the Federal government and the State of Arizona or other agencies of the presence of any Environmental Conditions, (3) assist the District in negotiations with Federal and Arizona agencies concerning preparation and approval of a plan for clean-up to the extent required and (3) obtain all necessary permits to perform any Remedial Actions.

E. Remediation Contractors. If so instructed by the District, based upon the results of the Environmental Assessments, the Construction Manager shall assist the District with obtaining bids from remediation contractors ("Remediation Contractors") suitably qualified and approved by the District to perform the Remedial Actions selected by the District. If the District elects to go forward with all or any portion of the Remedial Actions covered by the bids submitted, the District will so advise the Construction Manager in a written notice on or before the date that is 60 Days after receipt of the foregoing matters from the Construction Manager. Thereafter, the District shall execute contracts with the selected Remediation Contractors ("Remediation Contracts"), provided 60 Days is outside of Master Plan Schedule.

F. Coordination. Unless otherwise instructed, the Construction Manager, as agent for the District, shall be responsible for coordinating the work and services performed by the Remediation Contractors with the Work.

G. Payment for Remediation. The District will make all payments due under the Environmental Contracts and the Remediation Contracts directly to the Environmental Engineers and the Remediation Contractors. Such payments will be based on requisitions, which requisitions shall be approved by the Construction Manager prior to submission to the District. All payments due under the Environmental Contracts, the Remediation Contracts and for Environmental Damages, shall not be a part of the applicable GMP, and shall be the sole responsibility of the District, except as expressly provided otherwise.

H. Additional Discovery. If, in the course of performance of the Work, the Construction Manager encounters on the Site any Environmental Conditions not previously disclosed and remediated by the Environmental Engineers or the Remediation Contractors, the Construction Manager shall immediately suspend the Work in the area affected and promptly thereafter report the condition to the District.

I. Construction Manager Responsibility. Except as set forth in Subsection 2.1(L) below, it is understood and agreed that with respect to any Environmental Conditions existing on the Site, the Construction Manager is not, and shall not be deemed to be, a generator, arranger, owner, operator, treater, storer, transporter or disposer of, or otherwise responsible for, any such Environmental Conditions. It is understood and agreed that the Construction Manager shall have no right to direct the means or methods of performance of any Environmental Engineer or Remediation Contractor.

J. District Indemnity. To the extent that the Construction Manager or the Subcontractors are not in violation of Subsection 2.1(L) below and to the extent sufficient appropriations are made pursuant to Section 14.18 below, the District shall indemnify, defend and hold harmless the Construction Manager, the Subcontractors, and the directors, officers, agents and employees of each (the "Construction Manager Indemnitees"), for, from and against any Environmental Damages asserted against or sustained by such parties as a result of any of the Construction Manager Indemnities being deemed or determined to be a generator, arranger, owner, operator, treater, storer, transporter or disposer of, or otherwise responsible for, any such Environmental Conditions.

K. Delay for Remedial Actions. The District acknowledges and agrees that the Construction Manager shall not commence or continue any demolition or construction activities on any portion of the Site on or in which Remedial Actions are to be performed until such Remedial Actions are to the point where construction activities will not interfere with such Remedial Actions, as evidenced by appropriate certification by the applicable Environmental Engineer and/or Remediation Contractor and any required approvals of any applicable government agencies. The Construction Manager agrees to use good faith efforts to adjust and reschedule its activities at the Site so as to minimize, to the extent reasonably practical, the adverse effect on the progress of the Work resulting from any Remedial Actions.

L. Hazardous Materials Prohibited. The Construction Manager shall not bring Hazardous Materials to the Site, and shall not include Hazardous Materials in any construction materials, unless permitted by Environmental Requirements. The Construction Manager shall comply, and shall cause the Subcontractors to comply, with all Environmental Requirements regarding the generation, handling, storage, treatment and disposal of Hazardous Materials.

M. Construction Manager Indemnity. The Construction Manager shall indemnify, defend and hold harmless the District, its agents, representatives, officers and employees for, from and against any Environmental Damages asserted against or sustained by such parties as a result of any violation by the Construction Manager or the Subcontractors of any Environmental Requirements arising out of Subsection 2.1(L) above.

2.2 Review of Construction Documents; Design Remedies.

A. Program Evaluation. The Construction Manager will provide to the District a written evaluation of the District's proposed Project and Project budget, with recommendations as to the appropriateness of each, and an analysis as to how each contribute to successfully achieving the District's goal for the Project.

B. Design Document Review. The Construction Manager shall assist the District in reviewing the Construction Documents for clarity, consistency, constructability and coordination among the various contractors. The Construction Manager's first review of the Construction Documents shall occur at the 30% stage of the design for each component of the Project as designated by the District and shall be ongoing until 100% plans are final and complete for all phases of the Project. If the Construction Manager recognizes that portions of the Construction Documents are (1) in violation of Applicable Law or (2) in any way inadequate to achieve the intended result of the Project, the Construction Manager shall immediately notify the District in writing, describing the apparent violation or inadequacy.

1. The Construction Manager will periodically evaluate the availability of labor, materials/equipment, building systems, cost-sensitive aspects of the design, and other factors that may impact the Cost Model, GMP Proposals and/or the Master Schedule.

2. The Construction Manager will identify those additional surface and subsurface investigations that are required to provide the necessary information for the Construction Manager to construct the Project. After completion of pre-construction services and with District's prior written approval, the Construction Manager may provide additional investigations to improve the adequacy and completeness of the Site condition information and data made available with the Construction Documents. The cost required to obtain such additional investigations will be included in the GMP.

3. The Construction Manager will meet with the Project team as required to review designs during their development. The Construction Manager will thoroughly familiarize itself with the evolving documents through conceptual design, preliminary design, and development of the Construction Documents (detailed design). The Construction Manager will proactively advise the Project team and make recommendations on factors related to construction costs, and concerns pertaining to the feasibility and practicality of any proposed means and methods, selected materials, equipment and building systems, and, labor and material availability. The Construction Manager will also advise the Project team on proposed Site improvements, excavation and foundation considerations, as well as, concerns that exist with respect to coordination of the Construction Documents. The Construction Manager will recommend cost effective alternatives.

C. Constructability and Bidability Reviews. The Construction Manager will conduct constructability and bidability reviews of the Construction Documents. The reviews will attempt to identify all discrepancies and inconsistencies in the Construction Documents, especially those related to clarity, consistency, and coordination of Work of Subcontractors and suppliers. The Construction Manager shall provide the District with a written report containing, at a

minimum, (i) a summary of the research and analysis conducted, (ii) a detailed description of any constructability issues or challenges and (iii) recommendations for correcting any constructability issues or challenges.

1. Constructability Review. The Construction Manager will evaluate whether (a) the Construction Documents are configured to enable efficient construction, (b) design elements are standardized, (c) construction efficiency is properly considered in the Construction Documents, (d) module/preassembly design are prepared to facilitate fabrication, transport and installation, (e) the design promotes accessibility of personnel, material and equipment and facilitates construction under adverse weather conditions, (f) sequences of Work required by or inferable from the Construction Documents are practicable, and (g) the design has taken into consideration, efficiency issues concerning access and entrance to the Site, laydown and storage of materials, staging of Site facilities, construction parking, and other similar pertinent issues.

2. Bidability Review. The Construction Manager will check cross-references and complementary Project drawings and sections within the Construction Documents and evaluate whether (a) the plans and Specifications are sufficiently clear and detailed to minimize ambiguity and to reduce scope interpretation discrepancies, (b) named materials and equipment are commercially available and are performing well or otherwise, in similar installations, (c) the design provides as-built data, (d) Specifications include alternatives in the event a requirement cannot be met in the field, (e) and the Project is likely to be subject to Differing Site Conditions considering the data on subsurface conditions, physical conditions of existing surface and subsurface facilities and physical conditions of underground utilities made available by the design or resulting from conditions inherent to work similar to the Work.

3. Reports. The results of the reviews will be provided to the District in written reports clearly identifying all discovered discrepancies and inconsistencies in the Project, plans and Specifications with notations and recommendations made on the plans, Specifications and other Construction Documents. If requested by the District, the Construction Manager will meet with the District's Project Manager and Project Designers to discuss any findings and to review reports.

D. Notification of Variance or Deficiency. Construction Manager is responsible for assisting the Project Designers in ascertaining that the Construction Documents are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. If the Construction Manager recognizes that portions of the Construction Documents are at variance with applicable laws, statutes, ordinances, building codes, rules and regulations it will promptly notify the Project Designers and District in writing, describing the apparent variance or deficiency.

E. Value Analysis. The Construction Manager shall make recommendations to the District and the Project Designers with respect to constructability, construction cost, sequence of construction, construction duration, possible means and methods of construction, time for construction and separation of the Project into contracts for various categories of the Work. Construction Manager shall evaluate all design options to provide value analysis services and cost savings recommendations to the District. The Construction Manager shall consider options most

effective in first costs as well as long term operational costs and life cycle costs when evaluating each design option. The Construction Manager shall submit to the District and Project Designers (1) written cost studies, (2) cost-benefit evaluations of each cost studies, (3) a formal report to the design team, (4) a final written analysis study document and (5) a tracking report for the increases or decreases in Project cost due to value engineering or scope changes. The District will decide which alternatives will be incorporated into the Project. The Project Designers will have full responsibility for the incorporation of the alternatives into the Contract Documents. The Construction Manager will include the cost of the alternatives into the Cost Model and any GMP Proposals.

F. Certification. At the completion of its review of the Construction Documents for each phase of the Project, the Construction Manager shall certify, without assuming engineering responsibility therefore, that the Construction Documents are sufficient and complete to build the respective portion of the Project within (1) the time available before the respective Substantial Completion date and (2) the Project budget. The Construction Manager's assistance in reviewing the Project design, Construction Documents and in making recommendations as provided herein is only for the purpose of providing advice to the District. Nothing in this Subsection shall relieve the Project Designers of their respective responsibility for the Construction Documents.

G. Construction Manager Not Responsible for Design. Notwithstanding the foregoing, the Construction Manager is not responsible for providing, nor does the Construction Manager control, the Project design and contents of the Construction Documents. By assisting with the reviews described herein, the Construction Manager is not acting in a manner so as to assume responsibility or liability, in whole or in part, for all or any part of the Project design and Construction Documents.

2.3 Pre-Construction Phase General Services.

A. Personnel; Project Meetings; Project Analysis. The Construction Manager will meet with the District, the Project Designers and all the other Project stakeholders to fully understand the program, the Construction Documents and all other aspects of the Project. The Construction Manager shall attend the regularly scheduled meetings with the District and the Project Designers to advise the District on matters of Site use, improvements, selection of materials, building methods, construction details, building systems, equipment, phasing and sequencing.

1. The Construction Manager will provide pre-construction services, described herein, in a proactive manner and consistent with the intent of the most current Construction Documents. The Construction Manager will promptly notify the District in writing whenever the Construction Manager determines that any Construction Documents are inappropriate for the Project and or cause changes in the scope of Work requiring an adjustment in the Cost Model, Master Schedule, GMP Proposals and/or in the Contract Time for the Work, to the extent such are established.

2. The Construction Manager, when requested by the District or at its own initiative, if sanctioned by the District, will attend, make presentations and participate

as may be appropriate in public agency and/or community meetings, germane to the Project. The Construction Manager will assist the Project Designers in the preparation of drawings, schedule diagrams, budget charts and other materials describing the Project, when their use is required or appropriate in any such public agency meetings.

B. Construction Management Plan.

1. Preparing Plan. The Construction Manager will prepare a construction management plan (the "Management Plan"), that will detail, but not necessarily be limited to, the Construction Manager's determinations concerning: (a) Project milestone dates and the Master Schedule, including the broad sequencing of the design and construction of the Project; (b) investigations, if any, to be undertaken to ascertain subsurface conditions and physical conditions of existing surface and subsurface facilities and underground utilities; (c) alternate strategies for fast-tracking and/or phasing the construction; (d) separate bidding documents/packages and strategies for the early procurement of long-lead equipment and/or materials; (e) the number of separate subcontracts to be awarded to Subcontractors and suppliers for the Project construction; (f) permitting strategy; (g) safety and training programs; (h) construction quality control; (i) the Project Cost Model and basis of the model; (j) a matrix summarizing each Project team member's responsibilities and roles related to the Services; and (k) construction security.

2. Maintaining Plan. The Contract Manager shall keep the Management Plan current throughout the pre-construction services phase so that the Management Plan is ready for implementation at the start of the construction phase. The update/revisions will take into account: (a) revisions in Construction Documents; (b) the Construction Manager's examination of the results of any additional investigatory reports of subsurface conditions, drawings of physical conditions of existing surface and subsurface facilities and documents depicting underground utilities placement and physical condition, whether obtained by the District, Project Designers or the Construction Manager; (c) unresolved permitting issues, and significant issues, if any, pertaining to the acquisition of land and rights-of-way; (d) the fast-tracking (if any) of the construction, or other chosen construction delivery methods; (e) the requisite number of separate bidding documents to be advertised; (f) the status of the procurement of long-lead time equipment and/or materials; and (g) funding issues identified by the District.

C. Schedule Development. In accordance with the Management Plan, the Construction Manager shall prepare a master schedule for the Project (the "Master Schedule"). In preparing the Master Schedule, the Construction Manager shall establish: (i) detailed Critical Path Method ("CPM") schedules for the pre-construction/design phase and the construction phase of the Project with concurrence of the District and the Project Designers, (ii) monitor the Project schedules during the pre-construction phase and ensure that the Master Schedule is updated as necessary and advise the District of any schedule deficiencies. The Construction Manager shall utilize Microsoft Project scheduling software to prepare, provide and maintain the detailed CPM schedules unless the District requests use of a different scheduling product.

1. Each Project team member is responsible for its compliance with the Master Schedule requirements. The Construction Manager will update and maintain the

Master Schedule on behalf of and to be used by the Project team based on input from other team members. The Master Schedule will be consistent with the most recent revised/updated Management Plan. The Master Schedule will be presented in graphical and tabular reports as agreed upon by the Project team. The Master Schedule will include all tasks and deliverables required by each member of the Project team to identify long lead items, real property transactions, utility relocation activity, permitting requirements, etc. If Project phasing as described below is required, the Master Schedule will indicate milestone dates for the phases. The Master Schedule's activities will directly correlate with the Schedule of Values (as defined in Subsection 2.3(D)(4) below).

2. The Construction Manager will include and integrate in the Master Schedule the services and activities required of the District's Project Manager, Project Designers and Construction Manager, including all construction phase activities. The Master Schedule will detail activities to the extent required to show: (a) the coordination between conceptual design, schematic design, and development of the Construction Documents (detailed design), (b) separate long-lead procurements, (c) permitting issues, (d) land and right-of-way acquisition, if any, (e) bid packaging strategy and awards to Subcontractors and suppliers, (f) major stages of construction, (g) start-up, and (h) occupancy of the completed Work by the District. The Master Schedule will include, by example and not limitation, proposed activity sequences and durations for design, procurement, construction and testing activities, milestone dates for actions and decisions by the Project team, preparation and processing of Shop Drawings and samples, delivery of materials or equipment requiring long-lead time procurement, milestone dates for various construction phases, total Float for all activities, relationships between the activities, District's occupancy requirements showing portions of the Project having occupancy priority, and proposed dates for Substantial Completion and when the Work would be ready for final acceptance.

3. The Master Schedule will be updated and maintained by the Construction Manager with assistance from the Project team throughout the pre-construction services phase such that it will not require major changes at the start of the construction phase to incorporate Construction Manager's plan for the performance of the construction phase Work. The Construction Manager will provide updates and/or revisions to the Master Schedule for use by the Project team, whenever required, but no less often than monthly; provided, however, that no such changes shall alter the date of Substantial Completion without the District's prior, written approval. The Construction Manager will include with such submittals a narrative describing its analysis of the progress achieved versus that planned, any concerns regarding delays or potential delays, and any recommendations regarding mitigating actions.

4. Prior to transmitting Contract Documents to Subcontractors, the Construction Manager shall prepare a pre-proposal construction schedule for each part of the Project and make the schedule available to the Subcontractors. The Construction Manager shall provide a copy of the Master Schedule to the Subcontractors. As part of the notice of award by the Construction Manager to each Subcontractor, the Construction Manager shall inform each Subcontractor of the requirements for the preparation of the

Master Schedule. Each Subcontractor shall prepare its own Subcontractor construction schedule in accordance with the requirements of the Contract Documents.

D. Cost Models; Cost Estimates and Schedule of Values. The Construction Manager shall provide the District with detailed cost information for all aspects of the Project. Each cost model will contain a detailed estimate of the direct cost (including materials, labor and equipment) pertaining to each aspect of the Project along with the cost of the contract bonds, the cost of the Project's required insurance, the cost of taxes, Construction Manager's general conditions, Construction Manager's fee and the amount of Construction Manager's Contingency and shall be consistent with such requirements as determined by the District or the Project Designers. The individual aspect cost models shall be collectively referred to as the "Cost Model."

1. As soon as practical during the conceptual design phase, the Construction Manager will review all available information regarding the design and scope of the Project, and based on the Construction Manager's experience in performing similar work, develop a Cost Model for review and approval by the District. Once approved by the District, the Cost Model will be continually updated and kept current as the design progresses throughout the pre-construction phase until a final GMP for the entire Project is established. The Cost Model will be the Construction Manager's best representation of the complete functional Project's construction costs. The Construction Manager will communicate to the Project team any assumptions made in preparing the Cost Model. The Cost Model will support the Construction Manager's construction cost estimates and may be broken down initially as dictated by the available information. The Cost Model will also include allowances as agreed to by the Project team, including but not limited: (a) allowances for potential additional quantities and/or additional Work that the District may require, and (b) any costs related to investigations described in Subsection 2.1.

2. After receipt of the Project Designers' most current documents from certain specified design milestones, the Construction Manager will provide a detailed written report to the Project team regarding the impact of and changes to the Cost Model based on the Construction Manager's review of Construction Documents made available at the specified design milestone. The District's Project Manager, Project Designers and the Construction Manager will reconcile any disagreements on the estimate to arrive at an agreed upon estimate for the construction costs based on the scope of the Project through that specified design milestone. The design milestones applicable to this paragraph are: conceptual design completion, schematic design completion, and detailed design completion at 30%, 60%, 90% and 100%. If no consensus is reached, the District will make the final determination. If the Project team requires additional updates of the Cost Model beyond that specified in this Subsection, the Construction Manager will provide the requested information in a timely manner.

3. If, at any point, the estimate submitted to the District exceeds previously-accepted estimates or other key aspects of the Cost Model or the District's Project budget, the Construction Manager will make appropriate recommendations to the District's Project Manager and Project Designers on means/methods, materials, and/or other design elements that it believes will reduce the estimated construction costs, (without

altering the District's basic program) such that it is equal to or less than the established Project budget.

4. Near completion of the 60% detailed design review and included with the associated report, the Construction Manager will also submit to the District for review and approval a "Schedule of Values" which complies with the following requirements. The Schedule of Values will highlight significant variances from any previously submitted preliminary Schedule of Values. The Schedule of Values will be directly related to the breakdowns reflected in the Management Plan and the Construction Manager's Cost Model. In addition, the Schedule of Values will: (a) detail unit prices and quantity take-offs, (b) segregate Work covered by any changes to construction phase Work already in progress, (c) reconcile used and remaining Construction Manager's Contingency (as defined in Subsection 3.3(D)(1) below) allowance, (d) detail all other allowances and unit price Work shown and specified in the detailed Construction Documents and (e) material and equipment costs, labor costs, General Conditions costs, hourly labor rates, payment for pre-construction services and total cost. Labor costs in the Schedule of Values will include employee benefits, payroll taxes and other payroll burdens. The total cost for any portion of the Work to be performed by Subcontractors will include Subcontractor overhead and profit.

5. The Construction Manager will submit to the District a final Schedule of Values based on the 100% detailed design set of Construction Documents for the entire Project or any portion thereof, which final Schedule of Values will also be included in any proposed GMP(s).

6. Upon request by the District, the Construction Manager will submit to the District a cash flow projection for the Project based on the current updated/revised Master Schedule and the anticipated level of payments for the Construction Manager during the pre-construction and construction phases. In addition, if requested by the District and based on information provided by the District, the Construction Manager will prepare a cash flow projection for the entire Project based on historical records for similar types of projects to assist the District in the financing process.

E. Traffic Control/Sequencing Plans. The Construction Manager shall provide the District with (1) a detailed traffic control plan, in accordance with Subsection 4.5(R) below and (2) construction sequencing plans. Upon approval by the District, the traffic control plan and the construction sequencing plan shall be attached hereto as Exhibit G, and incorporated herein by reference.

F. Phasing; Long Lead Procurement. The Construction Manager shall review the Construction Documents and make recommendations to the District with respect to the phase issuance of the Construction Documents to facilitate phased construction of the Work, if appropriate. The Construction Manager will take into consideration such factors as natural and practical lines of work severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, labor and materials availability, and any other factors pertinent to saving time and cost. The Construction Manager may also recommend to the District and to the Project Designers a list and a schedule for purchasing items necessary for

the Project which may require substantial lead time for procurement (the "Long Lead Items"), which may be separately procured by the District or included as a separate GMP in this Agreement, at the discretion of the District. The Construction Manager shall make such adjustments to the Master Schedule as necessary to accommodate the procurement process for the Long Lead Items. Upon purchase, the Construction Manager shall safeguard the Long Lead Items until installed as part of the Project.

G. Other Deliverables; Pre-Construction Progress Payments. The Construction Manager shall provide the District with written plans for the pre-qualification of Subcontractors (according to the Subcontractor Selection Program), subcontract bid packages, project safety, quality control, owner training and commissioning. The Construction Manager will prepare and submit monthly pay applications to the District for work performed during the specific payment period for the pre-construction phase of the Project.

ARTICLE 3 GUARANTEED MAXIMUM PRICE PROPOSAL

3.1 GMP Submittal Process. At the stage of the pre-construction phase services as determined by the District, the Construction Manager shall, if requested by the District, submit a GMP Proposal, which shall be the sum of the estimated Cost of the Work relating to completion of the Scope for the Project and the Construction Fee relating to the Project based upon the most-current version of the Cost Model. Each GMP Proposal shall include, in the Cost of the Work, those taxes that are applicable at the time the GMP is established. Each GMP is the total cost of the applicable portion of the Project including the cost of labor, equipment, supplies, materials, services and allowances to complete the applicable portion of the Project. The cost data is directly correlated to the specific Construction Documents in existence at the time each GMP Proposal is prepared. The assumptions used in the preparation of the GMP Proposal shall be identified by the Construction Manager as part of the GMP Proposal. In submitting this proposal, Construction Manager represents that:

A. Document Review. Construction Manager has examined and carefully studied the Contract Documents for the construction phase, including all addenda.

B. Site Visit. Construction Manager has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, performance and furnishing of the Work.

C. Laws and Regulations. Construction Manager is familiar with and is satisfied as to all Applicable Laws that may affect cost, progress, performance and furnishing of the Work.

D. Reports; Subsurface Conditions. Construction Manager has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site which have been identified in the Contract Documents for the construction phase. Construction Manager acknowledges that such new reports may not be complete for Construction Manager's purposes. Construction Manager acknowledges that District

and Project Designers do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents for the construction phase with respect to underground facilities at or contiguous to the Site.

E. Work by Others. Construction Manager is aware of the general nature of Work to be performed by District and others at the Site that relates to Work for which the GMP Proposal is submitted as indicated in the Contract Documents for the construction phase.

F. Conditions and Plans Correlated. Construction Manager has correlated the information known to Construction Manager, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents for the construction phase and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents for the construction phase.

G. Inconsistencies Resolved. Construction Manager has given Project Designers written notice of all conflicts, errors, ambiguities or discrepancies that Construction Manager has discovered in the Contract Documents for the construction phase and the written resolution thereof by Project Designers is acceptable to Construction Manager, and the Contract Documents for the construction phase are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which the GMP Proposal is submitted.

H. No Improper Actions. The proposal is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Construction Manager has not directly or indirectly induced or solicited any person, firm or corporation to refrain from proposing; and Construction Manager has not sought collusion to obtain for itself any advantage over any other contractor or over the District.

3.2 Acknowledged Construction Documents. The Construction Manager, in preparing any GMP Proposal, will obtain from the Project Designers three sets of signed, sealed, and dated Construction Documents (including all addenda). The Construction Manager will prepare its GMP Proposal in accordance with the District's requirements and the most-current completed Construction Documents at that time. The Construction Manager will mark the face of each document of each set upon which its GMP Proposal is based. The Construction Manager will send one set of those documents to the District's Project Manager, keep one set and return the third set to the Project Designers.

3.3 Direct Construction Costs. Direct Construction Costs means the sum of the amounts that the Construction Manager actually and necessarily incurs constructing the Work in strict compliance with the Contract Documents. Direct Construction Costs include only the cost categories set forth in this Article and does not include the Pre-Construction Phase Fees or the Construction Phase Fees unless specifically noted.

A. General Conditions Costs. Construction Manager is entitled to receive reimbursement for the actual cost of the allowable General Conditions items incurred between issuance of the applicable Notice to Proceed and 60 days after the date scheduled for Substantial

Completion. Construction Manager is entitled to reimbursement for General Conditions Costs incurred before receipt of the Notice to Proceed, or after Substantial Completion, only with prior written approval of the District. "Allowable General Conditions Cost Line Items" are identified below and in Exhibit H, attached hereto and incorporated herein by reference. These items shall be included in the General Conditions Cost amount shown as a lump sum in the applicable GMP Proposal and as detailed on the Schedule of Values. Items not specifically included below or in Exhibit H will not be allowed as a General Condition Costs.

1. Personnel costs, which include wages paid for Construction Manager's hourly employees and salaries of Construction Manager's salaried personnel when (a) stationed at the field office located at the Site and working on matters directly related to the Project, in whatever capacity employed; (b) engaged on the road expediting the production or transportation of material and equipment; and (c) performing functions directly related to the Work from the principal or branch office. The project manager's salary may be included in the General Conditions Costs only when the project manager is directly managing the Project onsite, traveling or from the principal (or branch) office. Personnel costs also include the cost of all employee benefits and taxes including but not limited to, unemployment compensation, Social Security, health, welfare, retirement and other fringe benefits as required by law, labor agreements, or paid under the Construction Manager's standard personnel policy. All personnel costs are as per Exhibit H and at the agreed upon Rates included in Exhibit C.1.

2. Reasonable transportation, travel, vehicle allowance and fuel of the Construction Manager's personnel incurred in connection with the Work.

3. Costs of cellular service, telegrams, postage, package delivery and courier service, hardwired telephone service, and reasonable expenses of Construction Manager's jobsite office if incurred at the Site or directly and solely in support of the Work.

4. Costs of materials, supplies, temporary facilities, equipment, and hand tools (except those customarily owned by construction workers), supplied to the Site by Construction Manager, if such items are fully consumed in the construction of the Work and are included in the list of Allowable General Conditions Cost Line Items set forth in Exhibit H. Cost for used items shall be based on fair market value and may include transportation, installation, and minor maintenance costs, and removal costs. If an item is not fully consumed in the construction of the Work, its recoverable cost under this Contract shall be based on the original cost of the item less its fair market salvage value.

5. Rental charges for temporary facilities, equipment, and hand tools (except those customarily owned by construction workers), supplied to the Site by Construction Manager, provided they are included in the list of Allowable General Conditions Cost Line Items set forth in Exhibit H and the District approved rentals rates in Exhibit C.1 or in advance and in writing. Rental rates may include transportation, installation, and minor maintenance costs, and removal costs. For tools, machinery or construction equipment rented directly from the Construction Manager, the rental rate, including freight and delivery costs and all operating expenses except labor, shall be approved in advance by the District and shall be in accordance with either the "Rental Rate

Blue Book for Construction Mobilization Costs” published by Primedia, latest edition, or the most-recent rates provided by Equipmentwatch.com, but no higher than the prevailing competitive rates for rental of similar equipment in the Project vicinity.

6. The aggregate rental cost of any item charged to the District shall not exceed 75% of the purchase price and maintenance cost of the item. If the anticipated aggregate rental cost for an item of equipment exceeds 75% of the purchase and maintenance price, Construction Manager shall purchase the equipment and turn it over to the District upon final completion of the Work or, at the District’s option, credit the District with the fair market resale value of the item.

7. Permit and inspection fees paid by Construction Manager where the District is exempt will not be reimbursed by the District.

8. Cost of premiums for normal and customary Construction Manager’s Subcontractor default insurance at the rate of 1.25% of the cost of subcontracts and Subcontractor’s liability, workman’s compensation and builders risk insurance as required pursuant to Article 10 below, which shall be identified as separate line items within the applicable GMP. If the Construction Manager intends to utilize Subcontractor Liability Wrap-up Coverage (Z-25), it will be reimbursed at the rate of 1.5% of the Subcontract amount, and credited from the Subcontractor bids. Commercial General Liability Insurance shall be reimbursed at the rate of 1.3% of the applicable GMP amount; Builders Risk Insurance shall be reimbursed at the the current market rate based on the final design construction type; Performance and Payment Bonds shall be reimbursed at 1.1% of the applicable GMP amount. All amounts shall be identified as separate line items within the applicable GMP.

9. Cost of bond premiums to the extent directly attributable to the Project.

10. Governmental sales and use taxes directly attributable to the General Conditions Items that are not subject to exemption, in the form and at the rates legally enacted on the date of the first GMP, whether such taxes are effective or scheduled to go into effect. Taxes paid on materials or services that were entitled to tax exemption will not be reimbursed by the District as Direct Construction Costs.

B. Cost of the Work. Construction Manager is entitled to receive payment for the actual cost of the allowable Cost of the Work items incurred after receipt of the District’s written Notice to Proceed with the Construction Phase Work through Final Completion of the Project. Construction Manager is not entitled to reimbursement for Cost of the Work costs incurred before receipt of the District’s written Notice to Proceed.

Cost of the Work includes the following:

1. Costs of materials, supplies and equipment purchased directly by the Construction Manager and incorporated into or consumed in the performance of the Work,

including transportation charges, to the extent such costs of materials, supplies and equipment are not included in the General Conditions Costs.

2. Costs of removal and disposal in accordance with all applicable laws and regulations of Site debris, non-hazardous substances and waste materials, if not otherwise included in General Conditions.

3. Payments made by Construction Manager to Subcontractors and their vendors or suppliers for the subcontract work in accordance with the Construction Documents and the requirements of the subcontracts with the Subcontractors, vendors or suppliers.

4. Payments earned by Construction Manager for self-performed subcontract work, other than General Conditions work, in accordance with the Construction Documents and the terms of this Contract and approved by the District.

5. Fees and expenses for design services procured by the Construction Manager related to necessary modifications to the Construction Documents.

6. Intellectual property royalties and licenses for items specifically required by the Construction Documents which are, or will be, incorporated into the Work.

7.

8. All water, power and fuel costs necessary for the Work.

9. Costs incurred due to an emergency affecting the safety of persons and/or property, excluding such costs related to the negligence or willful acts of the Construction Manager or any person or entity for whom the Construction Manager is responsible.

10. All costs directly incurred in the performance of the Work or in connection with the Project, and not included in the Contract Price as set forth in Article 7 below, which are reasonably inferable from the Contract Documents as necessary to produce the intended results, subject to the maximum price limitation established by the respective GMP.

11. Costs related to the Construction Manager's safety program related to the Project.

C. Exclusions from General Conditions Costs and Cost of the Work. The General Conditions Costs and Cost of the Work shall not include the following:

1. Any professional fees paid by the District to the Project Designers or other consultants retained directly by the District.

2. Any costs paid directly by the District to Subcontractors or suppliers retained directly by the District and outside the scope of all GMPs.

3. Any additional service costs as defined herein.

4. Any other costs not within the control of the Construction Manager or identified as being not within any GMP.

D. Construction Manager's Contingency.

1. The GMP Proposal may include an amount (the "Construction Manager's Contingency") to be used to fund increases in the Direct Construction Costs of the Project identified through the refinement, development and completion of the Construction Documents or procurement of the Work. The Construction Manager's Contingency shall be negotiated between the Parties and it shall reflect the risk inherent in the state of completion of the Construction Documents at the time the GMP Proposal is submitted.

2. The Construction Manager shall provide the District with detailed documentation of the scope of work affected and the basis for any increases in costs resulting in the need to use Construction Manager's Contingency funds.

3. The Construction Manager's Contingency belongs to the Construction Manager if it is needed but is returned to District if it goes unused. It reflects the incomplete nature of the drawings and specifications at the time the GMP is established and may be used to cover unanticipated costs that arise during construction. Written approval from District is required for Construction Manager's use of this contingency.

E. Calculation Methods; Audits.

1. The District and the Construction Manager understand and agree that any GMP agreed to under this Project is a one overall Guaranteed Maximum Price and the individual line items are not separate price maximums. The Construction Manager shall be permitted to reallocate the individual line items and to provide an updated Schedule of Values to the Owner that reflects any such reallocation at its sole discretion, provided that it does not exceed the Guaranteed Maximum Price.

2. Except for lump sum or fixed fee items, the District and the Construction Manager understand and agree that the District, its authorized representatives, and/or the appropriate federal or state agencies may audit the Construction Manager's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate any GMP, and including, but not limited to, self-performed items, qualifications-only selected Subcontractor items, unexecuted Change Orders, use of allowance funds and use of Construction Manager's Contingency funds. The District and its authorized representatives shall have access, during normal working hours, to all necessary Construction Manager and Subcontractor facilities, and shall be provided adequate and appropriate workspace, in order to conduct audits in compliance with the

provisions of this Subsection. The District shall give Construction Manager or Subcontractor reasonable advance notice of intended audits.

F. Discounts. All discounts for prompt payment shall accrue to the District to the extent such payments are made directly by the District. To the extent payments are made with funds of the Construction Manager, all cash discounts shall accrue to the Construction Manager. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work.

3.4 Construction Fee. The "Construction Fee" is the maximum amount payable to the Construction Manager for any cost or profit expectation incurred in the performance of the Work that is not specifically identified as being eligible for reimbursement by the District elsewhere in this Agreement. The Construction Fee includes, but is not limited to, the following items.

A. Profit. All profit, profit expectations and costs associated with profit sharing plans such as personnel bonuses, incentives, and rewards; company stock options; or any other like expenses of the Construction Manager.

B. Salaries. Salaries of Construction Manager's officers, estimators, and all other employees not stationed at the Project site or performing services directly related to the Project except as specifically allowed under General Conditions.

C. Overhead. Any and all overhead, labor or general expenses of any kind unless specifically allowed under General Conditions. These costs include, but are not limited to: costs for the purchase, lease, rental, allowance or maintenance of vehicles, radios/communication equipment, , specialized telephone systems; home office operations and support staff (i.e. accounting, purchasing); trade or professional association dues; costs for hiring and/or relocation of any of the Construction Manager's personnel; and travel, per diem and subsistence expense of Construction Manager, its officers or employees except as specifically allowed under General Conditions.

D. Financial Costs. Any financial costs incurred by the Construction Manager including the cost of capital or interest on capital, regardless of whether it is related to the Project, and costs associated with construction warranty reserves.

3.5 Competitive Bidding and Sub-Bids.

A. Subcontractor Selection. The Construction Manager will develop Subcontractor interest, submit the names of a minimum of three qualified Subcontractors for each trade in the Project for approval by the District and solicit bids for the various Work categories. If there are not three qualified Subcontractors available for a specific trade, the Construction Manager will request approval by the District's Project Manager to submit less than three names. No change in the District approved Subcontractors will be allowed without prior written approval by the District.

B. District Objections. If, prior to receipt of sub-bids or prior to award of Subcontractors or suppliers, the District objects to any nominated Subcontractor or supplier or to any self-performed Work for good reason, the Construction Manager will nominate a substitute Subcontractor or supplier, preferably if such option is still available, from those who submitted sub-bids for the Work affected. Once such substitute Subcontractors and suppliers are consented to by the District, the Construction Manager's proposed GMP for the Work or portion thereof will be correspondingly adjusted to reflect any higher or lower costs from any such substitution.

C. Documents; Pre-bid Conference. The Construction Manager will distribute Construction Documents, and when appropriate, conduct a pre-bid conference with prospective Subcontractors.

D. Subcontractor Bid Submittal. The Construction Manager, at the required time, will close the bidding and collect all sub-bids received within the prescribed deadline for receipt of sub-bids. Promptly, after the closing of sub-bids, the Construction Manager will provide all properly and timely submitted sub-bids. The Construction Manager will submit a completed Sub-Bid tabulation form to the District's Project Manager within a reasonable time after the closing of the sub-bid opening proceedings.

E. Subcontractor Bid Evaluation. The Construction Manager, upon opening of sub-bids will evaluate them including, but not limited to, the evaluation of lower tier Subcontractors, Subcontractor qualification submittals and prospective suppliers selected by each apparent low sub-bidder. The Construction Manager will resolve any sub-bid withdrawal, protest or disqualification in connection with the award at no increase in the Cost of the Work.

F. Notice of Intent for Subcontracts. Within 15 Days after sub-bid opening, the Construction Manager will deliver to the District's Project Manager a written notice of intent to award subcontracts, itemizing the Subcontractors and suppliers selected by the Construction Manager. The notice of intent to award subcontracts will detail (1) for each Subcontract the amount of the sub-bid and the corresponding Subcontractor or supplier, (2) the sum of sub-bids received for all intended Subcontract, (3) trade work that the Construction Manager intends to self-perform, if any.

G. Pre-award Conference. Promptly after receipt of the notice of intent to award subcontracts, the District will conduct a pre-award conference with the Construction Manager and other Project team members. At the pre-award conference, the Construction Manager will (1) review the nominated slate of Subcontractors and suppliers and discuss any concerns with or objections that the District has to any nominated Subcontractor or supplier; (2) discuss District concerns relating to any proposed self-performed Work; (3) review the Construction Manager's proposed Contract Price for the Work during the construction phase; (4) resolve possible time frames for the commencement date of the Contract Time for the construction phase Work; (5) schedule the pre-construction conference; and (6) discuss other matters as necessary.

3.6 Submittal Requirements. The Construction Manager shall include with each GMP Proposal a written statement of its basis, which shall include:

A. Detailed Scope. A detailed scope of services related to the respective GMP Proposal, including a breakdown of the GMP as it relates to the applicable part of the overall Scope.

B. Documents. A list of the Construction Documents, including all addenda, that were used in preparation of the respective GMP Proposal.

C. Allowances. A list of allowances and a statement of their basis.

D. Assumptions. A list of the assumptions and clarifications made by the Construction Manager in the preparation of the respective GMP Proposal to supplement the information contained in the Construction Documents.

E. Substantial Completion. The Substantial Completion date, if applicable, upon which the respective GMP Proposal is based and the Master Schedule for the Work upon which the respective Substantial Completion date is based, including a clear statement of the number of rain delay days included within the Master Schedule.

F. Alternate Prices. A schedule of applicable alternate prices.

G. Unit Prices. A schedule of applicable unit prices.

H. Additional Services. A statement of Additional Services included, if any.

I. Acceptance Period. The time limit for acceptance of the GMP Proposal.

3.7 GMP Proposal Review. The Construction Manager shall meet with the District and the Project Designers to review each GMP Proposal. In the event that the District discovers any inconsistencies or inaccuracies in the information presented, the District shall give written notice to the Construction Manager, who shall make appropriate adjustments to the GMP, its basis or both.

A. Independent Estimate. Upon receipt of any GMP Proposal from the Construction Manager, the District may submit the same documents that were used by Construction Manager in developing its GMP to an independent third party or to the Project Designers for review and verification. The third party or Project Designers will develop an independent estimate of the Cost of the Work and review the Master Schedule for the associated scope of the GMP Proposals.

B. GMP Exceeding Independent Estimate. If the Construction Manager's GMP Proposal is greater than the independent third party or Project Designers' estimate, the District may require the Construction Manager to reconfirm its GMP Proposal. The Construction Manager will accept the independent third party's or Project Designer's estimate for the Cost of the Work as part of its GMP or present a written request, within seven business Days of receiving the estimates, to the District identifying, explaining and substantiating the differences. The

Construction Manager may be requested to, or at its own discretion may, submit a revised GMP Proposal for consideration by the District. At that time the District may do one of the following:

1. Accept the Construction Manager's original or revised GMP Proposal, if within the District's budget, without comment.
2. Accept the Construction Manager's original or revised GMP Proposal that exceeds the District's budget, and indicate in writing to the Construction Manager that the Project budget has been increased to fund the differences.
3. Reject the Construction Manager's original or revised GMP Proposal because it exceeds either or both the District's budget and the independent third party's or Project Designers' estimate, in which event, the District may terminate this Agreement.

C. Design Changes During Negotiation. If, during the review and negotiation of GMP Proposals, design changes are required, the District will authorize and cause the Project Designers to revise the Construction Documents to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the final approved GMP Proposal. Such revised Construction Documents will be furnished to the Construction Manager. The Construction Manager will promptly notify the Project Designers and District's Project Manager if any such revised Construction Documents are inconsistent with the agreed-upon assumptions and clarifications.

3.8 No Prior Costs. Prior to the Governing Board's acceptance of a GMP Proposal, the Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work related to such GMP Proposal, except as provided in this Agreement or as the District may specifically authorize in writing.

3.9 Acceptance; Effect. Upon acceptance by the Governing Board of each GMP Proposal, the GMP contained therein and its basis shall be set forth in the applicable GMP Amendment. Once established, the GMP and the corresponding Substantial Completion date shall be subject to modification only as provided in Articles 6 and 8 below. The District's approval of the GMP Amendment will include the amount of the District's Contingency. The amount of the District's Contingency will be set solely by the District and will be in addition to the Project costs included in the Construction Manager's GMP Proposals. Use and management of the District's Contingency is at the District's sole direction.

3.10 GMP Effective Date. Each GMP Proposal shall not become a part of this Agreement until the Governing Board accepts such GMP Proposal in writing by executing the applicable GMP Amendment, on or before the date specified in each such GMP Proposal for such acceptance.

3.11 Failure to Agree Upon GMP. If the Governing Board and the Construction Manager do not agree to any provisions of the GMP Proposal, including the designated Default Neutral Arbitrator, all references in this Agreement to the GMP shall not be applicable, and the Parties shall proceed on the basis of reimbursement as provided in Article 7 below.

ARTICLE 4 CONSTRUCTION SERVICES

4.1 Control of Construction. After the date any Amendment to this Agreement is executed by the District and the Construction Manager approving a GMP Proposal, the Construction Manager shall become responsible for the means, methods, sequences and procedures used in the construction of the portion of the Project related to such GMP Proposal and shall proceed with the Construction Manager's Construction Services related to the GMP Proposal under this Agreement.

4.2 Completeness and Accuracy of Construction Manager Work. The Construction Manager will be responsible for the completeness and accuracy of its reviews, reports, supporting data, and other pre-construction deliverables prepared or compiled pursuant to its obligations under this Agreement and will at its sole own expense correct its work or deliverables. The fact that the District has accepted or approved the Construction Manager's work or deliverables will in no way relieve the Construction Manager of any of its responsibilities under the Agreement, nor does this requirement to correct the work or deliverable constitute a waiver of any claims or damages otherwise available by law or contract to the District.

4.3 Alteration in Character of Work. In the event an alteration or modification in the character of work or deliverable materially increases or decreases the scope of service, cost of performance, or Master Schedule as determined by the District, the Work or deliverable will nonetheless be performed as directed by the District. However, before any altered or modified work begins, a Change Directive or Change Order must be approved and executed by the District and the Construction Manager to address such change. Such Change Directive or Change Order will not be effective until approved by the District. Additions to, modifications to, or deletions from the Project provided herein may be made, and the compensation to be paid to the Construction Manager may be adjusted accordingly, only by mutual agreement of the Parties. No claim for extra work done or materials furnished by the Construction Manager will be allowed by the District except as provided herein, nor will the Construction Manager do any work or furnish any material(s) not covered by this Agreement unless such work or material is first authorized in writing by the District. Work or material(s) furnished by the Construction Manager without such prior written authorization will be the Construction Manager's sole jeopardy, cost, and expense, and the Construction Manager hereby agrees that, without prior written authorization, no claim for compensation for such work or materials furnished will be made.

4.4 Construction Phase General Services. The Construction Manager shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to perform all Work for the construction of the Project, and to completely and totally construct the same and install the material therein for the District. All Work will be performed in a good and workmanlike and substantial manner according to the standards set forth in Subsection 1.6(A) above. The Work shall be to the satisfaction of the District and strictly pursuant to and in conformity with the Project's Contract Documents, as modified and agreed to by the District. Construction Manager's Representative shall be reasonably available to District and shall have the necessary expertise and experience required to supervise the Work. Construction Manager's Representative shall communicate regularly with District but not less than once each week and

shall be vested with the authority to act on behalf of Construction Manager. Construction Manager's Representative may be replaced only with the written consent of District.

A. Government Approvals and Permits.

1. The Construction Manager shall be primarily responsible to obtain all necessary permits, approvals and licenses required for the prosecution of the Work from any government or quasi-government entity having jurisdiction over the Project. The Contractor is specifically reminded of the need to obtain the necessary environmental permits or file the necessary environmental notices. The District will be the applicant for the following permits; however, the Construction Manager shall be responsible for any work associated with obtaining the permits, as directed by the District:

- a. Aquifer Protection Permit (APP) No. P-100573
- b. MAG 208 Amendment
- c. Maricopa County Environmental Services Department
 - i. Approval to Construct
 - ii. Approval of Construction
 - iii. Air Quality Permit 980869, for plant operations and generators
- d. Well Drilling Permit
- e. Flood Plain Use Permit
- f. Arizona Pollution Discharge Elimination Systems (AZPDES), AZ0023281
- g. Architectural Approval; Site Plan/Conditional Use Permit Approval; Building Permit
- h. Stormwater Multi-Sector General Permit (AZMSG2010-002) relating to the WRF's industrial operations; provided that any construction permit necessary in conjunction with this permit shall be obtained by the Construction Manager.

2. Copies of the required permits and notices must be provided to the District's Representative prior to starting the permitted activity. In the case of Fire Department permits, a copy of the application for permit shall also be provided to the District's Representative. This provision does not constitute an assumption by the District of an obligation of any kind for violation of said permit or notice requirements.

3. District shall be responsible for permit(s) and fees for building and demolition permits. District will also pay review fees for grading and drainage, water, sewer, and landscaping. District shall also pay for utility design fees for permanent services.

4. Construction Manager shall be responsible for all other permits and review fees not specifically listed in Subsection 4.4(A)(1) above.

5. Construction Manager is responsible for all water bills on the Project meters until Substantial Completion of the Project. Arrangements for construction water are the Construction Manager's responsibility.

B. Pre-construction Activities.

1. Prior to the commencement of any Work, the District's Representative will schedule a pre-construction conference. The purpose of this conference is to establish a working relationship between the Construction Manager, utility firms, various District agencies and other entities as may be appropriate or beneficial. The agenda will include critical elements of the Work and Master Schedule, submittal schedule, cost breakdown of major items, payment requests and processing, coordination with the involved utility firms, the level of Project Record Documents required and emergency telephone numbers for all representatives involved in the course of construction. Minimum attendance at the preconstruction conference shall be the Construction Manager's Representative, the job superintendent, the Construction Manager's safety officer and the individuals deemed necessary by the District.

2. The Notice to Proceed date will be set by the District. At or after the pre-construction conference and upon delivery of the required bonds and insurance in a District-approved format or at such other time as the District may elect, a Notice to Proceed letter will be issued confirming the construction start date, which said start date shall not be before Construction Manager's receipt of the fully executed Contract and/or GMP Amendment and the issuance of all required permit(s). The Notice to Proceed shall also confirm the Contract Time and the Substantial Completion date. Failure by the Construction Manager to provide the properly executed bond and insurance forms in a timely manner may delay the construction start date; however, it will not alter the proposed Substantial Completion date nor be a basis for any time extension request or other claims.

3. The Construction Manager shall update the Schedule of Values based on the categories used in the buy out of the Work but not greater than the approved GMP; the update shall identify the Construction Manager's Contingency. The Schedule of Values will subdivide the Work into all items comprising the Work.

C. Project Management.

1. The Construction Manager shall refine the Management Plan for the Project. In refining the Management Plan, the Construction Manager shall consider the District's schedule, cost and design requirements for the Project. The Construction

Manager shall then develop various alternatives for the sequencing and management of the Project and shall make recommendations to the District. The Management Plan shall also include a description of the various proposal packages recommended for the Project. The Management Plan shall be presented to the District for acceptance.

2. The Construction Manager shall conduct periodic Project meetings attended by the District's Representative, the Project Designers and other necessary parties. Such meetings shall serve as a forum for the exchange of information concerning the Project and the view of construction progress. The Construction Manager shall prepare and distribute minutes of these meetings to the District's Representative, the Project Designers and others in attendance.

3. The Construction Manager shall coordinate transmittal of documents to regulatory agencies for review and shall advise the District of potential problems in completing such reviews.

4. The Construction Manager shall assist the District in public relations activities and shall prepare information for and attend public meetings regarding the Project.

D. Reports.

1. The Construction Manager shall prepare and distribute design phase change reports monthly to the District that shall list all District-approved Change Directives and Change Orders as of the date of the report and shall state the effect of the Change Directives and Change Orders on the Project budget and the Master Schedule.

2. The Construction Manager shall prepare and distribute schedule maintenance reports monthly to the District comparing the actual and revisions and/or recovery scheduled dates of the Project.

3. The Construction Manager shall prepare and distribute cash flow reports monthly to the District specifying actual cash flow for each of the individually awarded components of the Project as compared to the projected cash flow.

4. The requirements for filing reports set forth in this Subsection 4.4(D) shall not be deemed to meet the requirements for requests for extensions of time or requests for Change Directives and Change Orders as set forth in Section 6 and Section 8 below.

4.5 Work Management.

A. Construction Manager Resources. Unless otherwise provided in the Contract Documents to be the responsibility of District or a separate contractor, Construction Manager shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Construction Manager to complete the Work according to the

Contract Documents. The Construction Manager shall provide and maintain a management team on the Site to provide contract administration. The Construction Manager shall establish and implement coordination and communication procedures among the Construction Manager, the District, the Project Designers and Subcontractors.

B. Means, Methods and Techniques. Construction Manager shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Construction Manager shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

C. Supervisor Presence. Construction Manager's Representative or the Construction Manager's Superintendent shall be present at the Site at all times that construction activities are taking place.

1. All elements of the Work shall be under the direct supervision of a foreman or his designated representative on the Site who shall have the authority to take actions required to properly carry out that particular element of the Work.

2. In the event of noncompliance with this Subsection, the District may require the Construction Manager to stop or suspend the Work in whole or in part.

D. Manufacturer Requirements. Where the Contract Documents require that a particular product be installed and/or applied by an applicator approved by the manufacturer, it is the Construction Manager's responsibility to ensure the Subcontractor employed for such work is approved by the manufacturer.

E. Measurements. Before ordering materials or doing work, the Construction Manager and each Subcontractor shall verify measurements at the Site and shall be responsible for the accuracy of such measurements. No extra charge or compensation will be allowed because of differences between actual dimensions and the dimensions indicated on the plans; differences shall be submitted to the District for resolution before proceeding with the Work.

F. Field Measurements and Conditions. The Construction Manager shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Construction Manager with the Construction Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the District immediately.

G. Grades, Lines, Levels and Bench Marks. The Construction Manager shall establish and maintain all building and construction grades, lines, levels, and bench marks, and shall be responsible for accuracy and protection of same. This Work shall be performed or supervised by a civil engineer or surveyor licensed as such in the State of Arizona.

H. Proper Employee Conduct. Any person employed by the Construction Manager or any Subcontractor who, in the opinion of the District, does not perform his work in a proper, skillful and safe manner or is intemperate or disorderly or is otherwise found to be

inappropriate due to the setting of the Site, shall, at the written request of the District, be removed from the Site by Construction Manager or Subcontractor employing such person, and the person shall not be employed again in any portion of Work without the written approval of the District. The Construction Manager or Subcontractor shall hold the District harmless from damages or claims which may occur in the enforcement of this Subsection.

I. Coordination of Activities. Construction Manager shall coordinate the activities of all its Subcontractors. If District performs other work on the Project or at the Site with separate contractors under District's control, the Parties shall coordinate the activities of all forces at the worksite and agree upon fair and reasonable schedules and operational procedures for worksite activities. District shall require each separate contractor to cooperate with Construction Manager and assist with the coordination of activities and the review of construction schedules and operations. The GMP or the Date of Substantial Completion or the Date of Final Completion may be equitably adjusted in accordance with this Agreement, for changes resulting from the coordination of construction activities, and the Schedule of the Work shall be revised accordingly.

J. Change Processing. The Construction Manager shall establish and implement procedures for expediting and processing requests for information, Shop Drawings, material and equipment sample submittals, contract schedule adjustments, Change Directives, Change Orders, substitutes, payment requests and the maintenance of logs. The Construction Manager shall maintain daily job reports. The Construction Manager shall be the party to whom requests for information, submittals, Subcontractor schedule adjustments, substitutions, Change Directive requests, Change Order requests and payment requests shall be submitted.

K. Subcontractor Meetings. Periodically, the Construction Manager shall conduct meetings at the Site with each Subcontractor. The Construction Manager shall conduct coordination meetings with all Subcontractors. The Construction Manager shall record, transcribe and distribute minutes to all attendees, the District and the Project Designers.

L. Coordination of Inspections and Testing. Technical inspection and testing provided by the Project Designers or others who are not Subcontractors shall be coordinated with the Construction Manager. The Construction Manager shall be provided a copy of all inspection and testing reports on or before the next business day after the inspection or test. The Construction Manager is not responsible for providing, nor does the Construction Manager control, the actual performance of such technical inspection and testing. The Construction Manager is performing a coordination function and is not acting in a manner so as to assume responsibility or liability, in whole or in part, for all or any part of such inspection and testing.

M. No Subcontractor Reliance. Construction Manager shall ensure that each Subcontractor (1) has inspected the Site and has thoroughly reviewed this Agreement as the same may be revised by the District, and is not relying on any opinions or representations of the District, (2) agrees to perform and complete the Work in strict accordance with this Agreement and under the Construction Manager's direction, (3) agrees that any exclusions of any Work must be approved in writing by the Construction Manager prior to acceptance of any agreement between Construction Manager and a Subcontractor or same shall not be excluded hereunder, (4) is responsible for all safety precautions and programs and shall provide all protection and necessary supervision to implement said precautions and programs as set forth in Section 4.13 below, (5)

shall provide all competent supervision necessary to execute all Work and any work incidental thereto in a thorough, first-class, workmanlike manner and (6) has acknowledged that it is Subcontractor's responsibility that all of the Work and any work incidental thereto conforms to, and is performed in accordance with, Applicable Law.

N. Subcontractor Change Request. The Construction Manager shall review the contents of a request for changes to the subcontract time or price submitted by a Subcontractor, assemble information concerning the request and endeavor to determine the cause of the requests. In instances where the Construction Manager's analysis reveals that the request is valid, the Construction Manager shall prepare a detailed report to the District for approval in accordance with Articles 6 and 8 below, as applicable. The Construction Manager shall also prepare and timely deliver a detailed report to the District of other such requests and requests found to be invalid and timely inform the Subcontractor of any such determination. The Construction Manager shall prepare the necessary change documents for signature by the Subcontractor.

O. Quality Control. The Construction Manager shall establish and implement a program to monitor the quality of construction by itself and by Subcontractors. The purpose of the program shall be to protect the District against defects and deficiency in the Work of the Construction Manager or the Subcontractors. The Construction Manager shall reject the Work and transmit to the Subcontractor a notice of nonconforming work when the Construction Manager believes the Work does not conform to the requirements of the Contract Documents. Except for minor variations as stated herein, the Construction Manager is not authorized as part of this service to change, enlarge, relax, alter, or release any requirement of the Contract Documents or to approve or accept any portion of the Work not performed in accordance with the Contract Documents.

P. Subcontractor Document Request. The Construction Manager shall coordinate and expedite submittals of information from the Subcontractors for record drawings and specification preparations and shall coordinate and expedite the transmittal of Project Record Documents to the District.

Q. Traffic Control. All traffic affected by the Work under this Agreement shall be regulated in accordance with the most recent revision of the United States Department of Transportation *Manual on Uniform Traffic Control Devices* (the "MUTCD") and the City of Phoenix Traffic Barricade Manual (the "Barricade Manual") (the MUTCD and the Barricade Manual are collectively referred to herein as the "Traffic Control Requirements"), which are incorporated herein by reference; provided, however, that this Agreement shall govern in a conflict with the terms of the MUTCD or the Barricade Manual. At the time of the pre-construction conference, each Subcontractor shall designate an employee who is well qualified and experienced in construction traffic control and safety to be responsible for implementing, monitoring and altering traffic control measures, as necessary. At the same time the Construction Manager will designate a representative who will be responsible to see that all traffic control and any alterations are implemented and monitored to the extent that traffic is carried through the Work area in an effective manner and that motorists, pedestrians, bicyclists and workers are protected from hazard and accidents. The Construction Manager shall ensure that Subcontractors adhere to the following:

1. All traffic control devices and advance warning signs (such as REDUCE SPEED, LOOSE GRAVEL, 25 MPH SPEED LIMIT and DO NOT PASS)

required for the Work under this Agreement shall be placed in accordance with the Traffic Control Requirements.

2. The Subcontractor provide, erect and maintain all necessary flashing arrow boards, barricades, suitable and sufficient warning lights, signals and signs and shall take all necessary precautions for the protection of the Work and safety of the public. The Subcontractor shall provide, erect and maintain acceptable and adequate detour signs at all closures and along detour routes.

3. All barricades and obstructions shall be illuminated at night, and all safety lights shall be kept burning from sunset until sunrise. All barricades and signs used by the Subcontractor shall conform to the standard design generally accepted for such purposes and payment for all such services and materials shall be considered as included in the other pay items of the Agreement.

4. The Subcontractor shall ensure that all existing traffic signs are erect, clean and in full view of the intended traffic at all times. Street name signs at major street intersections shall be maintained erect at all times. If these signs should interfere with construction, the Subcontractor shall notify the District at least 48 hours in advance for District personnel to temporarily relocate said signs. The District will direct the Subcontractor as to the correct positions to re-set all traffic and street name signs to permanent locations when notified by the Subcontractor that construction is complete.

5. When construction activities or traffic hazards at the Site require the use of flagmen, it shall be the Subcontractor's responsibility to provide trained flagmen to direct traffic safely.

6. Manual traffic control shall be in conformity with the MUTCD, except that the designated liaison officer shall be contacted at the Avondale Police Department.

7. When traffic hazards at the Site warrant the use of certified police personnel to direct traffic, arrangements must be made with the liaison officer at the Avondale Police Department.

8. The assembly and turnarounds of the Subcontractor's equipment shall be accomplished using adjacent local streets when possible.

9. Equipment used and/or directed by the Subcontractor shall travel with traffic at all times. Supply trucks shall travel with traffic except when being spotted. Subcontractor shall provide a flagman or off-duty, uniformed law enforcement officer to assist with spotting.

10. During construction, it may be necessary to alter traffic control. Any such alterations shall be in accordance with the Traffic Control Requirements.

11. No street within the Project area may be closed to through traffic or to local emergency traffic without prior, written approval of the District. The District may give written approval at its sole discretion and only if sufficient time exists to allow for notification of the public at least two Days in advance of such closing. Partial closure of streets within the Project shall be done in strict conformity with the District's written directions.

12. Caution should be used when excavating near intersections with traffic signal underground cable. Subcontractor shall notify the District 24 hours in advance of any work at such intersections. The Subcontractor shall install and maintain temporary overhead traffic signal cable as specified by the District when underground conduit is to be severed by excavations at intersections. The Subcontractor shall provide an off-duty uniformed City of Phoenix police officer to direct traffic while the traffic signal is turned off and the wiring is transferred. All damaged or modified traffic signal overhead and underground items shall be repaired and restored to the District's satisfaction. Magnetic detector loops shall, under no circumstances, be spliced.

13. The Subcontractor shall accommodate local access to adjacent properties in accordance with the specification set forth below.

14. Where crossings of existing pavement occurs, no open trenches shall be permitted overnight, but plating may be permitted if conditions allow, as determined by the District or its authorized representative in his sole discretion. If plates cannot be used, crossings shall either be back-filled or the Subcontractor shall provide a detour.

4.6 Control of the Work Site.

A. Debris Removal. Throughout all phases of construction, including suspension of Work, Construction Manager shall keep the Site reasonably free from debris, trash and construction wastes to permit Construction Manager to perform its Construction Services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or an agreed upon portion of the Work, Construction Manager shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit District to occupy the Project or an agreed upon portion of the Project for its intended use.

B. Dust Control. Construction Manager shall take whatever steps, procedures or means necessary to prevent any dust nuisance due to construction operations. The dust control measures shall be maintained at all times to the satisfaction of the District and in accordance with the requirements of Applicable law and such other Specifications as the Parties may agree to in writing.

C. Accessibility. Construction Manager shall maintain "ADA" and "ANSI" accessibility requirements during construction activities in an occupied building or facility. ADA and ANSI accessibility requirements shall include, but not be limited to, parking, building access, entrances, exits, restrooms, areas of refuge, and emergency exit paths of travel. Construction

Manager shall be responsible for the coordination of all work to minimize disruption to building occupants and facilities.

D. Material and Equipment Storage. Only materials and equipment that are to be used directly in the Work shall be brought to and stored on the Site by the Construction Manager. When equipment or materials are no longer required for the Work, each shall be removed promptly from the Site.

E. Protection of Site. Protection of the Work, the Site, and construction materials and equipment stored at the Site from weather, theft, damage and all other adverse conditions is solely the responsibility of the Construction Manager.

4.7 Time Management.

A. Master Schedule Updates. The Construction Manager shall, not less than monthly, adjust and update the Master Schedule and distribute copies to the District and the Project Designers. All adjustments to the Master Schedule must be (1) made for the benefit of the Project and (2) acceptable to the District; provided, however, that such adjustments or updates shall not extend the time for performance of the Work beyond the Substantial Completion date unless such extension is requested by the Construction Manager and approved by the District in accordance with Section 6 below.

B. Subcontractor Schedule Verification. The Construction Manager shall review each Subcontractor's construction schedule and shall verify that the schedule is prepared in accordance with the requirements of the Contract Documents and that it establishes completion dates that comply with the requirements of the Master Schedule.

C. Subcontractor Progress Monitoring. The Construction Manager shall (1) review the progress of construction of each Subcontractor on a monthly basis, (2) evaluate the percentage completion of each construction activity as indicated in the Subcontractor's construction schedule and (3) review such percentages with the Subcontractor. This evaluation shall serve as data for input to the periodic construction schedule report that the Construction Manager shall prepare and distribute to the appropriate Subcontractor, the District's Representatives and the Project Designers. The report shall serve as the basis for (i) determining the actual progress compared to scheduled progress and (ii) determining the progress payment due to the Subcontractor. The Construction Manager shall determine and implement alternative courses of action that may be necessary to achieve contract compliance by the Subcontractor.

D. Change Evaluation. The Construction Manager shall, prior to the issuance of Change Order, determine the effect on the Master Schedule of time extensions requested by a Subcontractor. The Construction Manager may require a Subcontractor to prepare and submit a recovery schedule in the event the Subcontractor fails to meet the Master Schedule.

E. Minor Schedule Revisions. The Master Schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve the Construction Manager of its obligations to complete the Work within the Contract Time, as such dates may be adjusted in accordance with the Contract Documents.

F. Payment Requests. An updated Master Schedule shall be submitted monthly to the District as part of the Payment Request.

1. The Construction Manager shall provide District with a monthly status report for the Master Schedule detailing the progress of the Work, including (a) if the Work is proceeding according to schedule, (b) any discrepancies, conflicts, or ambiguities found to exist in the Contract Documents that require resolution, and (c) other items that require resolution so as not to jeopardize ability to complete the Work as presented in the applicable GMP and within the Contract Time.

2. With each schedule submittal the Construction Manager shall include a transmittal letter including the following:

- a. Description of problem tasks (referenced to field instructions and requests for information), as appropriate.
- b. Current and anticipated delays including:
 - i. Cause of the delay.
 - ii. Corrective action and schedule adjustments to correct the delay.
 - iii. Known or potential impact of the delay on other activities, milestones, and the Substantial Completion date.
- c. Changes in construction sequence.
- d. Pending items and status thereof including but not limited to:
 - i. Time Extension requests.
 - ii. Other items.
- e. Substantial Completion date status:
 - i. If ahead of schedule, the number of Days ahead.
 - ii. If behind schedule, the number of Days behind.
- f. Other project or scheduling concerns.

G. District Review. District's review of and response to the Master Schedule is only for general conformance with the scheduling requirements of the Contract Documents. The review shall not: (1) relieve the Construction Manager from (a) compliance with the requirements

of the Contract Documents or (b) the time extension request process set forth in Section 6 below; or (2) be construed as relieving the Construction Manager of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

H. CPM Diagram. The updated Master Schedule shall include a CPM diagram schedule that shows the sequence of activities, the interdependence of each activity and indicate the Critical Path.

1. The CPM diagram schedule shall be in Days and indicate duration, earliest and latest start and finish dates for all activities, and total Float times for all activities except critical activities. The CPM diagram shall be presented in a time scaled graphical format for the Project as a whole.

2. The CPM diagram schedule shall indicate all relationships between activities.

3. The activities making up the Master Schedule shall be in sufficient detail to ensure that adequate planning has been done for proper execution of the Work and such that it provides an appropriate basis for monitoring and evaluating the progress of the Work.

4. The CPM diagram schedule shall be based upon activities that coincide with the Schedule of Values.

5. The CPM diagram schedule shall show all submittals associated with each Work activity and the review time for each submittal.

6. The schedule shall show milestones, including milestones for District-furnished information, and shall include activities for District-furnished equipment and furniture when those activities are interrelated with the Construction Manager activities.

7. The schedule shall include a Critical Path activity that reflects anticipated rain and weather delay during the performance of the Agreement. The duration shall reflect the average climatic range and usual industrial conditions prevailing in the locality of the Site. Weather data shall be based on information provided by the National Weather Services or other source approved in writing by the District.

I. Occupancy Consideration. The Master Schedule shall consider the District's occupancy requirements showing portions of the Project having occupancy priority.

J. Float Time. Float time shall be as prescribed below:

1. The total Float within the overall Master Schedule, is not for the exclusive use of either the District or the Construction Manager, but is jointly owned by both and is a resource available to and shared by both Parties as needed to meet contract milestones and the Project completion dates.

2. The Construction Manager shall not sequester shared Float through such strategies as extending activity duration estimates to consume available Float, using preferential logic, or using extensive crew/resource sequencing. Float time within the schedule is jointly owned; no time extensions will be considered or granted nor delay damages considered or paid until a delay occurs that extends the Work beyond the Substantial Completion date.

3. District-caused delays on the Project may be offset by District-caused time savings (i.e., Critical Path submittals returned in less time than anticipated by the Master Schedule; approval of substitution requests and credit changes which result in savings of time to the Construction Manager). In such an event, the Construction Manager shall not be entitled to have considered or receive a time extension or delay damages until all District-caused time savings are exceeded, and the Substantial Completion date is also exceeded.

K. Occupancy/Use Plan. The Construction Manager shall prepare an occupancy plan for the Project. This plan shall be provided to the District not later than 60 Days prior to the scheduled Substantial Completion date.

4.8 Cost Management.

A. Subcontract Schedule of Values. The Construction Manager shall, in participation with the Subcontractors, determine a Schedule of Values for each of the construction subcontracts. The Schedule of Values shall be the basis for the allocation of the Contract Price to the activities shown on the Subcontractors' construction schedule. The District shall approve the subcontract Schedule of Values before acceptance for progress billings.

B. Contract Price Allocation Each Subcontractor's construction schedule shall have the applicable portions of the Contract Price allocated among the Subcontractor's scheduled activities so that each of the Subcontractor's activities shall be allocated a price and the sum of the prices of the activities shall equal to or less than the total Contract Price. The Construction Manager shall review the Contract Price allocations and verify that such allocations are made in accordance with the requirements of the Contract Documents. Progress payments to a Subcontractor and Construction Manager shall be based on the Subcontractor's percentage of completion of the scheduled activities as set out in each Subcontractor's construction schedule report and the Subcontractor's compliance in accordance with the Contract Documents.

C. Additional Information. In instances where a percentage payment or unit price is not determined prior to performing Work described in a request for changes to the Contract Price, the Construction Manager shall request from the Subcontractor records for the cost of payroll, materials and equipment and the amount of payments to its Subcontractors, if any, incurred by the Subcontractor in performing the Work.

D. Trade-off Studies. The Construction Manager shall provide trade-off studies for various minor construction components. The results of the trade-off studies shall be in report form and distributed to the District's Representative and the Project Designers.

E. Payment Applications. In consultation with the Project Designers, the Construction Manager shall review the payment applications submitted by each Subcontractor and determine whether the amount requested reflects the progress of the Subcontractor's work. The Construction Manager shall make appropriate adjustments to each payment application and shall prepare and forward a progress payment report to the District. The progress payment report shall state the total Contract Price, payments to date, current payment requested, retainage and actual amounts owed for the current period. Included in this report shall be a certificate for payment that shall be signed by the Construction Manager and delivered to the District. The Construction Manager shall keep the Project and the Site free and clear of all liens and claims from its Subcontractors, suppliers or materialmen.

F. Architect Review. Based on the Architect's evaluations of the Construction Manager's Applications for Payment, the Architect will review and certify the amounts due the Construction Manager and will issue Certificates for Payment in such amounts, subject to the requirements of Arizona law and administrative rules governing school district construction contracts, including ARIZ. REV. STAT. §§ 41-2571, *et seq.* and ARIZ. ADMIN. CODE § R7-2-1109 *et seq.*

4.9 Shop Drawings, Product Data and Samples.

A. Purpose. Shop Drawings, product data, samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Construction Manager proposes to conform to the information given and the design concept expressed in the Contract Documents.

B. Review. The Construction Manager shall review, approve, verify, and submit to the Project Designers five copies, or electronic submission as mutually agreed upon, of each Shop Drawing, product data, sample, and similar submittal required by the Contract Documents as to cause no delay in the Work or in the activities of the District or of separate contractors. Submittals made by the Construction Manager that are not required by the Contract Documents may be returned without action.

C. Project Designer Approval. The Construction Manager shall perform no portion of the Work requiring submittal and review of Shop Drawings, product data, samples, or similar submittals until the respective submittal has been approved by the Project Designers. Such Work shall be in accordance with approved submittals. Project Designers shall be responsible for review and approval of submittals with reasonable promptness to avoid causing delay. To the extent a change, deviation, or substitution causes an impact to the Contract Price or Contract Time, such approval shall be memorialized in a Change Order no later than seven (7) Days following approval by Project Designers.

D. Construction Manager Verification. By approving, verifying and submitting Shop Drawings, product data, samples and similar submittals, the Construction Manager represents that the Construction Manager has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and

coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

E. No Deviation Approval; Errors. The Construction Manager shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Project Designer's approval of Shop Drawings, product data, samples or similar submittals unless the Construction Manager has specifically informed the Project Designer in writing of such deviation at the time of submittal and the Project Designer has given written approval to the specific deviation. The Construction Manager shall not be relieved of responsibility for Defective Work resulting from errors or omissions in Shop Drawings, product data, samples, or similar submittals by the Project Designer's approval thereof.

F. Highlight Changes. The Construction Manager shall direct specific attention, in writing or on resubmitted Shop Drawings, product data, samples, or similar submittals, to revisions other than those requested by the Project Designers on previous submittals.

G. Informational Submittals. Informational submittals upon which the Project Designer is not expected to take responsive action may be so identified in the Contract Documents.

H. Other Certifications. When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Project Designer shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

4.10 Quality Control, Testing and Inspection.

A. New Materials. All materials used in the Work shall be new and unused, unless otherwise noted, and shall meet all quality requirements of the Contract Documents.

B. Inspection and Approval. All construction materials to be used in the Work or incorporated into the Work, equipment, plant, tools, appliances or methods to be used in the Work may be subject to the inspection and approval or rejection by the District or the Project Designers. Any material rejected by the District or the Project Designers shall be removed immediately and replaced in an acceptable manner.

C. Test Methods. The procedures and methods used to sample and test material will be determined by the Project Designers. Unless otherwise specified, samples and tests shall be made in accordance with MAG 700 Series and the standard methods of AASHTO or ASTM as referenced in the MAG 700 Series.

D. Testing Facility. The Construction Manager will select a pre-qualified independent testing laboratory and District will pay for initial District acceptance testing.

1. When subsequent tests indicate noncompliance with the Contract Documents, the cost associated with that noncompliance and retesting will be paid for by the Construction Manager. Construction Manager's Contingency cannot be utilized for the cost of re-testing.

2. When the first and subsequent tests indicate noncompliance with the Contract Documents, all retesting shall be performed by the same testing agency.

E. Cooperation. The Construction Manager will cooperate with the selected testing laboratory and all others responsible for testing and inspecting the Work and shall provide the laboratory's employees or agents access to the Work at all times.

F. At-source Approval. At the option of the District, materials may be approved at the source of supply before delivery.

G. Code Compliance. Code compliance testing and inspections required by codes or ordinances, or by a plan approval authority shall be the responsibility of and shall be paid by the Construction Manager, unless otherwise provided in the Contract Documents.

H. Responsibility. Construction Manager's quality control testing and inspections shall be the sole responsibility of the Construction Manager and shall be paid solely by the Construction Manager.

4.11 Trade Names and Substitutions.

A. Substitutions. Substitute or alternate items to Contract Document references to equipment, materials or patented processes by manufacturer, trade name, make or catalog number may be permitted, unless indicated that no substitutions are permitted, and if permitted are subject to the following:

1. The substitution shall be submitted by Construction Manager in writing to the Project Designers.

2. The Construction Manager shall certify that the substitution will perform the functions and achieve the results called for by the general design, be similar and of equal substance, and be suited to the same use as that specified.

3. The submittal shall outline any required changes in the Contract Documents to adapt the design to the proposed substitution.

4. The submittal shall contain an itemized estimate of all costs and credits that will result directly and indirectly from the acceptance of such substitution, including cost of design, license fees, royalties, and testing. Also, the submittal shall include any request for adjustment in the Contract Time created by the substitution.

B. Samples; Additional Information. The Construction Manager, if requested by the Project Designers, shall submit samples or any additional information that may be necessary to evaluate the acceptability of the substitution.

C. Project Designer Determination. The Project Designers will make the final decision and will notify the Construction Manager in writing as to whether the substitution has been accepted or rejected.

D. Presumed Rejection. If the Project Designers do not respond in a timely manner, the Construction Manager shall continue to perform the Work in accordance with the Contract Documents and the substitution will be considered rejected.

4.12 Project Record Documents.

A. Redline Prints. During the construction period, the Construction Manager shall maintain at the Site a set of redline, blueline, blackline prints or electronic files of the Construction Documents and Shop Drawings for Project Record Document purposes. The Construction Manager will certify that these documents are up to date when it submits its monthly pay application. The Construction Manager shall also:

1. Mark these drawings to indicate the actual installation where the installation varies appreciably from the original Construction Documents and give particular attention to information regarding concealed elements that would be difficult to identify or measure and record later. Items required to be marked include, but are not limited to:

- Dimensional changes to the drawings.
- Revisions to details shown on drawings.
- Depths of foundations below first floor.
- Locations and depths of underground utilities.
- Revisions to routing of piping and conduits.
- Revisions to electrical circuitry.
- Actual equipment locations.
- Duct size and routing.
- Locations of concealed internal utilities.
- Changes made by Change Order or Change Directive.
- Details not on original Contract Documents.
- Similar deviations, variations and modifications.

2. Mark completely and accurately Project Record Documents or Shop Drawings, whichever is the most capable of indicating the actual physical condition. Where Shop Drawings are marked, show cross-reference on the Construction Documents.

3. Except for electronic files; mark Project Record Document sets with red erasable colored pencil.

4. Note Change Order or Change Directive numbers, as required to identify the source of the change to the Construction Documents.

5. As a condition of Substantial Completion, submit Project Record Documents and Shop Drawings to the District Representative for review and comment.

B. Corrections. Upon receipt of the reviewed Project Record Documents from the District, the Construction Manager shall correct any deficiencies and/or omissions to the drawings and prepare the following for submission to the District within fourteen (14)Days:

1. A complete set of electronic Project Record Documents prepared in AutoCAD format compatible with District CADD technology. The Project Designers will provide files of the original Construction Documents to the Construction Manager for the use of preparing these final Project Record Documents or the Construction Manager may contract with the Project Designers to revise and update the electronic drawing files. Each drawing shall be clearly marked with "As-Built Document."

2. The original copy of the Project Record Documents (including all redline mark-ups).

4.13 Project Safety. Construction Manager recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto.

A. Responsibility. Construction Manager assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work.

B. Safety Representative. Construction Manager shall, prior to commencing construction, designate a safety representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Construction Manager's safety representative shall be an individual stationed at the Site who may have other responsibilities on the Project in addition to safety.

C. Daily Inspections. The safety representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Construction Manager's personnel, Subcontractors and others as applicable. Construction Manager shall provide the

District copies of daily inspection reports and weekly safety meeting minutes, with the monthly payment applications.

D. Legal Requirements. Construction Manager and Subcontractors shall comply with Applicable Law relating to safety, as well as any District-specific safety requirements set forth in the Contract Documents, provided that such District-specific requirements do not violate Applicable Law. If Construction Manager believes a District-specific requirement violates Applicable Law, the Construction Manager shall notify the District of such violation within 24 hours of discovery.

E. Reporting. Construction Manager will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to District's Representative and, to the extent mandated by Applicable Law, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

F. Subcontractor Responsibility. Construction Manager's responsibility for safety under this Section is not intended in any way to relieve Subcontractors of their own contractual and legal obligations and responsibility for (1) complying with Applicable Law, including those related to health and safety matters, and (2) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the Work.

4.14 Substantial Completion. When the Construction Manager considers that the Work has reached Substantial Completion, it shall submit a request to the District's Project Manager for a certificate of Substantial Completion. Substantial Completion must occur not later than the date set forth in the applicable GMP Amendment, subject to modification by changes in the Contract Time according to Article 6 below. A prerequisite for Substantial Completion, over and above the extent of construction completion required, is receipt by the District of acceptable documentation that Construction Manager has successfully tested and demonstrated all systems for their intended uses. In consultation with the Project Designers, the District shall determine when the Project and the Construction Manager's Work is substantially complete. The Substantial Completion date shall be confirmed by a Certificate of Substantial Completion signed by the District and Construction Manager. The Certificate of Substantial Completion shall state the respective responsibilities of the District and the Construction Manager for security, maintenance and damage to the work and insurance. The Certificate of Substantial Completion shall also include the Punch List as created by the Construction Manager and modified by the Project Designers in consultation with the District and establish the time for completion and correction of all Punch List items. The Construction Manager shall proceed promptly to complete and correct Punch List items. Failure to include an item on the Punch List does not alter the responsibility of the Construction Manager to complete all Work in accordance with the Contract Documents. If the District and the Construction Manager cannot agree as to the appropriate Substantial Completion date, such issue shall be submitted for dispute resolution in accordance with the procedures set forth in Article 13 below. Notwithstanding such disagreement, the Construction Manager shall diligently proceed with completion of the Punch List items. Warranties required by the Contract Documents shall commence on the Substantial Completion date or designated portion thereof unless otherwise provided in the Contract Documents.

4.15 Final Completion. In consultation with the Project Designers, the District shall determine when the Project and the Construction Manager's Work has reached Final Completion. Final Completion must occur not later than 60 Days after the Substantial Completion date, subject to modification by changes in the Contract Time in Article 6 below. Final Completion shall be achieved only upon the District's written acceptance of (A) the construction, (B) all testing, (C) demonstration by the Construction Manager that the Work functions as required by the Contract Documents and meets all Contract Document requirements, (D) resolution of all outstanding system deficiencies and Punch List items, if any, (E) delivery of all as-built documentation, drawings, completed Project Record Documents (with revisions made after Substantial Completion), annotated submittals and design document deliverables, (F) submittal, acceptance, and delivery of the 100% complete O&M manuals, (G) delivery of warranties, inspection certificates, bonds and all other required documents, (H) all pre-requisites for final payment and (I) submittal of Construction Manager's request for final payment and acceptance enclosing all required documentation. Upon Final Completion the District shall issue a Certificate of Final Completion to the Construction Manager on behalf of the District. Following receipt of payment from the District, the Construction Manager shall make all payments due to the Subcontractors.

4.16 Correction of Defective Work.

A. During the Work. During the Work, Construction Manager shall take meaningful steps to commence correction of such nonconforming Work as notified by the District. This includes the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work.

B. During Warranty Period. Construction Manager agrees to correct any Work that is found to not be in conformance with the Contract Documents within the warranty period described in Subsection 5.6(A) below, or within such longer period to the extent required by the Contract Documents or as may be allowed by law. A progress payment, or partial or entire use or occupancy of the Project by the District, shall not constitute acceptance of Work not in accordance with the Contract Documents.

C. Commencement by Construction Manager. Construction Manager shall take meaningful steps to commence correction of nonconforming Work subject to Subsections 4.16(A) and (B) above within seven Days of receipt of written notice from the District. This includes the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Construction Manager fails to commence the necessary steps within such seven-Day period, the District, in addition to any other remedies provided under the Contract Documents or allowed by law, may provide Construction Manager with written notice that the District will commence correction of such nonconforming Work with its own forces. If the District corrects such nonconforming Work with its own forces, the GMP will be adjusted to deduct the cost to the District. If the District performs corrective Work after final payment, Construction Manager shall be responsible for all reasonable costs incurred by the District in performing such correction.

D. Emergencies. In the event nonconforming Work creates an emergency requiring an immediate response, the Construction Manager will respond and initiate corrections within 24 hours.

E. No Effect on Limitations Period. The two-year period referenced in Subsection 5.6(A) below applies only to Construction Manager's obligation to correct nonconforming Work as provided in this Section and is not intended to constitute a period of limitations for any other rights or remedies the District may have regarding Construction Manager's obligations under the Contract Documents or as may be allowed by law.

4.17 Additional Services. Any Additional Services must be authorized in advance by the District in writing; the Construction Manager shall furnish or obtain from others such authorized services. The Construction Manager shall be paid for these Additional Services by the District as herein provided to the extent they exceed reasonably inferable obligations of the Construction Manager under this Agreement. Potential Additional Services include:

A. Planning. Providing additional planning surveys or alternative site evaluations other than as required or reasonably inferred in this Article 4.

B. Future/Outside of Project Design. Providing design services relative to future facilities, systems and equipment that are not intended to be constructed as part of the Project, other than general planning and master planning for future work as indicated by the District's Project program. Providing design and engineering of any work outside the Site if said work is not expressly identified and included in the Scope.

C. Major Document Revisions/Additional Documents. Making major revisions in the construction documents, or other documents when such revisions are inconsistent with written approvals or instructions previously given by the District or are due to causes beyond the control and without the fault and negligence or partial fault or negligence of the Construction Manager or its consultants or agents. Preparing additional documents for alternate, separate, or sequential bids or providing services in connection with bidding, negotiation, or construction prior to the completion of the construction phase, other than as required or reasonably inferred in this Article 4. Making revisions to Construction Documents after the District has approved them when revisions are due to causes beyond the control and not the fault or partial fault of the Construction Manager.

D. Advanced Soils Analysis. Providing additional soils sampling, classification, and analysis other than as required or reasonably inferred in the foregoing sections of Article 4. Construction Manager is entitled to rely upon the soils analysis and recommendations as provided by a geotechnical consultant, however, Construction Manager is responsible for interpretation of such data for the purpose of establishing the means and methods of construction and such interpretation shall not be considered Additional Services during the design phase or the construction phase.

E. Expert Testimony. Preparing to serve or serving as an expert witness for the District in connection with any public hearing, arbitration proceeding, or legal proceeding wherein the Construction Manager or Subcontractor of the Construction Manager is not a party or allegedly at fault; provided, however, preparing to serve or serving as a fact witness for the District or rendering testimony necessary to secure governmental approval for the Project shall not constitute an additional service.

F. Survey. Providing surveying services such as platting, mapping, subdivision agreements, or recording subdivision plats other than as required or reasonably inferred in this Article 4.

G. Additional Travel. Providing Additional Services and costs necessitated by out-of-town travel required of and approved in writing by the District other than visits to the Project and other than for travel required to accomplish the Work.

H. Unrelated Services. Providing any other services not otherwise included in this Agreement, not reasonably inferred by this Agreement or not customarily furnished in accordance with generally accepted contractual practices consistent with the term of this Agreement.

I. Replacement Work. Providing consultation concerning replacement of Work damaged by fire or other causes and not due in whole or in part to Construction Manager's action or inaction during construction, or furnishing services required in connection with the replacement of such work.

J. Special Studies. Providing additional special surveys, environmental studies, and submissions required for approvals of governmental authorities or others having jurisdiction over the Project, other than as required or reasonably inferred in this Article 4.

K. O&M Analysis. Providing analyses of operating and maintenance costs other than as required for value analysis in Subsection 2.2(E) above, unless provided for in the Scope.

L. Assisting with District-Performed Work. Designing, and providing other services supporting the procurement of materials to be obtained, or work, if any, to be performed by the District, that are not a part of the Work.

ARTICLE 5 POST-CONSTRUCTION PHASE

5.1 Final Accounting and Close-out. At the conclusion of the Project, the Construction Manager shall prepare final Project accounting and close-out reports. The Architect shall certify the final accounting and close out.

5.2 Occupancy Plans. The Construction Manager shall prepare and distribute reports as necessary associated with the occupancy plan.

5.3 Certificates. The Construction Manager shall secure required certificates of inspection, testing or approval and deliver them to the District.

5.4 Manufacturer Manuals and Warranties. The Construction Manager shall require the Subcontractors to provide manufacturers' operations and maintenance manuals, warranties and guarantees for materials and equipment installed in the Project. Prior to Final Completion of the

Project, the Construction Manager shall compile such manuals, warranties and guarantees, bind same in an organized manner and deliver the bound materials to the District; the District shall not be required to issue the final payment to the Construction Manager pursuant to Section 9.6 below until after the compiled manuals, warranties and guarantees have been delivered to the District. At the discretion of the District, electronic records may be substituted for the bound materials required in this section.

5.5 Inspection and Testing. With the assistance of the District's maintenance personnel, the Construction Manager shall direct the inspection of utilities and operations of systems and equipment for readiness, and assist in their initial start-up and testing.

5.6 Warranties.

A. Warranty for the Work. Construction Manager or its assignee shall give to the District a two-year warranty against deficiencies in material and workmanship for all Work on the Project or other such warranty as required by the District Engineer, which warranty shall begin on the Substantial Completion date. Any material deficiencies in material or workmanship identified by District staff during the two-year warranty period shall be brought to the attention of the Construction Manager or its assignee that provided the warranty, which both shall promptly remedy or cause to be remedied such deficiencies to the reasonable satisfaction of the District Engineer. Continuing material deficiencies in a particular portion of the Work shall be sufficient grounds for the District to require the proper repair of or the removal and reinstallation of, that portion of the Work. Regardless of whether the applicable warranty period has expired, the Construction Manager agrees to repair any damage to the Work caused by construction activities on the Site. Nothing contained herein shall prevent the District or the Construction Manager from seeking recourse against any other third party for damage to the Work caused by such third party.

B. New Materials. The Construction Manager warrants that all materials and equipment furnished under construction phase(s) of this Agreement are (1) new unless otherwise specified and approved by the District, (2) of good quality, (3) in conformance with the Contract Documents and (4) free from defective workmanship, defective materials and Hazardous Materials. Warranties shall commence on the date of Substantial Completion of the Work or of a designated portion if the warranted items are fully installed, operational and available for use and if not, at such time after the date of Substantial Completion as they are fully installed, operational and available for use.

C. Actions by Others. Construction Manager's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work by persons other than Construction Manager or anyone for whose acts Construction Manager may be responsible and/or liable.

D. No Limitation on Other Warranties. Nothing in this warranty is intended to limit any manufacturer's warranty that provides District with greater warranty rights than set forth in this Section or the Contract Documents.

E. No Limitation on Legal Remedies. Nothing in this warranty is intended to limit any other remedy at law that may be available to the District.

ARTICLE 6 CONTRACT TIME

6.1 Progress and Completion. The District and the Construction Manager agree the time limits stated in the Contract Documents, as the same may be amended and updated by the Parties, are of the essence of this Agreement.

6.2 Commencement of the Work. The Work, except for the (A) environmental investigation services set forth in Section 2.1 above, (B) review of Construction Documents and design remedies services set forth in Section 2.2 above, and (C) Pre-Construction Phase General Services set forth in Section 2.3 above, shall commence on the Notice to Proceed date of the applicable GMP Amendment, and shall proceed in general accordance with the Schedule for the Work set forth therein. Each GMP Amendment shall establish a separate Notice to Proceed date, Substantial Completion date and portion of the Contract Time applicable to that GMP. The Substantial Completion dates may be sequential or may run consecutively.

6.3 Prosecution of the Work. The Construction Manager shall prosecute the Work so that the portion of the Work completed at any point in time shall be not less than as required by the Master Schedule. If the delay is an Inexcusable Delay, as defined below, the Construction Manager shall prepare a recovery schedule for the District's review and approval, showing how the Construction Manager will compensate for the delays and achieve Substantial Completion by the date shown on the Master Schedule. If the Construction Manager is unable to demonstrate how it will overcome Inexcusable Delays, the District may order the Construction Manager to employ such extraordinary measures as are necessary to bring the Work into conformity with the date of Substantial Completion set forth therein, the costs of which shall be included as part of the Cost of the Work. If the delay is an Excusable Delay, as defined below, the District shall either (A) authorize an equitable extension in the Master Schedule to account for such delay, and equitably adjust the GMP on account of such delay or (B) request that the Construction Manager prepare a recovery schedule showing how (if possible) the Construction Manager can achieve Substantial Completion by the date shown on the Master Schedule, and equitably adjust the applicable GMP in accordance with the Change Order provisions of this Agreement related to any extraordinary activities required of the Construction Manager on account of such recovery schedule.

6.4 Critical Path Activities. To the extent the Construction Manager completes activities on the Critical Path earlier than scheduled, the savings in time on account thereof shall belong solely to the Construction Manager.

6.5 Construction Activities. At such time as the Construction Documents, or any portion thereof, are complete, the Construction Manager shall submit a revised Master Schedule to the District for incorporation into the Contract Documents, which will expand the Master Schedule approved to date, but which will not, in and of itself, change the Substantial Completion date for the Project. This revised Master Schedule shall be based upon a CPM and shall show in complete detail starting and completion time of detail activities, the sequence of the Work and all significant activities.

6.6 Extensions of Time.

A. Limited to Excusable Delay. An extension in the scheduled Substantial Completion date will only be granted in the event of Excusable Delays affecting Work activities on the Critical Path. The Construction Manager shall be entitled to general condition costs and extra costs related to the Excusable Delay for idle labor, equipment inefficiency and lost productivity of the performance of the Work; however, the Construction Manager must submit evidence reasonably satisfactory to the District substantiating such costs. Such adjustment to the contract sum and Substantial Completion date shall be issued in an amendment to this Agreement.

B. Excusable Delays. To the extent any of the following events results in an actual delay in the Work affecting activities on the Critical Path, such shall constitute an "Excusable Delay" (to the extent not set forth below, a delay will be considered an "Inexcusable Delay"):

1. Delays resulting from Force Majeure events. The term "*Force Majeure*" means an occurrence that is beyond the control of the Party affected and occurs without its fault or negligence. Without limiting the foregoing, Force Majeure includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, floods, lockouts, injunctions-intervention-acts or failures or refusals to act by government authority, and other similar occurrences beyond the control of the Party declaring Force Majeure which such Party is unable to prevent by exercising reasonable diligence. The Force Majeure shall be deemed to commence when the Party declaring Force Majeure notifies the other Party, in accordance with Subsection 14.6, of the existence of the Force Majeure and shall be deemed to continue as long as the results or effects of the Force Majeure prevent the Party from resuming performance in accordance with this Agreement. Force Majeure shall not include: (a) late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies or similar occurrences, or (b) late performance by a Subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Subsection 6.6(B). Any delay or failure in performance by either Party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by Force Majeure. The delayed Party shall cause such delay to cease as soon as practicable and shall notify the other Party in writing. The time of Substantial Completion or Final Completion shall be extended by written amendment for a period of time equal to the time that the results or effects of such delay prevent the delayed Party from performing in accordance with this Agreement.

2. *If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, epidemics, pandemics, adverse governmental actions, unavoidable accidents or circumstances, or other causes beyond the Contractor's control; or by delay authorized by the Owner; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Given the existence of the coronavirus pandemic, war, and potential adverse government actions, Contractor will use its best efforts to*

staff and supply this project to be able to hit the scheduled completion date but reserves its right to seek an excusable extension of time if Contractor or its subcontractors and suppliers are unable to maintain planned crew sizes due to the illness, supply shortages or governmental restraints on business, travel and/or assembly. To the extent that the project is suspended or is negatively impacted by labor or material shortages or delays, pursuant to the terms of the Contract, the Contractor shall be entitled to recovery of any reasonable additional costs associated with the suspension or impacts described herein.

3. Contractor shall not be liable for any failure or delay in the performance of this Agreement for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to, acts of God, war, embargoes, epidemics, pandemics, adverse governmental actions, unavoidable accidents or circumstances, shipping delays outside the contractors control, government orders, trade wars, tariffs, or any other force majeure event or conditions that adversely affects the construction schedule and construction costs. If any of these impacts occur the parties agree to an equitable adjustment in time, cost of tariffs, cost increases, and general conditions according to the change order section of this contract. In the event of significant delay or price increase of material occurring during the performance of the contract through no fault of the Contractor, the contract sum, time of performance, and contract requirements shall be equitably adjusted by change order in accordance with the procedures of the contract documents.

4. Differing, unusual or concealed Site conditions that could not reasonably have been anticipated by the Construction Manager in preparing the Master Schedule, including, without limitation, archaeological finds and unusual soil conditions (including rock or other geological conditions), underground foundations, abandoned or not properly identified utility lines and water conditions.

5. Delays resulting from the existence or discovery of Hazardous Materials on the Site not brought to the Site by or on behalf of the Construction Manager.

6. Delays resulting from changes in Applicable Law occurring after the date of execution of this Agreement.

7. Delays occurring due to the acts or omissions of the District and those within the control of the District.

8. Delays occurring due to the acts or omissions of a utility, so long as Construction Manager has coordinated with the utility causing the delay and the delay occurs despite reasonable steps taken by Construction Manager to avoid the delay.

9. Delays resulting from weather conditions that make it unreasonable to perform the Work in accordance with the Master Schedule.

C. Process for Requesting Extension of Time. In order to obtain an extension of time due to an Excusable Delay, the Construction Manager must comply with the following requirements: The Construction Manager shall notify the District of the Excusable Delay as soon

as practicable, but in no event more than seven Days after the Construction Manager becomes aware of the occurrence of the Excusable Delay. Such notice shall describe the Excusable Delay and shall state the approximate number of Days the Construction Manager expects to be delayed. After the cessation of the Excusable Delay, the Construction Manager shall notify the District of the number of Days the Construction Manager believes that its activities were in fact delayed by the Excusable Delay. In the event that the delay arises as a result of a Change Order request by the District, the request for an extension of time contained in the resulting Change Order proposal or amendment to this Agreement, as applicable, shall be deemed sufficient for purposes of this Subsection.

D. District Determination. Within 10 Days after cessation of an event giving rise to either an Excusable Delay or Inexcusable Delay, the Parties will use good faith efforts to agree on the extent to which the Work has been delayed and whether the delay is an Excusable Delay or an Inexcusable Delay. In the absence of agreement between the Parties as to the then-current status of Excusable Delays and Inexcusable Delays, the District will provide the Construction Manager with written notice of District's determination of the number of Days of Excusable Delay and/or Inexcusable Delay within 10 Days after receipt by the District of the Construction Manager's written request for such determination. The Construction Manager shall not, however, deem an issuance by the District of such a determination to be a concurrence with any matters set forth in the Construction Manager's request. The Construction Manager may invoke the dispute resolution procedures set forth in Article 13 below with respect to such determination.

6.7 Concurrent Delays. To the extent the Construction Manager may be entitled to an extension of time due to an Excusable Delay, but the performance of the Work would have been suspended, delayed or interrupted by the fault or neglect of the Construction Manager or by an Inexcusable Delay, the Construction Manager shall not be entitled to any additional costs for the period of such concurrency.

6.8 Weather Delays. The Construction Manager shall include and clearly identify an appropriate number of Days of weather-related delays within (A) the aggregate Master Schedule for the Work and within the portions of the Master Schedule submitted with each GMP Proposal relating to any phase of the Project and (B) each GMP Amendment. If the Construction Manager experiences additional weather-related delays beyond the number of Days set forth in the Master Schedule and the GMP Amendment, the Construction Manager shall be entitled to commensurate extension of time and reimbursement of costs associated with such delay; provided such requests for extensions of time are submitted and approved according to the process set forth in Section 6.6 above. If the Construction Manager fails to include an appropriate number of Days of weather-related delays within the applicable GMP Proposal for any portion of the Project, the Construction Manager shall not be eligible for any extension of time or reimbursement of costs related to otherwise Excusable Delays relating to weather for the applicable GMP Proposal.

6.9 Liquidated Damages.

A. Established. The Construction Manager and the District acknowledge that in the event that the Construction Manager fails to achieve Substantial Completion or Final Completion of the Project by the dates established therefore in the applicable GMP Amendment,

as adjusted, the District will incur substantial damages and the extent of such damages shall be incapable of accurate measurement. Nonetheless, the Parties acknowledge that on the date of this Agreement, the amount of liquidated damages set forth below represents a good faith estimate as to the actual potential damages that the District would incur as a result of late Substantial Completion or Final Completion of the Project. Such liquidated damages shall be the sole and exclusive remedy of the District for late completion of the Project, and the District hereby waives all other remedies available at law or in equity with respect to losses resulting from late completion. The amount of the liquidated damages calculated hereunder does not include any penalty.

B. Amount of Liquidated Damages. Parties expressly acknowledge and agree that it would be difficult or impossible to determine with absolute precision the amount of damages that would be incurred by District as a result of Construction Manager's failure to perform the Work in accordance with and within the time specified in this Agreement. The Parties accordingly agree, having taken into account all factors that they deem appropriate, including all of the respective rights and obligations under this Agreement, that liquidated damages are in lieu of actual damages and are the Parties' reasonable estimate of fair compensation for the losses that are reasonably anticipated to be incurred by District from Construction Manager's failure to timely perform in accordance with the Agreement, and do not constitute a penalty. The payment of liquidated damages (and, to the extent applicable, termination of the Agreement by District for default in accordance with the terms hereof) shall be Construction Manager's sole and exclusive obligation and District's sole and exclusive remedy with respect to the failure to timely perform in accordance with the guaranteed dates set forth in this Agreement.

1. If the Construction Manager fails to achieve Substantial Completion of for that portion of the Work applicable to a particular GMP Proposal on or before the Substantial Completion date set forth in the applicable GMP Proposal, as adjusted, for any reason other than Excusable Delays, the Construction Manager shall pay to the District liquidated damages in the amount per Day as determined by the Maricopa County Association of Governments Standard Specifications for Public Improvements existing on the date this Agreement is approved by the District Council (the "MAG Specifications") for each Day Substantial Completion is delayed beyond the Substantial Completion date set forth in the applicable GMP Amendment.

2. If the Construction Manager fails to achieve Final Completion of for that portion of the Work applicable to a particular GMP Proposal on or before the Final Completion date, as adjusted, for any reason other than Excusable Delays, the Construction Manager shall pay to the District liquidated damages in the amount per Day as determined by the MAG Specifications for each Day Final Completion is delayed beyond the Final Completion date established according to the applicable GMP Amendment.

3. Payment of liquidated damages is to be made contemporaneously with any required payment to the Construction Manager, and such payments may be offset against each other.

C. Limited Mutual Waiver Of Consequential Damages. Except for damages mutually agreed upon by the Parties as liquidated damages in Section 6.9 and excluding losses covered by insurance required by the Contract Documents, the Parties agree to waive all claims against each

other for any consequential damages that may arise out of or relate to this Agreement related to failure to complete the Project timely.

ARTICLE 7 CONTRACT PRICE

7.1 Pre-construction Phase Compensation.

A. Project Designers' Services Not Included. The cost of services performed directly by the Project Designers are not included in the Construction Manager's compensation.

B. Amount. The District shall pay the Construction Manager an amount not to exceed Seven/Tenths of One Percent (.7%) of the GMP for services performed during the Pre-construction Phase, as set forth in Article 2 above, and as more particularly described in the Pre-Construction cost summary, attached hereto as Exhibit I and incorporated herein by reference, including all cost items, allowances and reimbursable expenses.

C. Payments. Payments for Pre-construction Services shall be due and payable within 30 Days following approval of the Construction Manager's monthly invoice by the District and the Architect. Payments due the Construction Manager that are unpaid for more than 30 Days from the due date of the invoice shall bear interest at the statutory rate.

7.2 Construction Phase Compensation. The portion of Contract Price applicable to the Construction Services shall be the aggregate of all approved GMP Amendments. The District shall pay the Construction Manager a Construction Fee in an amount not to exceed five percent (5%) of the Direct Construction Costs for services performed during the Construction Phase.

A. GMP. The Guaranteed Maximum Price is composed of the Direct Construction Costs and the Construction Fee. The Construction Manager is at risk to cover any additional Project costs. To the extent the combined total of the Direct Construction Costs and the Construction Fee at the conclusion of the Project is less than the GMP, the difference shall be retained by the District.

B. GMP Adjustment. If a GMP requires an adjustment due to changes in the Work, the cost of such changes is determined subject to Article 8. The markups permitted on such changes shall be no greater than the markups delineated in the approved GMP.

C. District's Contingency. District's Contingency funds are to be used at the discretion of the District to cover any increases in Project costs that result from District-directed changes or unforeseen Site conditions. District's Contingency will be approved in conjunction with the applicable GMP Amendment but will not be included in the full Contract Price. Markups for Construction Fee and taxes will be applied by the Construction Manager at the time that District's Contingency is used. The amount of contingency for each GMP amendment will be negotiated separately.

D. Payment Data. The Construction Manager shall submit to the District, upon request, all payrolls, reports, estimates, records and any other data concerning the Work performed

or to be performed or concerning materials supplied or to be supplied, as well as Subcontractor or Consultant payment applications or invoices and such Subcontractor's or Consultant progress payment checks. The requirements of this Section shall be included in all contracts between the Construction Manager and its Subcontractors and Consultants. The District may exercise its rights under this Section as often as reasonably necessary in the District's sole judgment to ensure the District has a complete and accurate understanding of all Project costs.

7.3 Adjustment in the Contract Price. Adjustment to the respective components of the Contract Price shall be made as follows:

A. Changes in the Work. For changes in the Work as provided in Article 8 below, the applicable Contract Price shall be adjusted as mutually agreed by the Parties, in writing, prior to commencement of any work pursuant to such changes.

B. Delays in the Work. For delays in the Work not caused, in whole or in part, by the Construction Manager, Subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, there will be an equitable adjustment in the Contract Price to compensate the Construction Manager for increased expenses due to unforeseeable circumstances, according to the requirements of Article 6 above.

C. Replacement Work. If the Construction Manager is placed in charge of managing the replacement of an insured or uninsured loss not caused by or the fault of the Construction Manager or other parties identified in Subsection 7.3(B) above, the Construction Manager shall be paid an additional fee in the same proportion that the applicable portion of the Contract Price bears to the estimated applicable Cost of the Work, or as otherwise agreed to by the Parties.

ARTICLE 8 CHANGES IN THE WORK

8.1 Prescribed Methods for Changes. Changes in Construction Manager's Services shall only be made by a written Change Directive or Change Order to this Agreement signed by the District and the Construction Manager. Changes involving (A) a change in the percentage payment for the Pre-Construction Services set forth in Section 7.1 above or (B) a change in any GMP, shall be considered a Change Order and must be approved as an amendment to this Agreement and executed by the District and the Construction Manager. The Construction Manager shall not (A) perform any additional Services or (B) eliminate any duties included in the Services until a written amendment addressing the Change Order has been properly approved and executed by both Parties. The Construction Manager shall proceed to perform the Services required by the Change Order only after receiving written notice from the District directing the Construction Manager to proceed.

8.2 Change Control System. The Construction Manager shall establish and implement a change control system. All proposed changes shall first be described in detail in writing by the requesting party. The requesting party shall submit detailed information to the Construction Manager for evaluation concerning the costs and time adjustments, if any, necessary to perform the proposed changed work. The Construction Manager shall discuss the proposed change with

the appropriate Subcontractor and endeavor to determine the Subcontractor's basis for the cost to perform the work and the effect, if any, on the applicable GMP. The Construction Manager shall make a recommendation to the District pursuant to this Article 8 prior to the District's acceptance of all change requests.

8.3 Change Directives; Change Orders; GMP Adjustments. Changes in the Work that are within the general scope of this Agreement may be accomplished by Change Directive without invalidating this Agreement; provided, however, that any change in the Work that will result in an increase to a GMP or extension of the Substantial Completion date shall be pursuant to a Change Order approved by a written amendment to this Agreement clearly delineating the amounts attributable to compensation for the General Conditions Costs, the Construction Fee and other Cost of the Work.

8.4 Determination of Cost. An increase or decrease in a GMP resulting from a change in the Work shall be determined by one or more of the following methods:

- A. Unit prices set forth in this Agreement or as subsequently agreed.
- B. Mutually accepted, itemized lump sum.
- C. Costs determined as defined in Article 3 above.

D. If an increase or decrease cannot be agreed to as set forth in Subsections 8.4(A) and (B) and the District issues a written order for the Construction Manager to proceed with the change, the cost of the change in the Work shall be determined by the reasonable expense or savings of the performance of the Work resulting from the change.

8.5 No Obligation to Perform. The Construction Manager shall not be obligated to perform changed Work until a Change Directive or a Change Order/amendment to this Agreement, as applicable, has been executed by the District and the Construction Manager, except as provided in Subsection 8.4(D) above.

8.6 Adjustment of Unit Prices. If a proposed change alters original quantities to a degree that application of previously agreed to unit prices would be inequitable to either the District or the Construction Manager, the unit prices shall be equitably adjusted and, if the result is an increase to a GMP, an amendment to this Agreement shall be executed.

8.7 Unknown Conditions. If, in the performance of the Work, the Construction Manager or its Subcontractor finds latent, concealed or subsurface physical conditions that (A) differ from the conditions the Construction Manager or its Subcontractor should have reasonably anticipated, (B) differ substantially from available soils reports or (C) differ substantially and materially from those normally encountered and generally recognized as inherent in the kind of work provided for in this Agreement at this location (occurrence of shifting and expansive soils, including clay soils and sandstone expressly noted as commonly occurring in the Project area), then the applicable GMP compensation and/or the Substantial Completion date may be equitably adjusted only if the Construction Manager notifies the District within seven Days after the conditions are first observed in accordance with Article 6 above.

8.8 Emergencies. In any emergency affecting the safety of persons and/or property, the Construction Manager shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in a GMP, compensation for Pre-construction Services, the Contract Price and/or extension of the Substantial Completion date on account of emergency work shall be determined as provided in this Agreement.

ARTICLE 9 PAYMENT

9.1 Progress Payments.

A. Submittal Process. On or before the 25th day of each month after the construction phase has commenced, the Construction Manager shall submit to the District an "Application for Payment" consisting of the Cost of the Work performed up to the end of the prior month, including the cost of material stored on the Site or at other locations approved by the District, along with a proportionate share of the Construction Fee. For the purpose of audit, prior to submission of the next Application for Payment, the Construction Manager shall make available at the request of the District a statement accounting for the disbursement of funds received under the previous Application. The form and extent of such shall be as agreed upon between the District and Construction Manager.

B. District's Payment. District shall pay the amount otherwise due on each monthly Application for Payment as per ARIZ. ADMIN. CODE § R7-2-1105. The District shall pay directly to the Construction Manager the appropriate amount for which Application for Payment is made, less amounts (1) previously paid by the District, (2) sufficient to pay expenses the District reasonably expects to incur in correcting deficiencies that are set forth in writing and provided to the Construction Manager and (3) any retainage as set forth in Section 9.2 below.

C. No Liens. The Construction Manager warrants and guarantees that the title to all Work, materials and equipment covered by an Application for Payment, whether incorporated in the Project or not, will pass to the District upon receipt of such payment by the Construction Manager free and clear of all liens, claims, security interests or encumbrances.

D. Non-Conforming Work. The District's progress payment, occupancy or use of the Project, whether in whole or in part, shall not be deemed as acceptance of any Work not conforming to the requirements of this Agreement or the Contract Documents.

E. Unfinished Items. Upon Substantial Completion of the Work, the District shall pay the Construction Manager the unpaid balance of the Cost of the Work, General Conditions Costs and the Construction Fee, less a sum equal to the Construction Manager's estimated cost of completing any unfinished items as agreed to between the District and the Construction Manager as to extent and time for completion. The District thereafter shall pay the Construction Manager monthly the amount retained for unfinished items as each item is completed.

9.2 Retainage.

A. Exemptions to Retainage Requirement. No retainage shall be withheld with respect to gross receipts tax and premiums for bonds and insurance.

B. Amount Retained. With respect to the Work, the District shall retain 10% of the amount of each estimate until Final Completion and acceptance of all material, equipment and work covered by the Contract Documents.

1. Any securities submitted by Construction Manager in lieu of retainage as may be allowed by law, shall be deposited in an escrow account by the District. The District shall be listed as payee or multiple payee with Construction Manager on all such securities.

2. When the Work is 50% completed, one-half of the amount retained including any securities substituted pursuant to Subsection 9.2(B)(1) shall be paid to the Construction Manager, provided the Construction Manager is making satisfactory progress on the Work and there is no specific cause or claim requiring a greater amount to be retained. After the construction Work is 50% completed, no more than 5% of the amount of any subsequent progress payments made under the Contract Documents may be retained, provided the Construction Manager is making satisfactory progress on the Project. If, at any time, the District determines satisfactory progress is not being made, 10% retention shall be reinstated for all progress payments made under the Contract Documents after the determination.

9.3 Payment for On-site and Off-site Stored Materials. Payment shall be made on account of materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work. Payment may similarly be made for materials and equipment suitably stored off the Site, conditioned upon the Construction Manager furnishing evidence to the Owner that (A) title to the materials and equipment will pass to the District upon payment therefore, (B) the materials and equipment are adequately insured and (C) such other matters as the District may reasonably request in order to protect its interests.

9.4 Title to Construction Work. The Construction Manager warrants that title to all Work covered by an Application for Payment shall pass to the District no later than the time of payment. The Construction Manager further warrants that, upon submittal of an Application for Payment, all Work for which Applications for Payment have been previously issued and payments received from the District shall be free and clear of liens, claims, security interests or encumbrances in favor of the Construction Manager, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

9.5 Final Payment.

A. Fully Completed Work. Final payment, consisting of (1) compensation for Pre-Construction Services and (2) the Construction Fee shall be due and payable when the Work is fully completed and accepted by the District. Before issuance of final payment, the District may

request satisfactory evidence that all payrolls, materials bills and other indebtedness connected with the Work have been paid or otherwise satisfied. The Architect shall certify prior to final payment.

B. Waiver of Claims. In making final payment, the District waives all claims against the Construction Manager except for:

1. Outstanding liens.
2. Improper workmanship or defective materials.
3. Work not in conformance with the Contract Documents or work not completed.
4. Terms of any special warranties required by the Contract Documents.
5. Delivery to District of all warranties, operation and maintenance manuals, record drawings and other documents as required by the Contract Documents.
6. Right to audit Construction Manager records for a period of three years.
7. Claims previously made in writing that remain unsettled.

C. Acceptance as Waiver. Acceptance of final payment by the Construction Manager shall constitute a waiver of affirmative claims by the Construction Manager against the District, its employees, elected officials and agents, except those previously made in writing and identified as unsettled at the time of final payment.

9.6 Payments to Subcontractors.

A. The Construction Manager shall pay its Subcontractors or suppliers within seven Days of receipt of each progress payment from the District and as required by Arizona law. The Construction Manager shall pay for the amount of Work performed or materials supplied by each Subcontractor or Supplier as accepted and approved by the District with each progress payment. In addition, any reduction of retention by the District to the Construction Manager shall result in a corresponding reduction to Subcontractors or suppliers who have performed satisfactory work. The Construction Manager shall pay Subcontractors or suppliers the reduced retention within 14 Days of the payment of the reduction of the retention to the Construction Manager. No Contract between the Construction Manager and its Subcontractors and suppliers may materially alter the rights of any Subcontractor or supplier to receive prompt payment and retention reduction as provided herein or by Arizona law.

B. Failure to Timely Pay. The Construction Manager agrees that if it fails to make payments in accordance with these provisions, the District may take any one or more of the following actions:

1. Hold the Construction Manager in default under this Agreement.
2. Withhold future payments, including retention, until proper payment has been made to Subcontractors or suppliers in accordance with these provisions.
3. Reject all future offers to perform work for the District from the Construction Manager for a period not to exceed one year from Substantial Completion date of this Project.
4. Terminate this Agreement.
5. Make a claim against the bonds required pursuant to Article 11.

C. No Waiver. Should the District fail or delay in exercising or enforcing any right, power, privilege, or remedy under this Section, such failure or delay shall not be deemed a waiver, release, or modification of the requirements of this Section or of any of the terms or provisions thereof.

D. Inclusion in Subcontracts. The Construction Manager shall include these prompt payment provisions in every subcontract, including procurement of materials and leases of equipment for this Agreement.

9.7 Record Keeping and Finance Controls.

A. Retention Requirement. Records of the Construction Manager's direct personnel payroll, reimbursable expenses pertaining to this Project and records of accounts between the District and the Construction Manager shall be kept on a generally recognized accounting basis and shall be available for three years after Final Completion of the Project.

B. Audit Rights. The District, its authorized representative, and/or the appropriate federal agency, reserve the right to audit the Construction Manager's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate Contract Documents and any Change Orders.

C. Pricing Data Inaccuracies. The District reserves the right to decrease Contract Price and/or payments made on this Agreement, in an amount determined by the District in its sole discretion, if, upon audit of the Construction Manager's records, the audit discloses the Construction Manager has provided false, misleading, or inaccurate cost and pricing data.

D. Inclusion in Subcontracts. The Construction Manager shall include a similar provision in all of its agreements with Subconsultants and Subcontractors providing services under the Contract Documents to ensure the District, its authorized representative, and/or the appropriate federal agency, has access to the Subconsultants' and Subcontractors' records to verify the accuracy of cost and pricing data.

E. District Remedies. The District reserves the right to decrease Contract Price and/or payments made under this Agreement, in an amount determined by the District in its sole discretion, if the above provision is not included in Subconsultant's and Subcontractor's contracts, and one or more Subconsultants and/or Subcontractors do not allow the District to audit their records to verify the accuracy and appropriateness of pricing data.

ARTICLE 10 INSURANCE AND INDEMNITY

10.1 Insurance Representations and Requirements.

A. General.

1. Insurer Qualifications. Without limiting any obligations or liabilities of the Construction Manager, the Construction Manager shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the District. Failure to maintain insurance as specified herein may result in termination of this Agreement at the District's option.

2. No Representation of Coverage Adequacy. By requiring insurance herein, the District does not represent that coverage and limits will be adequate to protect the Construction Manager. The District reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Construction Manager from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

3. Additional Insured. All insurance coverage, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the District, its agents, representatives, officers, directors, officials and employees as Additional Named Insured as specified under the respective coverage sections of this Agreement.

4. Coverage Term. All insurance required herein shall be maintained in full force and effect until a written notice of Substantial Completion has been provided by the District.

5. Primary Insurance. Construction Manager's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the District as an Additional Insured.

6. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping

coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance and necessary endorsements citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

7. Waiver. All policies, excluding Professional Liability but including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the District, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Construction Manager. Construction Manager shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

8. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the District. Construction Manager shall be solely responsible for any such deductible or self-insured retention amount.

9. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Construction Manager shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Article and insurance requirements set forth herein protecting the District and Construction Manager. Construction Manager shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

10. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Construction Manager will provide the District with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Construction Manager's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The District shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Construction Manager's responsibility to forward renewal certificates and declaration page(s) to the District 30 Days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without a reference to this Agreement. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing this Agreement will be subject to rejection and may

be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

a. The District, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

i. Commercial General Liability – Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 04 13 or equivalent.

ii. Auto Liability – Under ISO Form CG 20 10 07 04 and CG 20 01 04 13 or equivalent.

iii. Excess Liability – Follow Form to underlying insurance.

b. Construction Manager’s insurance shall be primary insurance with respect to performance of this Agreement.

c. All policies, except for Professional Liability, including Workers’ Compensation, waive rights of recovery (subrogation) against District, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Construction Manager under this Agreement.

d. ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision “endeavor to” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives” shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

11. Endorsements. Construction Manager shall provide the District with the necessary endorsements to ensure District is provided the insurance coverage set forth in this Article 10.

B. Required Insurance Coverage.

1. Commercial General Liability. Construction Manager shall maintain “occurrence” form Commercial General Liability insurance with not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 01 04 13 and CG 20 01 04 13 or equivalent thereof, including but not limited to, separation of insured’s clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the District, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10

07 04 and CG 20 01 04 13, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this Subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

2. Vehicle Liability. Construction Manager shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Construction Manager's owned, hired and non-owned vehicles assigned to or used in the performance of the Construction Manager's work or services under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 10 13 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the District, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this Subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

3. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Construction Manager engages in any professional services or work in any way related to performing the work under this Agreement, the Construction Manager shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Construction Manager, or anyone employed by the Construction Manager, or anyone for whose negligent acts, mistakes, errors and omissions the Construction Manager is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

4. Workers' Compensation Insurance. Construction Manager shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Construction Manager's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

5. Builder's Risk Insurance. Unless expressly waived by the District in a written amendment to this Agreement, the Construction Manager shall be responsible for purchasing and maintaining insurance to protect the Project from perils of physical loss. The insurance shall provide for the full cost of replacement for the entire Project at the time of any loss. The insurance shall include as named insureds the District, the Construction Manager, and the Construction Manager's Subcontractors and shall insure against loss from the perils of fire and all-risk coverage for physical loss or damage due to theft, vandalism, collapse, malicious mischief, transit, flood, earthquake, testing, resulting loss arising from defective design, negligent workmanship or defective material. The Construction Manager shall increase the coverage limits as necessary to reflect changes in the estimated replacement cost.

6. Subrogation. The District and Construction Manager waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Section 10.B.5 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the District as fiduciary. The District and Construction Manager, as appropriate, shall require of the Architect, Architect's consultants, separate contractors, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

C. Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or be materially changed without 30 Days' prior written notice to the District.

10.2 Indemnity. To the fullest extent permitted by law, the Construction Manager shall defend, indemnify and hold harmless the District and each council member, officer, employee or agent thereof (the District and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims") to the extent that such Claims (or actions in respect thereof) are caused by the negligent acts or omissions, recklessness or intentional misconduct of the Construction Manager, its officers, employees, agents, or any tier of subcontractor in connection with Construction Manager's work or services in the performance of this Agreement. The amount and type of insurance coverage requirements set forth above will in no way be construed as limiting the scope of the indemnity in this Section.

ARTICLE 11

BONDS

11.1 Performance Bond. After the District and the Construction Manager have agreed to a GMP but prior to commencing the Construction Services attributable to such GMP, the Construction Manager shall be required to furnish the District with an irrevocable security binding the Construction Manager to provide faithful performance of the Agreement in the amount of 100% of the percentage of the GMP attributable to the Construction Services, payable to the District, and shall not include the cost of any design services, preconstruction services, finance services, maintenance services, operations services or any other related services. Performance security shall be in the form of a performance bond, certified check or cashier's check. If the Construction Manager fails to execute the security document as required, the Construction Manager may be found in material default of this Agreement, permitting the District to terminate

this Agreement for cause as set forth in Section 12 below. In case of default the District reserves all rights. All performance bonds shall be executed on the form attached hereto as Exhibit J, duly executed by the Construction Manager as Principal and having as Surety thereon a Surety company approved by the District and holding a Certificate of Authority issued by the Arizona Department of Insurance to transact surety business in the State of Arizona. Individual sureties are unacceptable. All Insurers and Sureties shall have at the time of submission of the proposal an A.M. Best's Key Rating Guide of "A-" or better as currently listed in the most recent Best Key Guide, published by the A.M. Best Company.

11.2 Payment Bond. After the District and the Construction Manager have agreed to a GMP but prior to commencing the Construction Services attributable to such GMP, the Construction Manager shall be required to furnish the District with an irrevocable security for the protection of claimants supplying labor or materials to the Construction Manager or any Subcontractor in the prosecution of the construction and not for the protection of persons providing any design services, preconstruction services, finance services, maintenance services, operations services or other related services related to the Agreement. Payment security shall be in the amount of 100% of the portion of the GMP attributable to the Construction Services and be payable to the District. Payment security shall be in the form of a payment bond, certified check or cashier's check. If the Construction Manager fails to execute the security document as required, the Construction Manager may be found in material default of this Agreement, permitting the District to terminate this Agreement for cause as set forth in Section 12 below. All payment bonds shall be executed on a the form attached hereto as Exhibit K, duly executed by the Construction Manager as Principal and having as Surety thereon a Surety company approved by the District and holding a Certificate of Authority issued by the Arizona Department of Insurance to transact surety business in the State of Arizona. Individual sureties are unacceptable. All Insurers and Sureties shall have at the time of submission of the proposal an A.M. Best's Key Rating Guide of "A-" or better as currently listed in the most recent Best Key Guide, published by the A.M. Best Company.

ARTICLE 12 TERMINATION AND SUSPENSION

12.1 Termination by the Construction Manager.

A. Procedure. Upon 30 Days' written notice to the District of one of the reasons set forth below, and if the District fails to cure or initiate reasonable action to cure within 30 Days of receipt of said notice, the Construction Manager may terminate this Agreement for any of the following:

1. If the Work has been stopped for a 60-Day period:
 - a. Under court order or order of other governmental authorities having jurisdiction; or
 - b. As a result of the declaration of a national emergency or other governmental act during which, through no act or fault of the Construction Manager, materials are not available.

2. If the Work is suspended by the District for more than 60 Days.
3. If the District materially delays the Construction Manager in the performance of the Work.
4. If, due to no fault of the Construction Manager, the District fails to pay Construction Manager in accordance with this Agreement.
5. If the District otherwise materially breaches this Agreement.

B. Payment to Construction Manager. Upon termination by the Construction Manager in accordance with Subsection 12.1(A) above, the Construction Manager shall be entitled to recover from the District payment for all Work completed to the date of termination plus reasonable demobilization costs, subcontract and purchase order termination costs, reasonable overhead, extended general conditions and profit on the Work performed. The District may subtract reasonable estimates of costs for deficient work from the payments noted above; however, Construction Manager has the right to dispute the District's determination.

12.2 Termination by the District for Cause.

A. Construction Manager Default. If the Construction Manager refuses or fails to commence correction, except in cases for which extension of time is provided, to supply sufficient properly skilled staff or proper materials, or disregards laws, ordinances, rules, regulations, or orders of any public authority jurisdiction, or otherwise substantially violates or materially breaches any term or provision of this Agreement, and such nonperformance or violation continues without commencement to cure for 15 Days after the Construction Manager receives written notice of such nonperformance or violation from the District, then the District may, without prejudice to any right or remedy otherwise available to the District, terminate this Agreement.

B. Construction Manager Insolvency. Upon the appointment of a receiver for the Construction Manager, or if the Construction Manager makes a general assignment for the benefit of creditors, the District may terminate this Agreement, without prejudice to any right or remedy otherwise available to the District, upon giving three Days' written notice to the Construction Manager. If an order for relief is entered under the bankruptcy code with respect to the Construction Manager, the District may terminate this Agreement by giving three Days' written notice to the Construction Manager unless the Construction Manager or the trustee does all of the following:

1. Promptly cures all breaches within such three-Day period.
2. Provides adequate assurances of future performance.
3. Compensates the District for actual pecuniary loss resulting from such breach(es).

4. Assumes the obligations of the Construction Manager within the established time limits.

C. Failure to Agree on a GMP. If the District and the Construction Manager fail, after good faith efforts, to agree upon a GMP, this Agreement may be terminated upon fifteen (15) Days' notice from either Party to the other. In the event of a termination for failure to agree on a GMP, the Construction Manager's sole and exclusive right and remedy shall be to be paid for all Work performed and to receive equitable adjustment for all Work performed through the date of termination plus reasonable demobilization costs, subcontract and purchase order termination costs, reasonable overhead and profit on the Work performed. The Construction Manager shall not be entitled to be paid any amount as profit for unperformed Work or Services or consideration for the termination under this Subsection.

12.3 Termination by the District for Convenience. The District may, upon 30 Days' written notice to the Construction Manager, terminate this Agreement, in whole or in part, for the convenience of the District, without prejudice to any right or remedy otherwise available to the District. Upon receipt of such notice, the Construction Manager shall immediately discontinue all services affected unless such notice directs otherwise. In the event of a termination for convenience of the District, the Construction Manager's sole and exclusive right and remedy shall be to be paid for all Work performed and to receive equitable adjustment for all Work performed through the date of termination plus reasonable demobilization costs, subcontract and purchase order termination costs, reasonable overhead and profit on the Work performed. The Construction Manager shall not be entitled to be paid any amount as profit for unperformed Work or Services or consideration for the termination of convenience by the District.

12.4 Suspension by the District for Convenience.

A. Procedure. The District may order the Construction Manager in writing to suspend, delay or interrupt all or any part of the Work without cause for such period of time as the District may determine to be appropriate for its convenience, but not in abrogation of the rights given Construction Manager in Section 12.1 above.

B. Adjustments to GMP and Schedule. Adjustments caused by suspension, delay or interruption shall be made for increases in the applicable GMP and/or the applicable Substantial Completion date. No adjustment shall be made if the Construction Manager is or otherwise would have been responsible for the suspension, delay or interruption of the Work, or if another provision of this Agreement is applied to render an equitable adjustment.

ARTICLE 13 DISPUTE RESOLUTION

13.1 Work Continuance and Payment. Unless otherwise agreed in writing, Construction Manager shall continue the Work and maintain the Schedule of the Work during any dispute resolution proceedings. If Construction Manager continues to perform, Owner shall continue to make payments in accordance with this Agreement.

13.2 Direct Discussions. If the Parties cannot reach resolution on a matter relating to or arising out of this Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) Business Days from the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that a resolution could not be reached. Upon receipt of such notice, the senior executives of the Parties shall meet within five (5) Business Days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) Days from the date of first discussion, the Parties shall submit such matter to the dispute resolution procedures set forth in ARIZ. REV. STAT. §§ 41-1092 *et seq.*, and ARIZ. ADMIN. CODE §§ R7-2-1155 through 1159.

13.3 Costs. The costs of any binding dispute resolution procedures and reasonable attorneys' fees shall be borne by the non-prevailing Party, as determined by the adjudicator of the dispute.

13.4 Venue. To the extent permitted by Law, the venue of any binding dispute resolution procedure shall be the location of the Project.

13.5 Multiparty Proceeding. All parties necessary to resolve a matter agree to be parties to the same dispute resolution proceeding, if possible. Appropriate provisions shall be included in all other contracts relating to the Work to provide for the joinder or consolidation of such dispute resolution procedures.

ARTICLE 14 ADDITIONAL PROVISIONS

14.1 Confidentiality. The Construction Manager shall not disclose or permit the disclosure of any confidential information except to its agents, employees and Subcontractors who need such confidential information in order to properly perform their duties relative to this Agreement.

14.2 Limitation and Assignment. The District and the Construction Manager each bind themselves, their successors, assigns and legal representatives to the terms of this Agreement. Neither the District nor the Construction Manager shall assign or transfer its interest in this Agreement without the written consent of the other, except that the Construction Manager may assign accounts receivable to a commercial bank for securing loans without approval of the District. Nothing contained in this Section shall prevent the Construction Manager from employing such consultants, associates or Subcontractors as the Construction Manager may deem appropriate to assist in performance of the Services hereunder.

14.3 Entire Agreement. This Agreement represents the entire and integrated agreement between the District and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the District and the Construction Manager. Nothing contained

in this Agreement is intended to benefit any third party. Subcontractors, if any, and the Project Designers are not intended third-party beneficiaries of this Agreement.

14.4 Severability. If any provision of this Agreement is held as a matter of law to be unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be enforceable without such provision.

14.5 Meaning of Terms. References made in the singular shall include the plural and the masculine shall include the feminine or neuter.

14.6 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the Party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below (C) given to a recognized and reputable overnight delivery service, to the address set forth below, or (D) sent by e-mail transmission to the e-mail address(es) set forth below, with Delivery Receipt and Read Receipt requested::

If to the District: Higley Unified School District No. 60
2935 S. Recker Rd.
Gilbert, AZ 85296
Attn: Tyler Moore
Tyler.Moore@husd.org

If to Project Designers: DLR Group
6225 N. 24th St., Suite 250
Phoenix, AZ 85016-20042
Attn: Carmen Wyckoff
cwyckoff@dlrgroup.com

If to Construction Manager: Chasse Building Team Inc
230 S Siesta Ln
Tempe AZ 85288
Attn: Patrick Sheppard
PSheppard@chasse.us

or at such other address, and to the attention of such other person or officer, as any Party may designate in writing by notice duly given pursuant to this Section. Notices shall be deemed received (A) when delivered to the Party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (D) upon the sender's receipt of delivery confirmation from the sender's e-mail service provider. If a copy of a notice is also given to a Party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a Party shall mean and refer to the date on which the Party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

14.7 Governing Law. This Agreement shall be governed by the laws of the State of Arizona and venue shall be in Maricopa County.

14.8 No Waiver of Performance. The failure of either Party to insist, in any one or more instances, on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition right with respect to further performance.

14.9 Headings. The headings given to any of the provisions of this Agreement are for ease of reference only and shall not be relied upon or cited for any other purpose.

14.10 Asbestos Free Materials. The Project is to be constructed by the Construction Manager with asbestos free materials. A written, notarized statement on company letterhead shall be submitted to the District by the Construction Manager with the final payment request certifying that the Construction Manager has incorporated no asbestos material into the Project. Final payment shall be withheld until such statement is submitted. The Construction Manager shall agree that if materials containing asbestos are subsequently discovered at any future time to have been included in the construction done by the Construction Manager or any of its Subcontractors or agents and were not specified in the design or required by the Contract Documents, the Construction Manager shall be liable for all costs related to the abatement of such asbestos and damages or claims against the District notwithstanding any statute of limitations or other legal bar to any claim by the District.

14.11 Cancellation. This Agreement may be cancelled by the District pursuant to ARIZ. REV. STAT. § 38-511.

14.12 Survival of Representations and Warranties. Notwithstanding any other provision of this Agreement, the representations, warranties and covenants herein shall survive termination of this Agreement.

14.13 Endangered Hardwoods Prohibited. Construction Manager shall ensure that products containing endangered wood species shall not be utilized in the construction of the Project unless within the Construction Documents or exempted pursuant to ARIZ. REV. STAT. § 34-201(J), as amended.

14.14 Records and Audit Rights. Construction Manager's and its Subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Construction Manager and its Subcontractors' employees who perform any work or Services pursuant to this Agreement to ensure that the Construction Manager and its Subcontractors are complying with the warranty under Subsection 14.15 below (all the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the District, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Construction Manager's and its Subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Construction

Manager's and its Subcontractors' compliance with the Arizona employer sanctions laws referenced in Subsection 14.15 below. To the extent necessary for the District to audit Records as set forth in this Subsection, Construction Manager and its Subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the District shall have access to said Records, even if located at its Subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the District to Construction Manager pursuant to this Agreement. Construction Manager and its Subcontractors shall provide the District with adequate and appropriate workspace so that the District can conduct audits in compliance with the provisions of this Subsection. The District shall give Construction Manager or its Subcontractors reasonable advance notice of intended audits. Construction Manager shall require its Subcontractors to comply with the provisions of this Subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.15 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Construction Manager and its Subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Construction Manager's or its Subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the District.

14.16 Israel Boycott. To the extent ARIZ. REV. STAT. § 35-393 is applicable, Construction Manager certifies that it is not currently engaged in, and agrees for the duration of this Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in ARIZ. REV. STAT. § 35-393.

14.17 Independent Contractor. The Construction Manager is and will be an independent contractor and whatever measure of control the District exercises over the work or deliverable pursuant to the Contract will be as to the results of the work only. No provision in this Agreement will give or be construed to give the District the right to direct the Construction Manager as to the details of accomplishing the work or deliverable. These results will comply with all applicable laws and ordinances.

14.18 Agreement Subject to Appropriation. The District is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the District's then-current fiscal year. The District's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the District concerning budgeted purposes and appropriation of funds. This Agreement may be terminated on the part of the District in the event that sufficient appropriated funding is unavailable to assure full performance of the terms. The Parties retain all rights available under this Agreement, to the extent permitted under Arizona law, in the event of termination or cancellation of this Agreement due to the lack of funding on the part of the District.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first set forth above.

"District"

HIGLEY UNIFIED SCHOOL DISTRICT NO. 60
a political subdivision

Tyler Moore

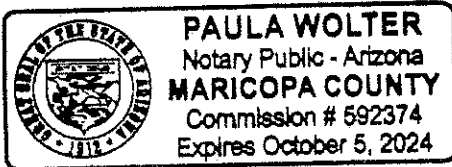
ATTEST:

Dawn A. Foley

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On July 11, 2022, before me personally appeared Tyler Moore, the CFO of the HIGLEY UNIFIED SCHOOL DISTRICT NO. 60, a political subdivision, whose identity was proven to me on the basis of satisfactory evidence to be the person who she claims to be, and acknowledged that she signed the above document, on behalf of the Higley Unified School District No. 60.




(Affix notary seal here)

Paula Wolter
Notary Public

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Construction Manager"

CHASSE BUILDING TEAM INC.

By: 

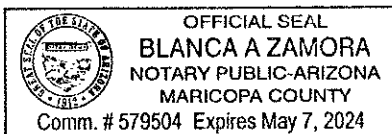
Name: Barry Chasse

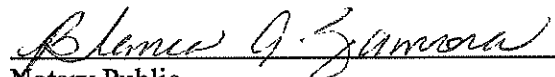
Title: President

(ACKNOWLEDGMENT)

STATE OF Arizona)
) ss.
COUNTY OF Maricopa)

On July 07, 2022, before me personally appeared Barry Chasse,
the President of Chasse Building Team Inc,
a(n) Arizona Corporation, whose identity was proven to me on the basis of
satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she
signed the above document on behalf of the Construction Manager.




Notary Public

(Affix notary seal here)

EXHIBIT A
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
HIGLEY UNIFIED SCHOOL DISTRICT NO. 60
AND
CHASSE BUILDING TEAM INC

[Construction Documents]

See following pages.

Project: **Higley HS Classroom Addition**
Phase: DD Guaranteed Maximum Price #1
Date: July 7, 2022

SHEET	DESCRIPTION	PREPARED BY	PLAN DATE	DELTA	SEAL DATE
G0.1	COVER SHEET	DLR GROUP	5/9/2022	N/A	N/A
G1.1	GENERAL NOTES, SYMBOLS AND ABBREVIATIONS	DLR GROUP	5/9/2022	N/A	N/A
CP0.1	BUILDING CODE ANALYSIS	DLR GROUP	5/9/2022	N/A	N/A
CP1.1	LEVEL 01 AND LEVEL 02 - CODE PLANS	DLR GROUP	5/9/2022	N/A	N/A
C0.0	CIVIL COVER SHEET	HILGART WILSON	May-22	N/A	N/A
C0.1	NOTES	HILGART WILSON	May-22	N/A	N/A
C0.2	SECTIONS & DETAILS	HILGART WILSON	May-22	N/A	N/A
C1.0	GRADING, DRAINAGE & PAVING PLAN	HILGART WILSON	May-22	N/A	N/A
C1.1	STORMDRAIN PLAN	HILGART WILSON	May-22	N/A	N/A
C2.0	ONSITE UTILITY PLAN	HILGART WILSON	May-22	N/A	N/A
L1.1	LANDSCAPE NOTES	ELO DESIGN, LLC	5/9/2022	N/A	N/A
L1.2	LANDSCAPE/HARDSCAPE PLAN	ELO DESIGN, LLC	5/9/2022	N/A	N/A
L1.3	IRRIGATION PLAN	ELO DESIGN, LLC	5/9/2022	N/A	N/A
L1.4	IRRIGATION DETAILS	ELO DESIGN, LLC	5/9/2022	N/A	N/A
A0.1	GENERAL NOTES, ARCHITECTURAL SYMBOLS & ABBREVIATIONS	DLR GROUP	5/9/2022	N/A	N/A
A1.1	LEVEL 01 - FLOOR PLAN	DLR GROUP	5/9/2022	N/A	N/A
A1.1.1	LEVEL 01 - FLOOR PLAN - DIMENSIONS	DLR GROUP	5/9/2022	N/A	N/A
A1.2	LEVEL 02 - FLOOR PLAN	DLR GROUP	5/9/2022	N/A	N/A
A1.2.1	LEVEL 02 - FLOOR PLAN - DIMENSIONS	DLR GROUP	5/9/2022	N/A	N/A
A1.3	ROOF PLAN	DLR GROUP	5/9/2022	N/A	N/A
A2.1	ENLARGED FLOOR PLANS	DLR GROUP	5/9/2022	N/A	N/A
A3.1	LEVEL 01 - REFLECTED CEILING PLAN	DLR GROUP	5/9/2022	N/A	N/A
A3.2	LEVEL 02 - REFLECTED CEILING PLAN	DLR GROUP	5/9/2022	N/A	N/A
A4.1	EXTERIOR ELEVATIONS	DLR GROUP	5/9/2022	N/A	N/A
A4.2	EXTERIOR ELEVATIONS	DLR GROUP	5/9/2022	N/A	N/A
A5.1	BUILDING SECTIONS	DLR GROUP	5/9/2022	N/A	N/A
A6.1	WALL SECTIONS	DLR GROUP	5/9/2022	N/A	N/A
A7.1	STAIR PLANS AND SECTIONS	DLR GROUP	5/9/2022	N/A	N/A
A7.2	STAIR PLANS, ELEVATOR PLANS AND SECTIONS	DLR GROUP	5/9/2022	N/A	N/A
A8.1	PARTITION TYPES	DLR GROUP	5/9/2022	N/A	N/A
A8.2	DOOR, WINDOW, & FRAME TYPE & SCHEDULE	DLR GROUP	5/9/2022	N/A	N/A
A8.3	WINDOW TYPES & SCHEDULES	DLR GROUP	5/9/2022	N/A	N/A
A9.1	DOOR AND FRAME DETAIL	DLR GROUP	5/9/2022	N/A	N/A
A10.1	INTERIOR ELEVATIONS	DLR GROUP	5/9/2022	N/A	N/A
A11.1	INTERIOR DETAILS	DLR GROUP	5/9/2022	N/A	N/A
A12.01	FINISH SCHEDULES	DLR GROUP	5/9/2022	N/A	N/A
S0.1	GENERAL STRUCTURAL NOTES	DLR GROUP	5/9/2022	N/A	N/A
S0.2	GENERAL STRUCTURAL NOTES & SPECIAL INSPECTIONS	DLR GROUP	5/9/2022	N/A	N/A
S1.1	FOUNDATION PLAN - CLASSROOM BUILDING	DLR GROUP	5/9/2022	N/A	N/A
S2.1	FLOOR FRAMING PLAN - CLASSROOM BUILDING	DLR GROUP	5/9/2022	N/A	N/A
S2.2	ROOF FRAMING PLAN - CLASSROOM BUILDING	DLR GROUP	5/9/2022	N/A	N/A
S3.1	STRUCTURAL DETAILS	DLR GROUP	5/9/2022	N/A	N/A
S4.1	STRUCTURAL DETAILS	DLR GROUP	5/9/2022	N/A	N/A
S5.1	STRUCTURAL DETAILS	DLR GROUP	5/9/2022	N/A	N/A
S6.1	STRUCTURAL DETAILS	DLR GROUP	5/9/2022	N/A	N/A
M0.1	MECHANICAL SYMBOLS, ABBREVIATIONS & NOTES	DLR GROUP	5/9/2022	N/A	N/A
M1.1	LEVEL 01 - HVAC PLAN	DLR GROUP	5/9/2022	N/A	N/A
M1.2	LEVEL 02 - HVAC PLAN	DLR GROUP	5/9/2022	N/A	N/A
M1.3	ROOF HVAC PLAN	DLR GROUP	5/9/2022	N/A	N/A
M7.1	MECHANICAL DETAILS	DLR GROUP	5/9/2022	N/A	N/A
M8.1	MECHANICAL SCHEDULES	DLR GROUP	5/9/2022	N/A	N/A
M9.1	LEVEL 01 - HVAC ZONING PLAN	DLR GROUP	5/9/2022	N/A	N/A
M9.2	LEVEL 02 - HVAC ZONING PLAN	DLR GROUP	5/9/2022	N/A	N/A
FP0.1	GENERAL NOTES, FIRE PROTECTION SYMBOLS & ABBREVIATIONS	DLR GROUP	5/9/2022	N/A	N/A
FP1.1	LEVEL 01 & 02 - FIRE PROTECTION PLANS, SCHEDULES & DETAILS	DLR GROUP	5/9/2022	N/A	N/A
P0.1	GENERAL NOTES, PLUMBING SYMBOLS & ABBREVIATIONS	DLR GROUP	5/9/2022	N/A	N/A
P2.1	LEVEL 01 - PLUMBING PLAN	DLR GROUP	5/9/2022	N/A	N/A
P2.2	LEVEL 02 - PLUMBING PLAN	DLR GROUP	5/9/2022	N/A	N/A
P2.3	ROOF - PLUMBING PLAN	DLR GROUP	5/9/2022	N/A	N/A
P4.1	WASTE & VENT RISER DIAGRAMS	DLR GROUP	5/9/2022	N/A	N/A
P5.1	PLUMBING DETAILS	DLR GROUP	5/9/2022	N/A	N/A
P6.1	PLUMBING SCHEDULES	DLR GROUP	5/9/2022	N/A	N/A
E0.1	ELECTRICAL SYMBOLS, ABBREVIATIONS & NOTES	DLR GROUP	5/9/2022	N/A	N/A
ESD1.1	LEVEL 01 - ELECTRICAL SITE DEMOLITION PLAN	DLR GROUP	5/9/2022	N/A	N/A
ES1.1	LEVEL 01 - SITE PLAN	DLR GROUP	5/9/2022	N/A	N/A
E1.1	LEVEL 01 - LIGHTING PLAN	DLR GROUP	5/9/2022	N/A	N/A

Project: Higley HS Classroom Addition

Phase: DD Guaranteed Maximum Price #1

Date: July 7, 2022

SHEET	DESCRIPTION	PREPARED BY	PLAN DATE	DELTA	SEAL DATE
E1.2	LEVEL 02 - LIGHTING PLAN	DLR GROUP	5/9/2022	N/A	N/A
E2.1	LEVEL 01 - POWER PLAN	DLR GROUP	5/9/2022	N/A	N/A
E2.2	LEVEL 02 - POWER PLAN	DLR GROUP	5/9/2022	N/A	N/A
E2.3	ROOF - POWER PLAN	DLR GROUP	5/9/2022	N/A	N/A
E3.1	LEVEL 01 - SPECIAL SYSTEMS PLAN	DLR GROUP	5/9/2022	N/A	N/A
E3.2	LEVEL 02 - SPECIAL SYSTEMS PLAN	DLR GROUP	5/9/2022	N/A	N/A
E4.1	ENLARGED ELECTRICAL PLANS	DLR GROUP	5/9/2022	N/A	N/A
E5.1	ELECTRICAL DIAGRAMS	DLR GROUP	5/9/2022	N/A	N/A
E5.2	ELECTRICAL DIAGRAMS	DLR GROUP	5/9/2022	N/A	N/A
E6.1	ELECTRICAL DETAILS - GROUNDING	DLR GROUP	5/9/2022	N/A	N/A
E6.2	ELECTRICAL DETAILS - SITE	DLR GROUP	5/9/2022	N/A	N/A
E6.3	ELECTRICAL DETAILS - COORDINATION	DLR GROUP	5/9/2022	N/A	N/A
E6.4	ELECTRICAL DETAILS - ELEVATORS	DLR GROUP	5/9/2022	N/A	N/A
E6.5	ELECTRICAL DETAILS - SPECIAL SYSTEMS	DLR GROUP	5/9/2022	N/A	N/A
E7.1	ELECTRICAL SCHEDULES	DLR GROUP	5/9/2022	N/A	N/A
E7.2	ELECTRICAL SCHEDULES	DLR GROUP	5/9/2022	N/A	N/A

Project: **Higley HS Classroom Addition**

Phase: DD Guaranteed Maximum Price #1

Date: July 7, 2022

	PROJECT SPECIFICATION MANUAL
	DIVISION 00 - CONDITIONS OF THE CONTRACT
000107	SEALS PAGE
000110	TABLE OF CONTENTS
	DIVISION 01 – GENERAL REQUIREMENTS
011000	SUMMARY
012000	PRICE AND PAYMENT PROCEDURES
012200	UNIT PRICES
012500	SUBSTITUTION PROCEDURES
012501	SUBSTITUTION REQUEST FORM
012600	CONTRACT MODIFICATION PROCEDURES
013000	ADMINISTRATIVE REQUIREMENTS
013113.13	COORDINATION DRAWINGS
013113.15	REQUESTS FOR INTERPRETATION
013216	CONSTRUCTION PROGRESS SCHEDULE
013300	SUBMITTAL PROCEDURES
013333	ELECTRONIC DRAWINGS
013334	AGREEMENT FOR TRANSFER OF DIGITAL MODEL FILES
013513	SPECIAL PROJECT PROCEDURES
014000	QUALITY REQUIREMENTS
014216	DEFINITIONS AND EXPLANATIONS
014339	MOCKUPS AND FIELD SAMPLES
015000	TEMPORARY FACILITIES AND CONTROLS
015719	TEMPORARY ENVIRONMENTAL CONTROLS
016000	PRODUCT REQUIREMENTS
016211	DELEGATED DESIGN
017000	EXECUTION AND CLOSEOUT REQUIREMENTS
017123	FIELD ENGINEERING
017329	CUTTING AND PATCHING
017419	CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL
017610	TEMPORARY PROTECTIVE COVERINGS
017800	CLOSEOUT SUBMITTALS
017839	PROJECT RECORD DOCUMENTS
017900	DEMONSTRATION AND TRAINING
019113	GENERAL COMMISSIONING REQUIREMENTS
	DIVISION 02 – EXISTING CONDITIONS
024100	DEMOLITION
	DIVISION 03 – CONCRETE
031000	CONCRETE FORMING AND ACCESSORIES

Project: **Higley HS Classroom Addition**

Phase: DD Guaranteed Maximum Price #1

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031513	WATERSTOPS
032000	CONCRETE REINFORCING
033000	CAST-IN-PLACE CONCRETE
033500	CONCRETE FINISHING
033541	CONCRETE SEALING
033543	POLISHED CONCRETE FLOOR FINISHING
	DIVISION 04 – MASONRY
040511	MORTAR AND MASONRY GROUT
042200	CONCRETE UNIT MASONRY
	DIVISION 05 - METALS
051200	STRUCTURAL STEEL FRAMING
053100	STEEL DECKING
054000	COLD FORMED METAL FRAMING
054300	SLOTTED CHANNEL FRAMING
055000	METAL FABRICATIONS
055100	METAL STAIRS
055133	METAL LADDERS
055213	PIPE AND TUBE RAILINGS
057300	DECORATIVE METAL RAILINGS
	DIVISION 06 - WOOD, PLASTICS, AND COMPOSITES
061000	ROUGH CARPENTRY
061600	SHEATHING
061643	GYPSUM SHEATHING
061800	GLUED LAMINATED CONSTRUCTION
062023	INTERIOR FINISH CARPENTRY
064116	PLASTIC-LAMINATE-FACED ARCHITECTURAL CABINETS
068316	FIBER GLASS REINFORCED PLASTIC (FRP) PANELS
	DIVISION 07 - THERMAL AND MOISTURE PROTECTION
071900	WATER REPELLENTS
072100	THERMAL INSULATION
072119	FOAMED-IN-PLACE INSULATION
072616	BELOW-GRADE VAPOR RETARDERS
072700	AIR BARRIERS
074213	METAL WALL PANELS
075400	THERMOPLASTIC MEMBRANE ROOFING
076200	SHEET METAL FLASHING AND TRIM
077100	ROOF SPECIALTIES
077200	ROOF ACCESSORIES
078400	FIRESTOPPING

Project: **Higley HS Classroom Addition**

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079200	JOINT SEALANTS
079219	ACOUSTICAL JOINT SEALANTS
	DIVISION 08 - OPENINGS
081113	HOLLOW METAL DOORS AND FRAMES
081416	FLUSH WOOD DOORS
083100	ACCESS DOORS AND PANELS
084313	ALUMINUM-FRAMED STOREFRONTS
084329	SLIDING STOREFRONTS
085125	HOLLOW METAL WINDOWS
087100	FINISH HARDWARE
088000	GLAZING
088300	MIRRORS
088733	DECORATIVE FILMS
	DIVISION 09 - FINISHES
090561	COMMON WORK RESULTS FOR FLOORING PREPARATION
092116	GYPSUM BOARD ASSEMBLIES
093000	TILING
095100	ACOUSTICAL CEILINGS
096500	RESILIENT FLOORING
096513	RESILIENT BASE AND ACCESSORIES
096700	FLUID-APPLIED FLOORING
096813	TILE CARPETING
097727	GRAPHIC FILMS
098100	ACOUSTIC INSULATION
098430	SOUND-ABSORBING WALL AND CEILING UNITS
099113	EXTERIOR PAINTING
099123	INTERIOR PAINTING
099600	HIGH-PERFORMANCE COATINGS
099623	GRAFFITI-RESISTANT COATINGS
099737	DRY ERASE COATINGS
	DIVISION 10 - SPECIALTIES
101100	VISUAL DISPLAY UNITS
101414	REGULATORY SIGNAGE
101416	PLAQUES
101435	DIMENSIONAL SIGN CHARACTERS
102113.19	SOLID PLASTIC TOILET COMPARTMENTS
102600	WALL AND DOOR PROTECTION
102800	TOILET, BATH, AND LAUNDRY ACCESSORIES
104116	EMERGENCY ACCESS KEY BOXES
104400	FIRE PROTECTION SPECIALTIES

Project: **Higley HS Classroom Addition**

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	DIVISION 11 – EQUIPMENT
	NOT APPLICABLE
	DIVISION 12 - FURNISHINGS
122400	WINDOW SHADES
123600	COUNTERTOPS
	DIVISION 14 - ELEVATORS
142400	HYDRAULIC ELEVATORS
	DIVISION 21 - FIRE SUPPRESSION
210500	COMMON WORK RESULTS FOR FIRE SUPPRESSION
211313	WET PIPE SPRINKLER SYSTEM
	DIVISION 22 – PLUMBING
220500	COMMON WORK RESULTS FOR PLUMBING
220519	METERS AND GAGES FOR PLUMBING PIPING
220523	GENERAL DUTY VALVES FOR PLUMBING PIPING
220529	HANGERS AND SUPPORTS FOR PLUMBING
220553	IDENTIFICATIONS FOR PLUMBING PIPING AND EQUIPMENT
220700	PLUMBING INSULATION
220800	PLUMBING SYSTEMS COMMISSIONING REQUIREMENTS
221116	DOMESTIC WATER PIPING
221119	DOMESTIC WATER PIPING SPECIALTIES
221123	DOMESTIC WATER PUMPS
221316	SANITARY WASTE AND VENT PIPING
221319	SANITARY WASTE PIPING SPECIALTIES
221413	FACILITY STORM DRAINAGE PIPING
221423	STORM DRAINAGE PIPING SPECIALTIES
221429	SUMP PUMPS
223300	ELECTRIC DOMESTIC WATER HEATER
224000	PLUMBING FIXTURES
	DIVISION 23 -- HEATING, VENTILATING, AND AIR-CONDITIONING (HVAC)
230010	BASIC MECHANICAL REQUIREMENTS
230500	COMMON WORK RESULTS FOR HVAC
230513	COMMON MOTOR REQUIREMENTS
230529	HANGERS AND SUPPORTS
230548	VIBRATION CONTROLS
230593	TESTING, ADJUSTING AND BALANCING FOR HVAC
230700	HVAC INSULATION
230800	COMMISSIONING OF HVAC

Project: **Higley HS Classroom Addition**

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Date: July 7, 2022

230900	INSTRUMENTATION AND CONTROL FOR HVAC
230993	SEQUENCES OF OPERATIONS
232300	REFRIGERANT PIPING
233113	METAL DUCTWORK
233300	AIR DUCT ACCESSORIES
233423	HVAC POWER VENTILATORS
233700	AIR OUTLETS AND INLETS
233723	HVAC GRAVITY VENTILATORS
234100	PARTICULATE AIR FILTRATION
237413	PACKAGED OUTDOOR AIR HANDLING UNITS
238127	DUCTLESS SPLIT SYSTEMS
	DIVISION 25 –INTEGRATED AUTOMATION
	NOT APPLICABLE
	DIVISION 26 - ELECTRICAL
260500	COMMON WORK RESULTS FOR ELECTRICAL
260519	LOW VOLTAGE ELECTRICAL POWER CONDUCTORS AND CABLES
260526	GROUNDING AND BONDING FOR ELECTRICAL SYSTEMS
260529	HANGERS AND SUPPORTS FOR ELECTRICAL SYSTEMS
260533	RACEWAYS AND BOXES FOR ELECTRICAL SYSTEMS
260543	UNDERGROUND DUCTS AND RACEWAYS FOR ELECTRICAL SYSTEMS
260553	IDENTIFICATIONS FOR ELECTRICAL SYSTEMS
260570	OVERCURRENT PROTECTIVE DEVICE STUDIES
260800	COMMISSIONING FOR ELECTRICAL SYSTEMS
260923	LIGHTING CONTROL SYSTEMS AND DEVICES
262213	LOW VOLTAGE DISTRIBUTION TRANSFORMERS
262413	SWITCHBOARDS
262416	PANELBOARDS
262726	WIRING DEVICES
262813	FUSES
262816	DISCONNECT SWITCHES
262818	CIRCUIT BREAKERS
265100	LIGHTING
	DIVISION 27 -- COMMUNICATIONS
	NOT APPLICABLE
	DIVISION 28 -- ELECTRONIC SAFETY AND SECURITY
284600	FIRE ALARM SYSTEMS
	DIVISION 31 - EARTHWORK
313116	TERMITE CONTROL



SPECIFICATION LOG
EXHIBIT A

Project: **Higley HS Classroom Addition**

Phase: DD Guaranteed Maximum Price #1

Date: July 7, 2022

	DIVISION 32 - EXTERIOR IMPROVEMENTS
321723	PAVEMENT MARKINGS
321726	TACTILE WARNING SURFACING
323113	CHAIN LINK FENCES AND GATES
328400	IRRIGATION
329000	PLANTING
	DIVISION 33 - UTILITIES
	NOT APPLICABLE

EXHIBIT B
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
HIGLEY UNIFIED SCHOOL DISTRICT NO. 60
AND
CHASSE BUILDING TEAM INC

[Amendments]

See following pages.

NOT APPLICABLE

EXHIBIT C
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
HIGLEY UNIFIED SCHOOL DISTRICT NO. 60
AND
CHASSE BUILDING TEAM INC

[GMP Proposals]

See following pages.

Exhibit C - DD GMP BUDGET

Higley Unified School District

Higley HS Classroom Building Addition

July 7, 2022

DIV	DESCRIPTION	GMP 1
1A	Project Requirements	0
1B	Survey, Layout, Locating & Potholing	0
2A	Demolition	0
3A	Concrete	0
4A	Masonry	0
5A	Structural Steel	394,506
6A	Rough Carpentry	0
6B	Millwork	0
7A	Insulation	0
7B	Roofing & Sheet Metal	141,298
7C	Metal Panels	63,135
7F	Caulking & Sealants	0
8A	Doors Frames & Hardware	48,773
8C	Glass & Glazing	0
9A	Framing & Drywall	0
9C	Tile	0
9D	Acoustical Assemblies	0
9E	Flooring	0
9F	Paint	0
10A	Specialties	0
10B	Signage	0
12A	Window Coverings	0
14A	Elevators	108,199
21A	Fire Protection	0
22A	Plumbing	0
23A	HVAC	168,504
26A	Electrical	309,467
26B	Fire Alarm	0
27A	Special Systems (Security & Intercom Only)	0
31A	Earthwork	0
31B	Termite Control	0
32A	Fencing	0
32B	Landscaping	0
33A	Site Utilities	223,262
80A	General Conditions	107,257
	Material Testing Allowance	0
	Special Inspections	by Owner
	Permit Fees	by Owner
	Architectural & Engineering Fees	by Owner
	Project/Owner/Contractor/City Contingency	50,837
	Escalation Contingency	33,891
	Liability Insurance	22,029
	Builder's Risk Insurance	11,015
	Payment & Performance Bond	16,946
	Contractor Fee	84,729
	Gross Receipts Tax	81,769
	TOTAL GMP (CHASSE BUILDING TEAM CONTRACT):	1,865,618

Exhibit C
Clarifications to DD Guaranteed Maximum Price, Alternates, and Allowances
July 7, 2022

Higley Unified School District
Higley HS Classroom Addition

Basis of Design for GMP

1. GMP includes construction documents by DLR Group (refer to Exhibit A for details)

General Assumptions for GMP

1. GMP includes liability insurance and builder's risk insurance for duration of this project. For purposes of this contract, the Owner and Contractor agree that the Cost of Work associated with liability insurance and builder's risk insurance is \$13.00 per thousand and \$6.50 per thousand of total contract value, respectively.
2. GMP includes a payment and performance bond
3. GMP includes taxes for Maricopa County and City of Gilbert at 5.070%
4. GMP excludes architectural and engineering fees
5. GMP excludes permit review, impact, and inspection fees. Dust control permit and deferred submittal fees are included
6. GMP excludes permanent utility usage, design, construction, and tap fees
7. GMP excludes asbestos and hazardous waste removal
8. GMP excludes all FFE

Structural Steel

1. GMP includes procurement of mechanical screen wall
2. GMP includes procurement of bent plate shade fins
3. GMP includes procurement of perforated guardrail
4. GMP includes procurement of (1) roof access ladder
5. GMP includes procurement of 4x6 bent plate metal canopy

Roofing & Sheet Metal

1. GMP includes procurement of 60 mil TPO over R30 polyiso insulation
2. GMP includes procurement of 30" x 36" Bilco TB roof hatch

Metal Panels

1. GMP includes procurement of solid and perforated aluminum panels manufactured by ATAS

Elevators

1. GMP includes procurement of (1) TK Endura MDL 2500 lb elevator per the specifications below

Units in Estimate: 1 Units in Group: 1 Product: enduro MDL Application: Passenger Loading Class: A Seismic Equipment: Non-Seismic Capacity: 2500 lbs. Speed: 110 FPM Travel: 14 ft. 0 in. Landings: 2 (2 front, 0 rear) Power Supply: 208 Volts / 3-Phase / 60 Hz	Door Type: Single-speed Side-Opening Opening Size: 3 ft 6 in X 7 ft 0 in Clear Ceiling Height: 7 ft 6 3/4 in Clear Inside Cab Width: 6 ft 8 in Clear Inside Cab Depth: 4 ft 3 in Hallway Width: 8 ft 4 in Hallway Depth: 6 ft 9 in Pit Depth: 4 ft 0 in Clear Overhead: 12 ft 6 in Machine Room Location: Not Applicable Controller: TAC32 Emergency Power: Battery Reserve Operation	
Cab Cab Type: TKLP - Laminate Walls Panel Type: N/A Panel or Wall Finish: Plastic Laminate Cab Base: Brushed Stainless Steel (not recessed) Finish, Reveal: N/A Front Return, Transom: Brushed Stainless Steel Cab Doors: Brushed Stainless Steel Cab Sill: Aluminum Cab Finished Floor: By Others (not to exceed 3/8") Ceropy: 1/4 in. cold rolled steel Ceiling: Downlight Ceiling Finish: Brushed Stainless Steel Lighting: LED Handrail Type: 2" Flat-Bar Handrail Finish: Brushed Stainless Steel Handrail Location: Rear Wall Only Protective Pad: One (1) Set Pad Attachment: Buttons	Car Features Type: Traditional Finish: Brushed Stainless Features Included: Swing Return, Car Position Indicator, No Car-Riding Lantern Hall Features Type: Traditional Finish: Brushed Stainless Features Included: Hall Stations, Hall Lantern at 2nd with Combo HL/Position Indicator @ 1st. Lobby Panel: Not Included	Entrance Doors: Brushed Stainless Steel Entrance Frames: Brushed Stainless Steel Entrance Sills: Aluminum Limited Access Provision: Type: N/A

HVAC

1. GMP includes procurement of (16) Trane RTU's
2. GMP includes procurement of (4) Mitsubishi outdoor and indoor split system units

Site Utilities (Wets)

1. GMP includes a \$300,000 allowance for sewer site utility work associated with the new building

EXHIBIT C.1
CONTRACTOR'S LABOR RATES AND INTERNAL EQUIPMENT RATES

This Exhibit is incorporated into this Contract between the parties, as the parties desire to amend said document. In the event of any conflict, inconsistency or ambiguity between the terms and provisions of this Exhibit and those of the Contract, this Exhibit shall govern. Labor Rates are Fully Burdened and include costs for Vehicles, Cellular Phone Service and Computers.

LABOR RATES (FULLY BURDENED)

<u>Description</u>	<u>Hourly Billable Rates</u>
General Superintendent	\$ 160.00
Senior Superintendent	\$ 150.00
Site Superintendent	\$ 130.00
Assistant Superintendent	\$ 110.00
Foreman	\$ 75.00
Laborer	\$ 50.00
Project Director	\$ 185.00
Senior Project Manager	\$ 150.00
Project Manager	\$ 135.00
Assistant Project Manager	\$ 110.00
Project Engineer	\$ 95.00
Project Administrator	\$ 65.00
BIM Virtual Construction	\$ 135.00
QA/QC Surveyor	\$ 125.00
Safety Director	\$ 110.00
Project Executive	\$ 210.00
Chief Estimator	\$ 150.00
Preconstruction Manager	\$ 125.00
Estimator	\$ 105.00
Marketing Manager	\$ 95.00
Intern	\$ 35.00

INSURANCE AND BOND COSTS

<u>Description</u>	<u>Cost per thousand</u>
Liability Insurance shall be fixed at the following rate per thousand dollars of total contract value	\$12.00
Payment & Performance Bonds shall be fixed at the following rate per thousand dollars of total contract value	\$11.00
Builders Risk Insurance shall be fixed at the following rate per thousand dollars of total contract value	\$6.00

INTERNAL EQUIPMENT RENTAL RATES

<u>Description</u>	<u>Monthly Rate</u>
Jobsite Storage Conex	\$450
Jobsite Storage Semi-tool trailer	\$875
Jobsite Storage Superintendent toolbox	\$750
Air Quality Air scrubber	\$955
Air Quality Industrial fan	\$500
Air Quality Evap Cooler (2,000 CFM)	\$800
Dust Control Grizzly system (each)	\$250
Dust Control Water truck (2,000 gallon)	\$3,250
Dust Control Water truck (4,000 gallon)	\$5,500
Dust Control Water wagon	\$595
Dust Control Submersible pump / Trash pump	\$695
Dust Control Fire hose	\$180
Holisting Rough Terrain Forklift (5,000 LB)	\$2,350
Temporary Electric 5kw generator	\$800
Temporary Electric 25kw generator	\$1,325
Temporary Security Security camera (each per month)	\$2,350
Layout and QA/QC Trimble total station	\$2,000
Layout and QA/QC Laser level	\$680
Furnishings Job site trailer furniture (lump sum)	\$2,600
Transportation Job site vehicle	\$890
Information Technology Jobsite setup (lump sum)	\$1,500
Information Technology Data vault/digital plan kiosk	\$865
Information Technology Drone for aerial construction photos	\$350

EXHIBIT D
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
HIGLEY UNIFIED SCHOOL DISTRICT NO. 60
AND
CHASSE BUILDING TEAM INC

[Master Schedule]

See following pages.

CHASE

[illegible]

EXHIBIT E
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
HIGLEY UNIFIED SCHOOL DISTRICT NO. 60
AND
CHASSE BUILDING TEAM INC

[The District's RFQ]

See following pages.

NOT INCLUDED

EXHIBIT F
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
HIGLEY UNIFIED SCHOOL DISTRICT NO. 60
AND
CHASSE BUILDING TEAM INC

[Construction Manager's Response to the RFQ]

See following pages.

NOT INCLUDED

EXHIBIT G
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
HIGLEY UNIFIED SCHOOL DISTRICT NO. 60
AND
CHASSE BUILDING TEAM INC

[Traffic Control/Construction Sequencing]

See following pages.

NOT APPLICABLE

EXHIBIT H
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
HIGLEY UNIFIED SCHOOL DISTRICT NO. 60
AND
CHASSE BUILDING TEAM INC

[Allowable General Conditions Cost Line Items]

See following pages.

ALLOWABLE GENERAL CONDITIONS COST LINE ITEMS

Project Management Staff

Safety Coordinator/Assistant(s)
Project Executive / Director
Office Engineer(s) (PE or FE)
Project Expeditor(s)
Assistant Superintendent(s)
Virtual Construction / BIM Manager

CPM & LEAN Scheduler
Superintendent(s)
Project Manager(s)
Project Support Staff
Out-of-State Project Specific Travel*
Project Coordinator / Administrator

Bonds and Insurance **Separate Line Items per Section 3.3.A.8*

Builder's Risk Insurance
General Liability Insurance
Payment and Performance Bonds
Other Project Insurance as Required by Contract

Temporary Project Utilities

Non-LEED Recycling Dumpsters
Project Electricity
Monthly Telephone / Cellular Services
Internet Service / Hotspots
Street Rental and Barricades
Fencing and Covered Walkways
Site Erosion Control (BMP) and Project Entrance(s)

Temporary Toilets
Temporary Fire Protection
Telephone / Internet System Installation

Temporary Water Distribution and Meters
Temporary Electrical Distribution and Meters
Project Water, Ice and Supplements to Prevent Dehydration

Field Offices & Office Supplies

Partnering Costs
Job Photos/Videos
Project Specific Signage
Postage/Special Shipping
Project/As-Built (Record) Drawings
Project Milestone Event(s)*
Move-In/Out and Office Setup
Employee Identification System
Small Tools and Storage Trailers
Monthly Office Trailer Rental Costs
Computers & Setup
IT Set Up at Jobsite Trailer
Mobilization and Demobilization (Equipment Only)

First Aid Supplies
Reproduction Services
Monthly Office Supplies
Remote Parking Expenses
Project Reference Manuals
Security Services System /Watchman
Safety Material and Equipment
Drinking Water and Accessories (Including Ice)
Office Clean-Up/Janitorial Services
Field Engineering

* Specific justification and all estimated costs shall be submitted and approved by the District prior to any travel or event.

EXHIBIT I
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
HIGLEY UNIFIED SCHOOL DISTRICT NO. 60
AND
CHASSE BUILDING TEAM INC

[Pre-Construction Cost Summary]

See following pages.

February 2, 2022

Wendy Garretson
Higley Unified School District #60
2935 S. Recker Road
Gilbert, AZ 85295

RE: CMAR Precon and Construction Services for Higley High School Classroom Addition RFQ #22-03-23
Preconstruction Proposal

Hi Wendy,

Please find below our preconstruction proposal for the Higley High School Classroom Addition.

Estimated Approximate Construction Budget: \$ 10,000,000

Preconstruction Services (0.7% of Construction Costs):	\$ 70,000
Reimbursable Allowance	\$ -
Total	\$ 70,000

Construction Fee 5% of Construction Costs

Preconstruction services include, but are not limited to: environmental investigation, constructability review of the design documents, scheduling and site specific logistics plan, value engineering and options as needed, project cost estimates, schedule of values and multiple GMP's if required

Thank you for the opportunity to work with the team at Higley Unified School District and DLR. We look forward to a successful partnership!

Best,



Patrick Sheppard
Project Director

Exhibit I - Preconstruction Cost Summary

Higley Unified School District No. 60
Higley High School - Classroom Addition

Item #	Description	
1.0	Schematic Design	
1.1	Program Evaluation / General Project Meetings	
1.2	Cost Models, Cost Estimates, & Schedule of Values	
1.3	Project Schedule / Milestones Development	
1.4	Design Document, Constructability / Bidability & Value Analysis Reviews	
	<i>Subtotal:</i>	<i>\$28,200.00</i>
2.0	Design Development	
2.1	Program Evaluation / General Project Meetings	
2.2	Cost Models, Cost Estimates, & Schedule of Values	
2.3	Project Schedule / Milestones Development	
2.4	Design Document, Constructability / Bidability & Value Analysis Reviews	
	<i>Subtotal:</i>	<i>\$26,600.00</i>
3.0	Construction Drawings (GMP)	
3.1	Program Evaluation / General Project Meetings	
3.2	Cost Models, Cost Estimates, & Schedule of Values	
3.3	Project Schedule / Milestones Development	
3.4	Design Document, Constructability / Bidability & Value Analysis Reviews	
	<i>Subtotal:</i>	<i>\$15,200.00</i>
	Total:	\$70,000.00

Schematic Design \$28,200.00
Design Development \$26,600.00
Construction Drawings (GMP) \$15,200.00

TOTAL PRECONSTRUCTION SERVICES: \$70,000.00

EXHIBIT J
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
HIGLEY UNIFIED SCHOOL DISTRICT NO. 60
AND
CHASSE BUILDING TEAM INC

[Performance Bond]

See following page.

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, Chasse Building Team, Inc. (hereinafter called Principal), as Principal, and Hartford Accident & Indemnity Company, a corporation organized and existing under the laws of the State of CT, with its principal office in the City of Hartford (hereinafter called the Surety), as Surety, are held and firmly bound unto the Higley Unified School District No. 60 (hereinafter called the Obligee) in the amount of One Million Eight Hundred Sixty Five Thousand Six Hundred Eighteen and 00/100 (Dollars) (\$ 1,865,618.00), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee, dated the 7th day of July 2022, for the material, service or construction described as Design phase review and pre-construction services related to proposed additions, renovations improvements for Higley High School 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 of the undertakings, covenants, terms, conditions and agreements of the Contract during the original term of the Contract and any extension of the Contract, with or without notice to the Surety, and during the life of any guaranty required under the Contract, and also performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of all duly authorized modifications of the Contract that may hereafter be made, notice of which modifications to the surety being hereby waived, the above obligation is void. Otherwise it remains in full force and effect.

PROVIDED, however, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the extent as if it 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 fees that may be fixed by a judge of the Court.

Witness our hands this 8th day of July 2022.

Chasse Building Team, Inc.
Principal Seal

By: 
Barry Chasse, Chief Executive Officer

Hartford Accident & Indemnity Company
Surety Seal

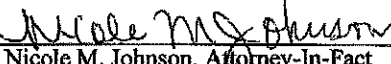
By: 
Nicole M. Johnson, Attorney-In-Fact
Bonding & Insurance Solutions, LLC
Agency of Record

EXHIBIT K
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
HIGLEY UNIFIED SCHOOL DISTRICT NO. 60
AND
CHASSE BUILDING TEAM INC.

[Payment Bond]

See following page.

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, Chasse Building Team, Inc. (hereinafter called Principal), as Principal, and Hartford Accident & Indemnity Company, a corporation organized and existing under the laws of the State of CT, with its principal office in the City of Hartford (hereinafter called the Surety), as Surety, are held and firmly bound unto the Higley Unified School District No. 60 (hereinafter called the Obligee) in the amount of One Million Eight Hundred Sixty Five Thousand Six Hundred Eighteen and 00/100 (Dollars) (\$ 1,865,618.00), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee, dated the 7th day of July, 2022, for the material, service or construction described as Design phase review and pre-construction services related to proposed additions, renovations improvements for Higley High School 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 it remains in full force and effect.

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

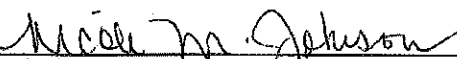
The prevailing party in a suit on this bond shall recover as a part of the judgment reasonable attorney fees that may be fixed by a judge of the Court.

Witness our hands this 8th day of July, 2022.

Chasse Building Team, Inc.
Principal Seal

By: 
Barry Chasse, Chief Executive Officer

Hartford Accident & Indemnity Company
Surety Seal

By: 
Nicole M. Johnson, Attorney-In-Fact

Bonding & Insurance Solutions, LLC
Agency of Record

POWER OF ATTORNEY

Direct Inquiries/Claims to:

THE HARTFORD

BOND, T-11

One Hartford Plaza

Hartford, Connecticut 06155

Bond.Claims@thehartford.com

call: 888-266-3488 or fax: 860-757-5835

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Name: BONDING AND INS SOLUTIONS LLC

Agency Code: 37-284958

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut |
| <input checked="" type="checkbox"/> | Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana |
| <input checked="" type="checkbox"/> | Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut |
| <input type="checkbox"/> | Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut |
| <input type="checkbox"/> | Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana |
| <input type="checkbox"/> | Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois |
| <input type="checkbox"/> | Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana |
| <input type="checkbox"/> | Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida |

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of Unlimited :**

Eric A. Dedovesh, Nicole M. Johnson, Rodney W. Paddock, Nathan Paddock of LEES SUMMIT, Missouri

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by ☒, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on May 23, 2016 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



Shelby Wiggins

Shelby Wiggins, Assistant Secretary

Joelle L. LaPierre

Joelle L. LaPierre, Assistant Vice President

STATE OF FLORIDA

COUNTY OF SEMINOLE

55. Lake Mary

On this 20th day of May, 2021, before me personally came Joelle LaPierre, to me known, who being by me duly sworn, did depose and say: that (s)he resides in Seminole County, State of Florida; that (s)he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that (s)he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that (s)he signed his/her name thereto by like authority.



Jessica Ciccone

Jessica Ciccone
My Commission HH 122280
Expires June 20, 2025

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of July 8th, 2022.

Signed and sealed in Lake Mary, Florida.



Keith D. Dozois

Keith D. Dozois, Assistant Vice President

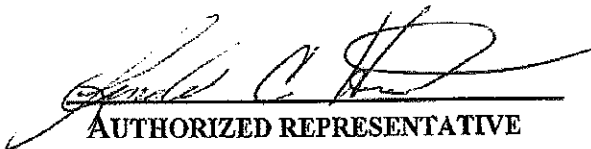
STATE OF ARIZONA

DEPARTMENT OF INSURANCE

*THIS IS TO CERTIFY, THAT THIS
INSTRUMENT IS A FULL, TRUE AND
CORRECT COPY OF THE ORIGINAL ON
FILE WITH THE DEPARTMENT OF
INSURANCE OF THE STATE OF ARIZONA
AND CONSISTS OF 1 PAGE(S)*

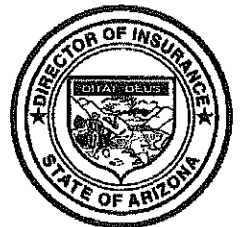
HEREUNTO SET MY HAND AND THE OFFICIAL SEAL OF THIS DEPARTMENT

FOR THE DIRECTOR OF INSURANCE THIS 23 MARCH 2016.

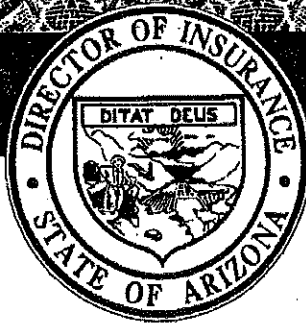

AUTHORIZED REPRESENTATIVE

CERTIFICATE No.:

299037



STATE OF



ARIZONA

DEPARTMENT

OF INSURANCE

Phoenix, Arizona

CERTIFICATE OF AUTHORITY

IT IS HEREBY CERTIFIED, That

HARTFORD ACCIDENT AND INDEMNITY COMPANY
Hartford, Connecticut

has complied with the requirements of the Arizona Revised Statutes and is hereby authorized, subject to the provisions thereof and the Charter Powers of said Company, to transact the following kinds of insurance, to-wit:

DISABILITY, PROPERTY, SURETY, VEHICLE,
MARINE AND TRANSPORTATION,
CASUALTY (INCLUDING WORKMEN'S COMPENSATION)

within the State of Arizona until terminated at the request of the insurer or suspended or revoked by the Director of Insurance.

Arizona Revised Statute 20-217 (C) states:

A Certificate of Authority remains the property of this state. Upon termination at the request of the insurer or revocation by the Director, the insurer shall immediately deliver the Certificate of Authority to the Director.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Director of Insurance at the City of Phoenix, this 21st day of July, 1979.




Director of Insurance

E-146 7/79

299037