



TOWN OF PRESCOTT VALLEY
CIP# CF2503 – Prescott Valley Aquatics and Recreation Facility

TOWN OF PRESCOTT VALLEY, AZ

PRESCOTT VALLEY AQUATICS AND RECREATION FACILITY

PROJECT NO. CIP# CF2503

CONSTRUCTION SERVICES CONTRACT
(CONSTRUCTION MANAGER AT RISK)



TOWN OF PRESCOTT VALLEY
CIP# CF2503 – Prescott Valley Aquatics and Recreation Facility

TOWN OF PRESCOTT VALLEY, ARIZONA
PRESCOTT VALLEY RECREATION CENTER
PROJECT NO.: CIP# CF2503

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TOWN OF PRESCOTT VALLEY

CIP# CF2503 – Prescott Valley Aquatics and Recreation Facility

**CONSTRUCTION MANAGER AT RISK
CONSTRUCTION SERVICES CONTRACT
PROJECT NO.: CIP# CF2503**

THIS CONTRACT is made and entered into on the 1st day of October, 2026, ("Effective Date") by and between Town of Prescott Valley, an Arizona municipal corporation, hereinafter called "Town" and the "Construction Manager at Risk" or "CMAR" designated below (Town and CMAR may individually be referred to as "Party" and collectively referred to as "Parties").

Town and CMAR agree as follows:

ARTICLE 1 - PARTICIPANTS AND PROJECT

TOWN:	Town of Prescott Valley Public Works Director: Phone: Email:	Heather Ruder 928-759-3071 hruder@prescottvalley-az.gov
CMAR:	Name: Address: Arizona ROC No.: Federal Tax ID No.: Business Organization: State Where Organized: CMAR Representative: Phone: Email:	CORE Construction, Inc. 13835 N. Northsight Blvd., Suite 100 Scottsdale, AZ 85260 B-01 No. 069786; A No. 110343 86-0433249 Corporation Arizona Todd Steffen (602) 494-0800 toddsteffen@coreconstruction.com

PROJECT DESCRIPTION:

Design and construction of a new municipal aquatics and recreation facility and associated site, utility, parking, and infrastructure improvements.

PROJECT LOCATION:

8600 Nace Ln
Prescott Valley, AZ
86314



TOWN OF PRESCOTT VALLEY

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ARTICLE 2 - **CONTRACT DOCUMENTS**

2.1 **CONTRACT DOCUMENTS**

The Contract between Town and CMAR will consist of the following Contract Documents:

1. This Construction Services Contract and all of its Exhibits, including Project Plans and Technical Specifications, as adjusted.
2. General Conditions and General Conditions Appendices, issued with the Notice of Request for Qualifications and set forth in Exhibit A, are incorporated by reference.
3. CORE Construction, Inc. Preconstruction Services Fee Proposal dated July 31, 2026, as set forth in Exhibit B and incorporated herein by reference, subject to the terms and limitations of this Contract.
4. Exhibit C – Subcontractor's List Form, incorporated by reference.
5. Appendix D – Project-Specific Modifications to the General Conditions – Insurance, incorporated by reference.
6. Appendix E – Project-Specific Modifications to the General Conditions – Indemnification, incorporated by reference.
7. Exhibit F – Project Responsibility & Risk Allocation Matrix, incorporated by reference.

2.2 In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the following order of precedence shall apply from highest to lowest: (1) duly executed Change Orders and amendments; (2) this Construction Services Contract; (3) Project-Specific Special Provisions and modifications to the General Conditions, including Appendices D and E; (4) Exhibit F - Project Responsibility & Risk Allocation Matrix, solely with respect to project responsibility and risk allocation; (5) the General Conditions; (6) Exhibit B - Accepted Preconstruction Services Fee Proposal; and (7) the remaining Contract Documents. To the extent a Project-Specific Special Provision or other higher-precedence Contract Document expressly modifies, supplements, or replaces a provision of the General Conditions, the higher-precedence document shall control without requiring modification of the underlying General Conditions. Except as expressly modified by a higher-precedence Contract Document, the General Conditions remain unchanged and in full force and effect. For this Project, Section 6.2.10.1 of the General Conditions shall govern the use and ownership of Float notwithstanding any inconsistent definition of Float elsewhere in the General Conditions.

2.3 **DEFINITIONS**

The definitions in Sections 2 and 15 of the General Conditions apply to all the Contract Documents, including this Agreement. Additional definitions or defined terms applicable to all the Contract Documents for this Project, if any, include the following:

ARTICLE 3 - **PRE-CONSTRUCTION SERVICES**

3.1 CMAR must provide all of the services and perform in accordance with Section 17 of the General Conditions. The major components of Pre-Construction Services and the corresponding subsections of Section 17 of the General Conditions are set forth below.

3.1.1 CMAR must perform the services required by, and in accordance with this Contract to the satisfaction of the Project Manager, and in full compliance with Section 17.2.1 of the General Conditions. In performance of the Services under this Contract, the CMAR must fully comply with all applicable Laws, Regulations, or Legal Requirements applicable to Town, the Project, and the Contract.

3.1.2 CMAR must perform the Services under this Contract using only those firms, team members, and individuals designed by CMAR consistent with the Statement of Qualifications or as otherwise



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approved by Town in accordance with the General Conditions. No other entities or individuals may be used without the prior written approval of Town.

- 3.1.3 CMAR will comply with all terms and conditions of the General Conditions.
- 3.1.4 In the event of a conflict between this Contract and the General Conditions or any exhibit hereto or appendix thereto, the terms of this Contract will control.
- 3.1.5 Ownership of Work Product. Notwithstanding anything to the contrary in this Contract, all Work Product prepared or otherwise created in connection with the performance of this Contract, including the Work, are to be and remain the property of Town, as set forth in Section 17.2.6 of the General Conditions.
- 3.2 DESIGN PROJECT SCHEDULE
CMAR must prepare and present to Town a Detailed Project Schedule that is acceptable to the Town and in accordance with Section 17.3 of the General Conditions.
- 3.3 DESIGN DOCUMENT REVIEW
CMAR must conduct the evaluations, perform the design document reviews, make the recommendations, and provide the other Services referenced in accordance with Section 17.4 of the General Conditions.
 - 3.3.1 As part of its pre-election Design Document Review services, CMAR shall review the Consultant's documented program assumptions for each Town-approved funding alternative and promptly identify to the Town and Consultant any apparent inconsistency, omission, duplication, or material scope assumption that could affect cost, schedule, constructability, procurement, phasing, or future expansion. CMAR's cost models and estimates shall clearly identify the program and scope assumptions upon which they are based. This review does not transfer responsibility for design adequacy from the Consultant to CMAR.
- 3.4 BASELINE COST MODEL, DETAILED COST ESTIMATES, AND SCHEDULE OF VALUES
 - 3.4.1 CMAR must prepare and submit the Baseline Cost Model, Detailed Cost Estimates, and Schedule of Values in accordance with Section 17.5 of the General Conditions.
 - 3.4.2 The submitted Baseline Cost Model, Detailed Cost Estimates, and Schedule of Values must not exceed the Town's Construction Budget, which is \$ TBD ("Construction Budget"). If CMAR submits a Baseline Cost Model, Detailed Cost Estimates, and Schedule of Values that exceeds the Construction Budget, negotiations could lead to termination or suspension of the Contract.
 - 3.4.3 At each design and estimating milestone required by the RFQ, this Contract, or the approved Project Schedule, CMAR shall provide the required estimate and supporting Pre-Construction Services deliverables, including reconciliation to the prior estimate and the Town's Construction Budget, identification of material variances, assumptions and exclusions, escalation and contingency assumptions, constructability observations, value-management recommendations, procurement and long-lead considerations, and schedule impacts. These deliverables are included in the negotiated Pre-Construction Services fee unless the Town authorizes a material change in scope.
 - 3.4.4 Until the Town provides written direction selecting the final Project program, CMAR shall maintain separate, current cost models and schedule implications for the Town's approved program alternatives, including the approximately \$16 million Aquatics-only program and the approximately \$30 million full Aquatics and Recreation program. Common Pre-Construction Services work shall not be duplicated in the fee. Following the Town's program decision, CMAR shall incorporate the selected alternative into subsequent estimates, procurement planning, and GMP development.

- 3.4.5 Prior to the November 2026 program decision, CMAR shall prepare and submit a coordinated Pre-Election Program Decision Deliverable for each Town-approved program alternative. The deliverable shall be based upon the then-current design information and available site-investigation information and shall, at a minimum, include: (a) an updated cost model for each program alternative reconciled to the applicable Town Construction Budget; (b) identification and quantification of material assumptions, allowances, contingencies, exclusions, and unresolved scope items; (c) constructability and value-management recommendations; (d) identification of procurement, escalation, long-lead, permitting, utility, site-condition, and schedule risks known to CMAR; (e) an updated Project Schedule showing anticipated design, procurement, construction, Substantial Completion, and Final Completion implications for each alternative; and (f) identification of decisions or additional information reasonably required to proceed with the selected program following the Town's written authorization. If an alternative exceeds its applicable Construction Budget, CMAR shall identify the variance and provide recommendations reasonably sufficient to assist the Town and Consultant in evaluating measures to restore alignment with the applicable Construction Budget. This deliverable is a pre-construction planning and estimating deliverable and does not constitute a GMP or price guarantee unless expressly stated otherwise in a written GMP Amendment.
- 3.4.6 CMAR shall participate with the Town and Consultant in a pre-election program reconciliation meeting to review the current design concepts, program assumptions, cost models, schedules, known risks, allowances, contingencies, exclusions, and unresolved items for each program alternative. CMAR shall incorporate agreed clarifications into its final Pre-Election Program Decision Deliverable.
- 3.4.7 Following the Town's program decision, CMAR shall proceed with Pre-Construction Services for the selected program alternative only upon written direction from the Town. After such direction, CMAR shall not incur costs attributable solely to an unselected program alternative unless separately authorized in writing by the Town. Common Pre-Construction Services performed before the program decision shall not be duplicated or re-billed solely because the Town selects one program alternative.
- 3.5 **SUBCONTRACTOR AND MAJOR SUPPLIER SELECTIONS**
CMAR must select and obtain approval of Subcontractors and Suppliers in accordance with Section 17.6 of the General Conditions.
- 3.6 **GUARANTEED MAXIMUM PRICE (GMP) PROPOSAL**
- 3.6.1 CMAR must submit a GMP Proposal for the entire Work, and for each phase (if required) of the Work, at the times set forth in the Pre-Construction Schedule included in the Contract Documents. The GMP Proposal must be presented in a format acceptable to Town and consistent with the requirements of the Contract Documents. Town may change the schedule, format, and/or requirements for the GMP Proposal as it deems necessary during Pre-Construction, and may request resubmittal of the GMP Proposal to reflect such changes.
- 3.6.2 Preparation, submittal, review, and approval (or disapproval, if applicable) of the GMP Proposal will be done in accordance with Section 17.7 of the General Conditions.
- 3.6.3 For the purposes of the GMP Proposal, the Parties agree that:
- The CMAR Fee shall equal five percent (5%) of the GMP. The calculation of the CMAR Fee, the GMP cost components to which the agreed fee structure applies, the treatment of General Conditions and General Requirements, contingencies, allowances, bonds, insurance, Builder's Risk, taxes, credits and savings, and the final reconciliation of the CMAR Fee shall be governed by Exhibit G – CMAR Fee, GMP Calculation & Final Reconciliation, incorporated herein by reference.



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- 3.6.4 The GMP Proposal must not exceed the Town's Construction Budget for the construction of the Project, which is \$ TBD ("Construction Budget").
- 3.7 **ADDITIONAL PRE-CONSTRUCTION SERVICES**
Additional services which are outside the scope of the services required under the Contract Documents will not be performed by CMAR without prior written authorization from Town. Additional services, when authorized by an executed written Change Order under Section 9 of the General Conditions, will be compensated for by a fee mutually agreed upon in such written Change Order between Town and CMAR.
- 3.7.1 No claim for additional services, extra work done or materials furnished by CMAR will be allowed by Town except as provided herein, nor will CMAR provide any additional services, do any work, or furnish any materials(s) not covered by this Contract unless such work or material is first authorized in writing by Town. Work or material(s) furnished by CMAR without such prior written authorization will be CMAR's sole jeopardy, cost, and expense, and CMAR hereby agrees that without prior written authorization no claim for compensation for such services, work or materials furnished will be made, and Town will not be responsible for such costs.
- 3.7.2 No Work (as defined by Section 1 of the General Conditions) may be performed under this Pre-Construction Services Contract, without prior written approval by Town. As an example, all procurement of long lead time items that must be procured to support the construction schedule or site investigative Work necessary to complete Pre-Construction Services, if done by the CMAR, will be performed only after a GMP Proposal for the Work has been approved and accepted in writing by Town or pursuant to a prior written direction from Town to engage in such procurement.
- 3.7.3 Further detail concerning required Pre-Construction Services are contained in Article 17 of the General Conditions.
- 3.7.4 Any allowance or not-to-exceed amount included in the Pre-Construction Services compensation is included within, and not in addition to, the applicable not-to-exceed Pre-Construction Services amount stated in Section 7.1.2 and is available solely for services specifically authorized in advance and in writing by the Town. Allowance amounts are not earned compensation and shall not be used for services otherwise included in CMAR's Basic Pre-Construction Services. CMAR shall provide supporting documentation with each request for payment from an allowance. Any unused allowance balance shall remain with the Town and shall not be payable to CMAR.

ARTICLE 4 - **CONSTRUCTION SERVICES**

4.1 **GENERAL**

- 4.1.1 CMAR agrees at its own cost and expense, to do all work necessary and required to fully, timely and properly complete the construction of the Project in strict accordance with the Contract Documents in a good and workmanlike manner, free and clear of all claims, liens, and charges whatsoever, in the manner and under the conditions specified, in accordance with this Contract to the satisfaction of the Project Manager, and in full compliance with Section 4 of the General Conditions.
- 4.1.2 CMAR must provide all of the labor and materials and perform the Work in accordance with Section 4 of the General Conditions. Some, but not all, of the major components of the Construction Services and the corresponding subsections of Section 4 of the General Conditions are set forth below.
- 4.1.3 This is a contract for complete construction services in accordance with the Construction Manager at Risk method of delivery of construction services. CMAR has participated in the design process and been an active member of the Project Design Team and is fully aware of any issues and constraints involved in this Construction Project.



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- 4.1.4 CMAR shall act in good faith and in the best interests of the Project in performing its obligations under the Contract Documents and shall undertake all actions required of CMAR to construct the Project and achieve timely, quality completion within the Guaranteed Maximum Price (GMP) and Contract Time.
- 4.1.5 At all times relevant to this Contract and performance of the Work, the CMAR must fully comply with all Laws, Regulations, or Legal Requirements applicable to Town, the Project and the Contract, including, without limitation, in accordance with this Contract to the satisfaction of the Project Manager, and in full compliance with Section 4 of the General Conditions.
- 4.1.6 CMAR must perform the Work under this Contract using only those firms, team members and individuals designated by CMAR consistent with the Statement of Qualifications dated July 31, 2026, the GMP Proposal, or otherwise approved by Town pursuant to the General Conditions. No other entities or individuals may be used without prior approval of the Project Manager. Any new or replacement Key personnel on the CMAR team must be first proposed to the Town along with a resume and statement of qualifications. No addition of new Key personnel on the project shall be made without prior written approval from the Town.
- 4.1.7 CMAR will comply with all terms and conditions of the General Conditions, which is incorporated into this Contract.
- 4.1.8 In the event of a conflict between this Contract and the General Conditions or an exhibit hereto or appendix thereto, the terms of this Contract will control.
- 4.1.9 Ownership of Work Product. Notwithstanding anything to the contrary in this Contract, all Work Product prepared or otherwise created in connection with the performance of this Contract, including the Work, are to be and remain the property of Town. For purposes of this provision, "Work Product" will include all designs, drawings, plans, specifications, ideas, renderings and other information or matter, in whatever form created (e.g., electronic or printed) and in all media now known or hereinafter created. All Work Product will be considered Work Made for Hire as defined in the United States Copyright Act 17 U.S.C. § 101 (Copyright Act). If for any reason, any such Work is found not to be a Work Made for Hire, CMAR hereby transfers and assigns ownership of the copyright in such Work to Town. The rights in this Section are exclusive to Town in perpetuity.
- 4.2 **CMAR'S PRE-CONTRACT AND PRE-WORK DELIVERABLES**
- 4.2.1 The CMAR must provide the Deliverables in accordance with Section 17 of the General Conditions. Any additional items which CMAR must deliver to Town prior to commencing the Work on this Project, if any, include the following:
- None,
- 4.3 **PRE-CONSTRUCTION CONFERENCE**
Refer to Section 4.3 of the General Conditions.
- 4.4 **PERFORMANCE OF THE WORK (INCLUDING FIELD MEASUREMENTS, SUBCONTRACTORS, AND SUPPLIERS)**
Refer to Section 4.4 of the General Conditions.
- 4.5 **CONTROL OF THE PROJECT SITE**
Refer to Section 4.5 of the General Conditions.

4.6 PROJECT SAFETY

Refer to Section 4.6 of the General Conditions.

4.7 MATERIALS QUALITY, SUBSTITUTIONS AND SHOP DRAWINGS

Refer to Section 4.7 of the General Conditions.

4.8 PROJECT RECORD DOCUMENTS

Refer to Section 4.8 of the General Conditions.

4.9 WARRANTY AND CORRECTION OF DEFECTIVE WORK

Refer to Section 4.9 of the General Conditions.

ARTICLE 5 - TOWN RESPONSIBILITIES

5.1 Town will have the responsibilities, and provide the information specified in, and subject to the conditions set forth in, Section 5 of the General Conditions.

5.2 Additional services to be provided or responsibilities assumed by Town, if any, are listed below:

5.2.1 Special Inspections (to be coordinated through Architect)

5.2.2 Current Utility As-Builts

5.2.3 Geotech Report

5.3 Additional information to be provided by Town, if any, is listed below:

None.

ARTICLE 6 - CONTRACT TIME

6.1 GENERAL

6.1.1 The duration of Pre-Construction Services shall continue through the Town's approval and acceptance of the GMP or Fixed Price, unless earlier terminated or extended by written amendment. The Contract Time applicable to construction Work shall be established in the GMP Amendment and Project Schedule.

6.1.2 Pre-Construction Services may commence upon a Limited Notice to Proceed (LNTP) or other written authorization issued by Town. For avoidance of doubt, the Contract Time applicable to construction Work will start only upon Town's issuance of the full Notice to Proceed (NTP) following Town's approval and acceptance of the GMP or Fixed Price, and will end with Final Acceptance as set forth in Article 6.4 below. An LNTP authorizing Pre-Construction Services or early procurement will not, by itself, commence the construction Contract Time or any construction-phase Liquidated Damages period.

6.1.3 The Contract Time will be as set forth in the Project Schedule. CMAR agrees that it will commence performance of the Work and complete the Project through Final Acceptance within the Contract Time.

6.1.4 Time is of the essence of this Contract for the Project, and for each phase and designated Milestone thereof.



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6.2 PROJECT SCHEDULE

- 6.2.1 The Project Schedule approved as part of the GMP Proposal must be updated and maintained throughout CMAR's performance under this Contract in accordance with Section 6.2 of the General Conditions.
- 6.2.2 Failure on the part of CMAR to adhere to the approved Project Schedule will be deemed a material breach and sufficient grounds for termination of this Contract by Town.
- 6.2.3 Work must be completed to meet the following milestones after the Notice to Proceed.

6.3 SUBSTANTIAL COMPLETION

Substantial Completion must be achieved no later than the Substantial Completion Date set forth in the Project Schedule. Substantial Completion will be determined in accordance with Section 6.3 of the General Conditions.

6.4 FINAL ACCEPTANCE

- 6.4.1 Final Acceptance will be obtained by the time set forth in the Project Schedule.
- 6.4.2 Final Acceptance will be issued pursuant to Section 6.5 of the General Conditions.

6.5 LIQUIDATED DAMAGES

- 6.5.1 Liquidated Damages. CMAR acknowledges and agrees that if CMAR fails to obtain Substantial Completion of the Work within the Contract Time, Town will sustain extensive damages and serious loss as a result of such failure. The exact amount of such damages will be extremely difficult to ascertain. Therefore, Town and CMAR agree that if CMAR fails to achieve Substantial Completion of the Work within the Contract Time, Town will be entitled to retain or recover from CMAR, as liquidated damages and not as a penalty, the sum per calendar day below:

<u>Milestone</u>	<u>Liquidated damages for delay</u>	
1. Substantial Completion as established by the mutually agreed GMP schedule, as adjusted	\$3,000	per calendar day
2. Final Completion as established by the mutually agreed GMP schedule, as adjusted	\$2,000	per calendar day

The above is subject to further negotiation pending November election results.

- 6.5.2 Town may deduct liquidated damages described in this Article 6.5 from any unpaid amounts then or thereafter due CMAR under this Agreement. Any liquidated damages not so deducted from any unpaid amounts due CMAR will be payable to Town at the demand of Town, together with interest from the date of the demand at the highest lawful rate of interest payable by CMAR.
- #### 6.6 MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES ONLY
- 6.6.1 CMAR and Town waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:



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- 6.6.1.1 Damages incurred by Town for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- 6.6.1.2 Damages incurred by CMAR for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.
- 6.6.2 This mutual waiver is applicable, without limitation, to all consequential damages due to either Party's termination of this Contract. Nothing contained in this Article 6.6 will be deemed to preclude an award of liquidated damages, when applicable, in accordance with Article 6.5 above.
- 6.6.3 Nothing herein will be deemed to constitute a waiver of any other remedy available to Town in the event of CMAR's default under this Contract prior to full performance of the Work including, as applicable, specific performance or completion of the Work on behalf of CMAR, the cost and expense of which will be offset against any monies then or thereafter due to CMAR (if any) and otherwise immediately reimbursed to Town by CMAR.

ARTICLE 7 - **CONTRACT PRICE**

7.1 **CONTRACT PRICE**

- 7.1.1 In exchange for CMAR's full, timely, and acceptable performance of the Pre-construction Work under this Contract, and subject to all of the terms of this Contract, Town will pay CMAR the "Contract Price," which includes:
- 7.1.2 Pre-Construction Services compensation shall be based upon the Town-authorized Project program. For the approximately \$16,000,000 Aquatics-only program, the Pre-Construction Services compensation shall not exceed \$226,024, consisting of \$168,422 in Pre-Construction labor and up to \$57,602 in Town-controlled allowances. For the approximately \$30,000,000 Aquatics and Recreation program, the Pre-Construction Services compensation shall not exceed \$349,476, consisting of \$279,528 in Pre-Construction labor and up to \$69,948 in Town-controlled allowances. The two alternative amounts are not cumulative. Common pre-election services are included within the applicable amount and shall not be duplicated or re-billed solely because the Town selects one program alternative. Allowances are subject to Section 3.7.4 and are payable only to the extent expressly authorized and actually incurred.
- 7.1.3 The Contract Price is all-inclusive and specifically includes all fees, cost, insurance and bond premiums, allowances, construction contingency, owner's contingency, and taxes of any type necessary to fully, properly and timely perform and construct Work.
- 7.1.4 Once the GMP is proposed for the Cost of Construction of the Work as defined in Section 15 of the General Conditions, the CMAR guarantees total revised contract price will not exceed the GMP. Costs which would cause the GMP to be exceeded must be paid by CMAR without reimbursement from Town.

7.2 **COSTS**

- 7.2.1 For any portion of the Work which, either through this Contract, Change Order or otherwise, is performed and paid for on a cost or time-and-materials basis, reimbursable costs shall be limited to actual, documented costs permitted under Section 15 of the General Conditions and the applicable accepted GMP/Price Proposal, while the authorization and pricing of changes shall remain subject to Section 9 of the General Conditions. To the extent Section 15.2.4 of the General Conditions references



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Appendix 9, such reference shall not create any reimbursable cost category that is not expressly included in the accepted GMP/Price Proposal or otherwise approved in writing by Town.

SIGNATURE PAGE TO FOLLOW



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IN WITNESS WHEREOF, the parties hereto have executed this Contract through their duly authorized representatives and bind their respective entities as of the Effective Date.

"TOWN"

TOWN OF PRESCOTT VALLEY

Kell Paiguta, Mayor

APPROVED AS TO FORM:

Ivan Legler, Town Attorney

ATTEST:

Fatima Fernandez, Town Clerk

(Cooperate
Seal)

"CMAR"

CORE Construction, Inc.

Signature

9/11/26

Date

Todd Steffen

Name

President

Title

ATTEST: If Corporation

Secretary

STATE OF ARIZONA

)
)ss.
)

County of Yavapai

SUBSCRIBED AND SWORN TO before me, the undersigned notary public, by
_____, who was identified as the _____ of
_____ on this _____ day of _____, 20____.

My commission expires:

Notary Public

EXHIBIT A

GENERAL CONDITIONS

CMAR GENERAL CONDITIONS

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SECTION 1 - SCOPE OF THESE GENERAL CONDITIONS

These General Conditions encompass provisions that apply and are incorporated into all construction contracts entered into by the Town of Prescott Valley, unless otherwise specifically excluded in the executed Contract.

SECTION 2 - GENERAL DEFINITIONS

Allowance: A specific amount for a specific item of Work, if any, that Town agrees has not been sufficiently designed, detailed, or selected (including design changes from 90% to 100% as authorized by and at the discretion of the Town) at the time the Contract Price is agreed to for CMAR to provide a definitive price.

Alternate Systems Evaluations or Alternative Analysis: Alternatives for design, means and methods or other scope considerations that are evaluated using value analysis principles and have the potential to reduce construction costs while still delivering a quality and functional Project that meets Town requirements.

Change Order: A written instrument issued after execution of the Contract Documents signed by Town and CMAR, stating their agreement upon all of the following: the addition, deletion or revision in the scope of services or deliverables; the amount of the adjustment to the Contract Price, the extent of the adjustment to the Contract Time, or modifications of other contract terms. The Contract Price and the Contract Time may be changed only by Change Order.

Consultant: Person or firm that provides professional services.

Town (Owner or OWNER): Town of Prescott Valley, a municipal corporation, with whom CMAR has entered into the Contract and for whom the Work or Services are to be provided pursuant to the Contract(s).

Contingent Bid Items: This is a minor bid item which is likely, but not certain, to occur during the course of work. If the Engineer determines that this work is required, the CMAR will accomplish the work and payment will be made based on the contingent unit bid price included in the proposal. Since the quantity listed in the proposal is primarily for bid comparison, the amount of work required by the Engineer may vary materially from this.

Contract: The written agreement executed between Town and CMAR, including all of the Contract Documents.

Contract Documents: The documents which together form the Contract between Town and CMAR, as identified in Article 2 of the Contract, or are otherwise incorporated into the Contract, including the Contract, the exhibits thereto, these General Conditions, any Notice to Proceed, and any Job Order (if applicable), the Plans and Specifications, Project Schedule, written and properly executed Change Orders, MAG Specifications and Town's amendments thereto, and any other documents so designated in the Contract.

Contract Price: The agreed-upon price to be paid to CMAR for full, timely, and acceptable completion of the Work or Services under the terms of the Contract.

Contract Time(s): The number of calendar days or the dates related to the applicable phase, Substantial Completion, or Final Acceptance as stated in Contract Documents. Contract Time starts with the Notice to Proceed (NTP) and ends with Final Acceptance. The Contract Time is set forth in the Contract and is based upon the Project Schedule agreed to by Town in writing.

CMAR: The person or business association with whom Town has entered into an agreement for construction related Work or Services in relation to the Project at issue.

CMAR Payment Request: The form that is accepted by Town and used by CMAR in requesting progress payments or final payment and which must include such supporting documentation as is required by the Contract Documents or Town.



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Construction Budget: The Town's budget for construction of the Project.

Construction Documents: The Plans, Specifications, and Drawings prepared and issued by the Design Professional and approved by Town for construction, meaning the documents are sealed by the Design Professional (as required), acceptable for permitting and incorporated into the Contract by this reference. All amendments and modifications to the Construction Documents must be approved in writing by Town prior to incorporation into the Contract.

Cost of the Work: The term Cost of the Work will mean costs necessarily incurred by CMAR in the proper performance of the Work. Such costs will be at rates not higher than the standard paid at the place of the Project except with prior consent of Town.

Critical Path Method (CPM): A scheduling technique which identifies the logical sequence of the activities occurring in a Construction Project, the anticipated time required to complete each activity in the Project, and the activities that must be completed on schedule to finish the Project within the anticipated time. Typically, activities are arranged in a network that shows both activities and their dependencies. CPM is also used as a management technique which enables contracting parties to predict when activities may occur so that resources can be effectively used and limitations can be identified.

Critical Path: Critical Path is the sequence of project network activities which add up to the longest overall duration. Once established in the Project Schedule, the Critical Path for the Project must not be changed without prior written approval of Town.

Day: Calendar day(s) unless otherwise specifically stated in the Contract Documents.

Design Professional: The qualified, licensed person, firm or corporation who furnishes design and construction administration services required under the Contract Documents. These services may include but are not limited to: development of Construction Drawings and Documents, review of CMAR Submittal(s), review of and response to Requests for Information, approval and certification of progress payment applications, construction administration, and construction contract close out.

Differing Site Conditions: Concealed or latent physical conditions or subsurface conditions at the Site that, (i) materially differ from the conditions indicated in the Contract Documents, or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work at the general area of the Site. Caliche, rock, hard-digging or sandy/silty soil encountered on a project is not considered a "Differing Site Condition."

Drawings (Plans): Documents, which visually represent the scope, extent and character of the Work to be furnished and performed by CMAR during the construction phase and which have been prepared or approved by the Design Professional and Town. These documents include Drawings that have reached a sufficient state of completion and released by Design Professional solely for the purposes of review and use in performing constructability or bid-ability reviews by CMAR and in preparing cost estimates (e.g. Master Planning and Programming, Schematic Design, Design Development, and Construction Drawings), but "*not for construction.*" Shop Drawings are not Drawings as so defined.

Final Acceptance: The Town's acceptance of the facility or project from the CMAR after all Work is completed, tested, and inspected in accordance with the contract requirements. Final Acceptance results in a Letter of Acceptance (LOA).

Fixed Price: A fixed price or amount for a Contract Price, Scope of Work, materials, or other item under a Contract, Change Order, or other agreement, which Town agrees, in writing, to pay instead of the actual cost.

Float: The number of Days by which an activity can be delayed without lengthening the Critical Path and extending the Contract Time. Unless otherwise expressly agreed in writing, all Float belongs to Town.



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Laws, Regulations, or Legal Requirements: Any and all applicable laws, rules, regulations, ordinances, codes and orders applicable to the Project of any and all governmental bodies, agencies, authorities and courts having jurisdiction and any applicable provisions of the Development Agreement for the Project (if any), including, without limitation, those provisions relating to the design and construction of the Project.

Line Item: The individual elements of Work identified on a bid or other schedule and associated with a price or a unit price and quantity particular to that individual element of the Work. Also refers to individual items of work within the Schedule of Values.

Liquidated Damages: Designated damages for the Town to collect as compensation upon a specific breach (example: late delivery).

Long-Lead Item: Long-lead item refers to the equipment, product, or system that is identified at the earliest stage of a project to have a delivery time long enough to affect directly the Critical Path/the overall lead time of the project.

MAG: The Maricopa Association of Governments.

MAG Specifications: The most current version of the Uniform Standard Specifications for Public Works Construction published by MAG.

MAG Standard Details: The most current version of the Uniform Standard Details as published by MAG.

Minor change: A change in the Work having no impact on cost or time or the Town-approved design intent, as determined by Town.

Notice to Proceed (NTP): A written notice given by Town to CMAR fixing the date on which CMAR will start to perform CMAR's obligations under the Contract.

Project: The Project specified in the Contract (including a Job Order).

Project Manager: The Project Manager designated in Article 1 of the Contract, or any successor thereto designated by Town. The Project Manager has the authority to act on behalf of Town, as delineated and limited by the Contract Documents and applicable law. And Town will communicate with CMAR through the Project Manager. However, the Project Manager has no authority to bind Town or Town Council in contravention of any Town code, State or Federal statute or regulation, or these General Conditions.

Project Schedule: The schedule for the completion of the Project agreed to and required by Town.

Project Specific Conditions: Additional conditions which apply to the specific Project and Scope of Work which are set forth in Exhibit D of the Contract.

Project Team: The Project Team consisting of the Design Professional, CMAR, Project Manager, and such others as Town may designate.

Punch List: The list initially prepared by CMAR pursuant to the Contract Documents, reviewed and supplemented by the Project Manager (and at the sole option of the Project Manager, the Design Professional) and approved by Town containing items of incomplete work not impacting Substantial Completion, if allowed for under the Contract, and to be completed or corrected by CMAR after Substantial Completion and before Final Acceptance in accordance with the Contract Documents.

Quality Assurance (QA) Testing: Testing performed to verify the accuracy and applicability of the QC testing results and to ascertain that the materials installed meet the specified levels of quality in accordance with the Contract Documents.



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Quality Control (QC) Testing: Testing performed to assure that the materials installed comply with the requirements in the Contract Documents.

Requests for Information (RFIs): Formal written request from CMAR to Town or Design Professional for the Project seeking clarification or additional information needed for CMAR to properly complete the Work or Services under the Contract. Town may require RFI's to be submitted on a specific form or in a specified format.

Schedule of Values (SOV): The specified document prepared by CMAR, and approved and accepted by Town, which divides the Contract Price into pay items, such that the sum of all pay items equals the Contract Price for the construction phase Work, or for any portion of the Work having a separate specified Contract Price.

Scope of Work: The scope of work agreed to or required by Town and incorporated into the Contract as Exhibit A.

Shop Drawings: All drawings, diagrams, schedules and other data specifically prepared for the Work by CMAR or a Subcontractor, S u b - Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

Site: The land or premises on which the Project is located.

Specifications: 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. Where specified, the Project must be constructed using the current Uniform Standard Specifications and Details for Public Works Construction as furnished by the Maricopa Association of Governments, as amended by Town.

Subconsultant: A person, firm or corporation having a Contract with Consultant/CMAR to furnish services required as its independent professional associate or consultant with respect to the Project.

Subcontractors: An individual or firm having a direct Contract with CMAR or any other individual or firm having a Contract with the aforesaid CMARs at any tier, who undertakes to perform a part of pre-construction services or construction phase Work at the Site for which CMAR is responsible. Subcontractors must be selected through the Subcontractor selection process described in the Contract Documents, if any.

Substantial Completion: The date when the Town determines that the Work (or separable units of Phases as provided in the Contract Documents) is essentially and satisfactorily complete in accordance with the Contract Documents such that the Project is ready for use by the Town for its intended purpose, opening to the general public, full occupancy or use by Town (including, without limitation, all separate units, or rooms, facilities, access, income-generating areas, and all areas serving the general public, as applicable, must be ready for full operation without material inconvenience or discomfort), including, to the extent applicable to the Work, the following: all materials, equipment, systems, controls, features, facilities, accessories, and similar elements are installed in the proper manner and in operating condition, inspected, and approved; surfaces have been painted; masonry and concrete cleaned with any sealer or other finish applied; utilities and systems connected and functioning; site work complete; permanent heating, ventilation, air conditioning, vertical transportation, and other systems properly operating with proper controls; lighting and electrical systems installed, operable and controlled; paving completed, signage installed, and other work as applicable, has been performed to a similar state of essential and satisfactory completion.

Supplier: A manufacturer, fabricator, distributor, or vendor having a direct Contract with CMAR or with any Subcontractor to furnish materials or equipment to be incorporated in the construction phase Work by CMAR or any Subcontractor.

Total Float: Number of Days by which pre-construction services or construction phase Work or any part of the same may be delayed without necessarily extending a pertinent Contract Time or schedule milestone



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in the Project Schedule.

Work: The entire completion of construction or the various separately identifiable parts thereof, required to be furnished during the construction phase. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials, resources and equipment into the construction, and performing or furnishing services and documents as required by the Contract Documents for the construction phase.

Writing: Typing, printing, photography and other modes of representing or reproducing words in a visible form, including email, and expressions.

SECTION 3 - STANDARD SPECIFICATIONS AND DETAILS

- 3.1 Town operates under the latest revision of the MAG Specifications and MAG Standard Details as amended by Town. Town's current amendment to the MAG Specifications, part of the Town's Unified Development Manual, may be found in the downloaded from Town's website at [Prescott Valley, AZ](http://www.prescottvalleyaz.gov).
- 3.2 Copies of the MAG Specifications and MAG Standard Details are available at the Maricopa Association of Governments office, 302 N. 1st Avenue, Suite 300, Phoenix, Arizona. They may also be downloaded from their website at: <http://www.azmag.gov/Newsroom/Publications>
- 3.3 The MAG Specifications and Standard Details and Town's amendments thereto are incorporated into the Contract by this reference.

SECTION 4 – CMAR's RESPONSIBILITIES FOR CONSTRUCTION SERVICES

4.1 GENERAL

- 4.1.1 CMAR must construct the Work in accordance with the Contract Documents and as outlined in Exhibit A of the Contract to the satisfaction of Town, exercising the degree of professional care, skill, diligence, quality and judgment that a professional construction manager engaged, experienced and specializing in the construction management of construction and facilities of similar scope, function, size, quality, complexity and detail in urban areas throughout the United States comparable to Town of Prescott Valley, Arizona would exercise at such time, under similar conditions. CMAR must, at all times, perform the Work in conformance with sound and generally accepted engineering principles and construction management and construction contracting practices.
- 4.1.2 If CMAR observes errors, discrepancies or omissions in the Contract Documents, CMAR must promptly notify the Design Professional and Town and request clarification. If CMAR, with the exercise of reasonable care, should have recognized such error, inconsistency, omission or difference and fails to report it to Town, and if CMAR proceeds with the Work affected by such observed errors, discrepancies or omissions, without receiving such clarifications, CMAR does so at its own risk and will be liable to Town for damages resulting from proceeding without clarification.
- 4.1.3 Project Team and agents of each of them, testing agencies and governmental agencies with jurisdictional interests will be provided access to the Work at reasonable times for their observation, inspection and testing. CMAR must provide proper and safe conditions for such access.
- 4.1.4 CMAR must comply with, and require all Subcontractors to comply with, the Arizona CMARs' license laws, including all requirements with respect to being duly registered and licensed.
- 4.1.5 CMAR must insure that all employees performing any Work for which CMAR is responsible have

a legal right to live and work in the United States. In addition, all compensation of any such employee must meet all applicable requirements of the Fair Labor Standards Act (FLSA) and Federal Minimum Wage laws.

- 4.1.6 CMAR must comply with the Immigration Reform and Control Act of 1986 (IRCA). CMAR understands and acknowledges the applicability of the IRCA activities. CMAR agrees to comply with the IRCA while performing their work and to permit Town inspection of CMAR personnel records to verify such compliance.
- 4.1.7 Pursuant to MAG Specifications §§ 107.4, CMAR must report immediately any discovery of archeological ruins or artifacts. Excavation must stop immediately so that Town can decide on the pertinent steps to follow such discovery.
- 4.1.8 All property owners that may be affected by the proposed construction activities must be notified of the scope, duration of the construction activities and possible interference with their day-to-day activities by CMAR prior to start of construction. In addition, individual residential or commercial interferences, such as driveway restrictions, water outages, and all other Work adjacent to residence/business, require 48-hour notification in advance of specific adjoining Work. Notification may be through door hangers or other procedures approved by the Town.
- 4.1.9 Access must be maintained to adjacent properties at all times during construction. Where property has more than one point of access, no more than one access will be restricted or closed at any one time. Access to adjacent private driveways will be maintained during all non-working hours.
- 4.1.10 CMAR must furnish and erect construction signs in accordance with Project Specifications. The signs must be professionally prepared and subject to approval by Town, must be maintained by CMAR for the duration of the project, and must be removed by CMAR during the final project clean up.
- 4.1.11 The number of signs required, the size, shape, installation requirements and information to be included for construction signs is established on the detail sheet, provided, however, signs must be a minimum of 4 foot by 8 foot and must be installed so that the bottom of the sign is at least 4 foot above grade. No direct payment will be made for furnishing and erecting construction signs. The cost thereof must be included in other items for which direct payment is made. Sign locations will be determined by Town.
- 4.1.12 All required construction signs must be installed by CMAR within 7 Days of Notice to Proceed.
- 4.1.13 The Work to be accomplished under these Contract Documents has been designed for Town by a Design Professional retained by Town for this purpose. It is understood that normal construction Administration for the purpose of interpretation of the Contract Documents is provided by Town. Should any services of the Design Professional be required to assist in the corrections of errors or omissions by CMAR, or services of the Design Professional be required because of changes in structure or equipment where CMAR has requested approval of substitute methods or material, or any other items detailed herein below, those services will be provided by the Design Professional at the standard hourly rates previously negotiated with Town and must be paid for by the CMAR.
- 4.1.14 CMAR must reimburse Town for costs incurred by the Design Professional for additional services to the Project through no fault of Town or the Design Professional including, but not limited to, the following conditions:
 - a. Additional Site visits, investigations, inspections, design work or reports by the Design Professional which are required due to damages to existing facilities or completed Work caused by the CMAR in his performance, CMAR's negligence, or CMAR's Work which is rejected as defective or as failing to conform to the

Contract Documents;

- b. Design Professional construction phase services rendered on the project during the time the project remains incomplete after the Contract date of final completion will be charged to CMAR at a rate previously negotiated Town; and
- c. All retesting required due to the failure of CMAR's Work to meet the requirements of the Contract Documents will be at CMAR's expense. All standby and travel time by the Town's testing lab, the Design Professional or Town due to CMAR's inability to be prepared for testing at the agreed upon time will be at the CMAR's expense.

4.1.15 Town may withhold from any payment otherwise due to CMAR any amounts necessary to pay the Design Professional for such additional services as provided herein above.

4.1.16 CMAR will not be required to bear additional costs incurred by Town due to errors by the Design Professional.

4.2 CMAR'S PRE-CONTRACT AND PRE-WORK DELIVERABLES

4.2.1 Prior to award of the Contract, CMAR must execute Contract and deliver to Town. Failure to do so may delay Contract award. CMAR must also provide to the Town its CMAR's License classification and number and its Federal Tax I.D. number.

4.2.2 Before beginning any Work under the Contract, Contract must be fully executed by Town.

4.2.3 After Contract award, Town will issue to CMAR a Notice of Award. At that time CMAR must deliver to Town such bonds and certificates of insurance with endorsements in such amounts (and other evidence of insurance requested by Town) required under Section 11 of these General Conditions, and as the Contract requires.

4.2.4 As evidence of Workmen's Compensation Insurance, CMAR must, upon request, provide a letter of certification from the Industrial Commission of Arizona that CMAR is insured by the State Compensation Fund or is an authorized self-insurer or a certificate of insurance issued by an insurance company authorized by the Insurance Department of Arizona to write Workmen's Compensation and Occupational Disease Insurance in the State of Arizona.

4.2.5 Within 10 Days of the date of Notice of Executed Contract issued by Town, CMAR must submit to Town for review and acceptance the following items:

4.2.5.1 Comprehensive Project Milestone Schedule including a Critical Path Method (CPM) diagram schedule as described in Section 6.2. Project Schedule must be in Primavera P6 standard file format. Within 10 Days of receipt of Town's comments, CMAR must make all required corrections, adjustments, and additions to complete the Project Schedule and resubmit to Town for review.

4.2.5.2 Preliminary schedule of submittals and Shop Drawings. Within 10 Days of receipt of Town's comments, CMAR must submit the corrected and completed schedule of Shop Drawings submissions for approval. CMAR's schedule of Shop Drawings and sample submittals will be acceptable to Town if it provides a workable arrangement for reviewing and processing the required submittals.

4.2.5.3 Schedule of Values in a form specified by Town reflecting the subcontracts and other categories that will be used to submit Pay Applications for the Work. The total amount of the Schedule of Values must not be greater than the Contract Price. The Schedule of Values will be reviewed at the Pre-Construction Conference and revised by CMAR within 10 Days after Pre-Construction Conference in response to comments and questions from Town. Once accepted by Town in writing, the Schedule of Values for the Project must not be changed without the prior written

approval of Town.

- 4.2.6 Video Recording Requirement. Prior to performing any Work, CMAR must document the existing conditions of the Site, all other areas where Work will occur and all adjacent areas that may be impacted by the Work via digital video format. CMAR must video record and index all areas, features, buildings and other public and private improvements that could potentially be impacted by the Work. Video recording must be coordinated with Town. When video recording private property, CMAR must also coordinate the video recording with the private property owner, if possible. CMAR must provide Town with a copy of said digital video format prior to performing any Work.

- 4.2.7 Aerial Construction Photography.

- 4.2.7.1 If Contract duration is greater than 90 calendar days, CMAR must engage a professional photographer to provide aerial photographs of the Site prior to construction mobilization, at three-month intervals during construction, and following final inspection.

- 4.2.7.2 High resolution digital photography is acceptable.

- 4.2.8 Government Approvals and Permits.

- 4.2.8.1 CMAR must obtain all necessary permits for the Work and pay all applicable fees, unless otherwise noted on the Plans and in the Specifications. Town permit fees will be paid internally by Town. For bidding purposes, an allowance for all permit fees is included in the bid schedule under the item "allowance for permit fees." The CMAR will be paid for the actual cost of the permit fees upon submitting a receipt showing the fee CMAR has paid. Excluded from the above allowance are items such as all costs incurred by the CMAR in securing the permit except for the actual permit fee established by the agency, cost for all shutdowns or outages, cost for pole bracing, cost of permits for construction water, cost of construction water, cost for any additional insurance requirements, cost for any licenses, and other similar type costs. CMAR is specifically notified of the need to obtain the necessary environmental permits or file the necessary environmental and regulatory permit notices.

- 4.2.8.2 Copies of all permits and the associated notices must be provided to Town prior to starting the permitted activity.

4.3 PRE-CONSTRUCTION CONFERENCE

- 4.3.1 Prior to the commencement of any Work, Town will schedule a Pre-Construction Conference.

- 4.3.2 The purpose of this Conference is to establish a working relationship between CMAR, the utility firms, and various Town agencies. The agenda will include critical elements of the Work schedule, submittal schedule, cost breakdown of major lump sum items, Payment Requests and processing, coordination with the involved utility firms, and emergency telephone numbers for all representatives involved in the course of construction.

- 4.3.3 Minimum attendance by CMAR at any mandatory meeting with Town must be (1) CMAR's Representative, who is authorized to execute and sign documents on behalf of the firm, (2) CMAR's on-site Superintendent, and (3) CMAR's Safety Office, or other employee responsible for safety.

4.4 PERFORMANCE OF THE WORK (INCLUDING FIELD MEASUREMENTS, SUBCONTRACTORS, AND SUPPLIERS)

- 4.4.1 Unless otherwise provided in the Contract Documents to be the responsibility of Town or a separate CMAR, CMAR must provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit CMAR to complete the Work consistent with

the Contract Documents.

- 4.4.2 CMAR must perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. CMAR must at all times exercise complete and exclusive control over the means, methods, safety, sequences and techniques of construction.
- 4.4.3 CMAR's Superintendent must be present at the Site at all times that material Work under this Contract is taking place. CMAR's Superintendent or designee must be present at the Site at all times any other Work under this Contract is taking place. Superintendent must not be replaced without written notice to Town. Whenever the Superintendent is not present at a particular part of the Work where the Town or Design Professional may desire to inform the CMAR relative to interpretation of the Drawings and Specifications or to disapproval or rejection of materials or Work performed, the Town or Design Professional may provide such information in writing to the foreman or other worker in charge of the particular part of the Work in reference to which the information is given. Information so given will be as binding as if given to the Superintendent.
- 4.4.4 All elements of the Work must be under the direct supervision of a foreman or his designated representative on the Site who must have the authority to take actions required to properly carry out that particular element of the Work.
- 4.4.5 Working Hours. Except in connection with the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise indicated, all Work at the Site must be performed during regular working hours, and CMAR will not permit overtime work or the performance of Work on Saturday, Sunday or any legal holiday without Town's written consent given after prior written notice to Town. If it becomes absolutely necessary to perform Work at night or on Saturdays, Sundays or legal holidays, the Town must be informed at least 24 hours in advance of the beginning of performance of such Work. Only such Work will be done at night as can be done satisfactorily as determined by the Town. Good lighting and all other necessary facilities for carrying out and inspecting the Work must be provided and maintained at all points where such Work is being done. Further, unless such non-normal work hours are performed at Town's request or required by the Contract Documents, CMAR must pay to Town all additional costs incurred by the Town for reasons of such non-normal working hours. Expenses incurred by Town for overtime compensation must be reimbursed by CMAR as follows: (i) Town staff at the rate set forth in current Town Fee Schedule as published on Town website, (ii) Design Professional and staff at the standard hourly rates previously negotiated with Town, and (iii) all others at actual cost plus ten percent administrative overhead. Such costs may be deducted by Town from any payments due to CMAR. Provided, however, if overtime work or work during other than normal hours is at the request of Town and not due to CMAR delay, Town will pay the cost of Town overtime expenses.
- 4.4.6 Where the Contract Documents require that a particular product be installed or applied by an applicator approved by the manufacturer, it is CMAR's responsibility to ensure the Subcontractor employed for such work is approved by the manufacturer. All materials and equipment must be stored, applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator, supplier or distributor, except as otherwise provided in the Contract Documents; but no provisions of any such instructions will be effective to impose on Town of Design Professional responsibility for the means, methods, techniques, sequences or procedures of construction or for safety precautions incident thereto.
- 4.4.7 Before starting the Work, CMAR must carefully study and compare the various Plans, Drawings, other Contract Documents, and Specifications relative to that portion of the Work, as well as the information furnished by Town, must take field measurements of any existing conditions related to that portion of the Work and must observe any conditions at the Site affecting it. The exactness of grades, elevations, dimensions, or locations given on any Drawings, or the Work installed by other CMARs, is not guaranteed by Town.



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- 4.4.8 Before ordering materials or doing Work, CMAR and each Subcontractor must verify measurements at the Site and will be responsible for the correctness of such measurements. No extra charge or compensation will be allowed because of differences between actual dimensions and the dimensions indicated on the Contract Documents, including the Drawings.
- 4.4.9 Ground Level Construction Photography.
- 4.4.9.1 The CMAR must furnish progress photographs of the project.
- 4.4.9.2 The CMAR must deliver to Town all photographs taken during that period with each application for payment. If the current photographs do not accompany the application, the application will not be reviewed and will be returned to the CMAR as incomplete.
- 4.4.10 Underground Facilities.
- 4.4.10.1 The existence and number of facilities as shown on the Plans are estimated from information furnished by the particular utility. CMAR is responsible for field verification and location of all utilities prior to the start of construction. No field work will be allowed to start until CMAR has contacted Arizona 811 or hired a private utility locator if Arizona 811 is not able to be utilized and all affected utilities have been located. In addition, CMAR must expose and physically locate all potentially conflicting utilities prior to construction. The actual locations of the utilities must be compared to locations shown on the Plans and any required changes in alignment and grade must be made at the time of construction in consultation with Project Manager. It is generally recognized and CMAR should anticipate that information from Arizona 811 or information from utility companies during project design, frequently fails to disclose all underground facilities.
- 4.4.10.2 CMAR is responsible for all coordination with utility companies.
- 4.4.11 Water Turn-On or Turn-Off.
- 4.4.11.1 CMAR must coordinate all water line turn-ons and turn-offs through the Town. Application must be made to the Municipal Utility Department and CMAR must pay the established charges. The Town will close existing valves but will not guarantee a bone-dry Shutdown.
- 4.4.11.2 CMAR must notify all customers affected by the turn-off not less than 48 hours in advance. Notification must be in writing, must give the reason for the turn-off and must give the estimated time and duration that water service will be interrupted. CMAR is also notified that water turn-off will not be permitted on the Day before and after Thanksgiving Day and Christmas Day.
- 4.4.11.3 No direct payment will be made to CMAR for turn-ons or turn-offs. Costs associated therewith will be included in other items for which direct payment is made.
- 4.4.12 Tests and Inspections.
- 4.4.12.1 CMAR must give Town timely (at a minimum, forty-eight hours) notice of readiness of the Work for all required inspections, tests or approvals. CMAR must give timely notice to Town in advance of backfilling or otherwise covering any part of the Work so that Town representative may, if desired, observe such part of the Work before it is concealed. Whenever CMAR varies the normal period during which Work or any portion of it is carried on each Day, CMAR must give timely notice to Town so that Town representative may, if desired, be present to observe the Work in progress. If CMAR fails to give such timely notice, any Work done in the absence of Town representative will be subject to rejection. If CMAR gives such notice to Town, but then is not ready for such inspections, tests, approvals or observations at the time so noticed, CMAR must reimburse Town for all costs incurred by the attendance of Town representatives or their third-party inspectors.
- 4.4.12.2 If any law, ordinance, rule, regulation, code, or orders of any public body having jurisdiction requires any Work (or part thereof) to be inspected, tested or approved, CMAR (unless another

party is specified in the Contract Documents) must assume full responsibility therefore, pay all costs in connection therewith and furnish Town the required certificates of inspection, testing, or approval. CMAR must also be responsible for and must pay all costs in connection with any inspection or testing required by the Specifications in connection with Town's acceptance of a manufacturer, fabricator, supplier or distributor of materials or equipment proposed to be incorporated in the Work, or of materials or equipment submitted for approval prior to CMAR's purchase thereof for incorporation in the Work. The cost of all other inspections, tests and approvals required by the Contract Documents will be paid by Town (unless otherwise specified).

- 4.4.12.3 All inspections, tests or approvals other than those required by law, ordinance, rule, regulation, code or order of any public body having jurisdiction must be performed by organizations acceptable to Town and by the Design Professional if so specified.
- 4.4.12.4 Neither observations by Town, the Design Professional nor inspections, tests or approvals by others will relieve CMAR from their obligations to perform the Work in accordance with the Contract Documents.
- 4.4.13 Uncovering Work. If any Work that is to be observed, inspected, tested or approved is covered without written concurrence of Town, it must, if requested by Town be uncovered for observation. Unless CMAR has given Town timely notice of CMAR's intention to cover such Work and Town has not acted with reasonable promptness in response to such notice, CMAR must furnish all necessary labor, material and bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order will be issued.
- 4.4.14 In all cases of interconnection of its Work with existing or other Work, CMAR must verify at the Site all dimensions relating to such existing or other Work. Any errors due to CMAR's failure to so verify all such grades, elevations, locations or dimensions must be promptly rectified by CMAR without any increase in the Contract Price. Any design errors or omissions noted by CMAR during this review must be reported promptly to Town.
- 4.4.15 CMAR must establish and maintain all construction grades, lines, levels, and benchmarks, and will be responsible for accuracy and protection of same. This Work must be performed or supervised by a licensed civil engineer or surveyor in the State of Arizona.
- 4.4.16 CMAR must photograph all buried piping of greater than four (4) inches in diameter prior to backfill.
- 4.4.17 CMAR is responsible 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 Town and any Subcontractors or Subcontractors, including but not limited to any third-party beneficiary rights.
- 4.4.18 CMAR must coordinate the activities of all subcontractors. CMAR must coordinate performance of the Work with Town's Public Works & Utilities Department and other departments or agencies within Town. The Design Professional and other CMARs or parties involved in the Project. If Town performs other work on the Project or at the Site with separate CMARs under Town's control, CMAR agrees to cooperate and coordinate its activities with those of such separate CMARs so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.
- 4.4.19 CMAR will not substitute or change any subcontractor or supplier without the prior written approval of Town. Any substitute or replacement subcontractor or supplier must be required to meet the same qualifications and selection criteria and process as the original subcontractor or supplier. If a subcontract/supplier selection plan has been approved by Town, CMAR will follow that plan unless otherwise approved by Town in writing.



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- 4.4.20 CMAR must not change or replace any members of its Project team, including CMAR's Representative, Project Manager, or Superintendent, without an explanation for the change being given to Town, and receiving prior written approval of the change from Town, which approval will not be unreasonably withheld.
- 4.4.21 Subcontractors whose scope of work has a value greater than 15% of the total Contract Price are required to furnish performance and payment bonds to CMAR, unless otherwise approved in writing by Town.
- 4.4.22 CMAR must comply with MAG Specification § 108.2 (E) unless otherwise specified in Contract Documents.

4.5 CONTROL OF THE PROJECT SITE

- 4.5.1 Throughout all phases of construction, including suspension of Work, CMAR must keep the Site reasonably free from debris, trash and construction wastes to permit CMAR to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Prior to Final Acceptance of the Work, or a portion of the Work, CMAR must remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Town to occupy the Project or a portion of the Project for its intended use.
- 4.5.2 CMAR must take whatever steps, procedures or means necessary to prevent dust nuisance due to construction operations. The dust control measures must be maintained at all times to the satisfaction of Town and in accordance with the requirements of the Maricopa County Bureau of Air Pollution Control Rules and Regulations.
- 4.5.3 CMAR must maintain Americans with Disabilities Act (ADA) and American National Standards Institute (ANSI) accessibility requirements during construction activities, including without limitation compliance with the 2010 regulations governing implementation of the ADA to the extent applicable. ADA and ANSI accessibility requirements must include, but not be limited to, parking, building access, areas of refuge, and emergency exit paths of travel. CMAR is responsible for the coordination of all Work to minimize disruption to residents and the public.
- 4.5.4 Only materials and equipment used directly in the Work will be brought to and stored on the Site by CMAR. When equipment is no longer required for Work, it must be removed promptly from the Site. Protection of construction materials and equipment stored at the Site from weather, theft, damage and all other adversity is solely the responsibility of the CMAR.
- 4.5.5 CMAR agrees all persons working on the Site must act at all times in the best interest of the Project and will comply with all applicable rules and regulations reasonably set forth by Town related to the Site. Notwithstanding the foregoing or anything in this Agreement to the contrary, Town may remove from the Site any individual who Town deems in their reasonable discretion to be creating a disturbance or causing any problem on the Site.
- 4.5.6 CMAR will be responsible to Town for the acts and omissions of CMAR's employees, Subcontractors and their agents and employees, and any other person performing any of the Work under a Contract with CMAR, or claiming by, through or under CMAR, for all damages, losses, costs and expenses resulting from such acts or omissions.
- 4.5.7 Town may conduct criminal, drive history, and all other requested background checks of CMAR and Subcontractors personnel performing Work or who have access to Town's information, data, or facilities in accordance with Town's current background check policies, or the provisions of the Project Specific Conditions. Any officer, employee or agent that fails to background check must be replaced immediately.
- 4.5.8 Town will have a final authority, based upon security reasons: (i) to determine when security

clearance of CMAR's and Subcontractors personnel is required; (ii) to determine the nature of the security clearance, up to and including fingerprinting personnel; and (iii) to determine whether or not any individual or entity may provide Services or perform Work under the Contract.

- 4.5.9 If Town objects to any personnel for any reasonable cause, then CMAR must, upon notice from Town, remove such individual from the Project.

4.6 PROJECT SAFETY

- 4.6.1 The Project and all Work performed in relation thereto is governed by applicable provisions of the federal laws, including but not limited to, the latest amendments of the following:

- a. Williams-Steiger Occupational Safety & Health Act of 1970, Public Law, 91-596.
- b. Part 1910 and Part 1926 – Occupational Safety and Health Standards, Chapter XVII of Title 29, Code of Federal Regulations.
- c. Part 1518 – Safety and Health Regulations for Construction, Chapter XIII of Title 29, Code of Federal Regulations.

- 4.6.2 CMAR is responsible for safety of the job Site for employees of CMAR as well as for members of the general public and others who may drive or walk through or be at the Site.

- 4.6.3 CMAR 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 and stored On-Site or Off-Site; and (iii) all other properties at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and (iv) the owners or tenants of adjacent property and their patrons, employees and invitees.

- 4.6.4 CMAR assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work.

- 4.6.5 CMAR must provide a "competent person" as required by O.S.H.A regulations. The "competent person" must be identified at the Pre-Construction Conference with Town advised in writing of any changes.

- 4.6.6 The "competent person" must make routine daily inspections of the Site and must hold weekly safety meetings with CMAR's personnel, Subcontractors and others as applicable.

- 4.6.7 CMAR and Subcontractors must comply with all legal and regulatory requirements relating to safety, as well as any Town specific safety requirements set forth in the Contract Documents, provided that such Town-specific requirements do not violate any applicable legal and regulatory requirements.

- 4.6.8 CMAR will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to Project Manager and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

- 4.6.9 CMAR's responsibility for safety under this Section is not intended in any way to relieve Subcontractors and Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) 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.

- 4.6.10 As between Town and CMAR, CMAR is responsible to Town for any and all the safety issues

relating to the Work on the Project. CMAR must administer and manage the safety program. This will include but not necessarily be limited to review of the safety programs of each Subcontractor. CMAR must monitor the establishment and execution of compliance with all applicable regulatory and advisory agency construction safety standards. CMAR's responsibility for review, monitoring, and coordination of the Subcontractor's safety programs will not extend to direct control over execution of the Subcontractor's safety programs. Notwithstanding CMAR's safety obligations to Town, it is agreed and understood that each individual Subcontractor will remain controlling employer responsible for the safety programs and precautions applicable to its own work and the activities of other's work in areas designated to be controlled by such Subcontractor for purposes of workers compensation insurance coverage.

- 4.6.11 Nothing in this agreement will relieve CMAR of its responsibility to maintain traffic, structures, etc., as noted on the Plans, Specifications, and Project Specific Conditions. CMAR is responsible for providing all necessary shoring, bracing and trench support as is necessary to maintain traffic structures, etc., as stipulated in the Plans, Specifications, and Special Provisions. If the stability of adjoining building, walls, roadways, etc., is endangered by CMAR's excavation, shoring, bracing, or under pinning must be provided as necessary to ensure project safety. Cost for shoring, bracing, underpinnings, and trench support will be included in the appropriate items listed in the Contract Price, and no additional payment will be made for this work.

4.7 MATERIALS QUALITY, SUBSTITUTIONS, AND SHOP DRAWINGS

4.7.1 Quality Control and Quality Assurance Testing.

- 4.7.1.1 All construction materials to be used or incorporated in the Project are subject to inspection, Quality Control & Quality Assurance Testing, and approval or rejection by Town. Any material rejected by Town must be removed immediately and replaced in an acceptable manner to Town at no additional cost to Town. When QC/QA tests indicate noncompliance with the Contract Documents, retesting must be performed by the same testing laboratory that performed the tests that indicated noncompliance.
- 4.7.1.2 The CMAR must establish, provide, and maintain an effective Quality Control Testing Program (QCTP). The CMAR must develop its own program or procure the services of a consultant. In either case, the party performing the tests must be currently certified by the National Bureau of Standards in the National Voluntary Laboratory Accreditation Program (NVLAP) for construction services or the AASHTO Accreditation Plan (AAP) for Soils, Asphalt and Concrete. The CMAR must provide all support necessary to perform QC and QA testing and sampling (i.e. shoring for testing trench backfill, backhoes, motor graders, loaders, etc. to facilitate testing and sampling). The Town will perform the QA testing.
- 4.7.1.3 The CMAR must submit a written QCTP to the Town as a required submittal. The CMAR must not begin Work until the Quality Control Program has been reviewed and accepted by the Town. Resumes of all personnel that will be associated directly or indirectly with the QCTP must be included.
- 4.7.1.4 The QCTP must include, but not be limited to, on-site/field and laboratory testing of all material delivered to the Site and any existing materials or conditions pertinent to the project.
- 4.7.1.5 All testing must be under the direction of a Professional Engineer registered in the State of Arizona, knowledgeable in Materials Testing. All "Test Report" forms must be stamped by said Engineer.
- 4.7.1.6 The written QCTP will set forth the responsibilities of the engineer, project manager, supervisory personnel and each technician assigned to this project. Substitutions or replacement of personnel must require prior written approval by the Town. All personnel must be proficient within their assigned duties and possess certification(s) commensurate with their position and responsibilities. The minimum certification(s) for each technician must be NICET Level II, Arizona Technical Testing Institute, American Concrete Institute, or other nationally recognized

program applicable to the project and approved by the Town of Prescott Valley. The written QCTP must include a description of the required field and construction materials laboratory tests, including required frequencies that meet the minimums established herein.

- 4.7.1.7 The CMAR must establish a system to record and report all material test results. The daily test reports must include, but not be limited to:
- a. Test designation;
 - b. Date of test;
 - c. Name of tester;
 - d. Location of test/sample (station and offset);
 - e. Product suppliers and product codes (as applicable);
 - f. Depth/elevation of test/sample;
 - g. Test result;
 - h. Control requirement(s);
 - i. Cause of rejection (if applicable);
 - j. Results of retests (if applicable); and
 - k. Remedial action (if applicable).
- 4.7.1.8 The Testing Laboratory must submit test results to the CMAR, designated Town representatives, and PM / CM.
- 4.7.1.9 The Testing Laboratory must also submit a weekly report to the Town summarizing the testing and construction activities completed by emailing the report to the designated Town representative, and PM / CM. All weekly reports must be submitted simultaneously to the CMAR and the Town of Prescott Valley. The report must include individual summary sheets for each utility line, structure, and portion of the pavement section. Cores must be numbered sequentially throughout the Project. Re-cores must reference the original core by number and must contain the averaged values for thickness and density. Total pavement thickness must be reported. Vertical location of tests for underground utilities must indicate the depth of the excavation at the location of the test (i.e., cut to flow line [if applicable], depth to bottom or top of pipe, etc.). Density tests must be numbered sequentially. If the minimum number of tests has not been performed per the written QCTP, this must be stated in the weekly summary report with an explanation of the circumstances.
- 4.7.1.10 The Town will maintain a copy of the Project test results and weekly reports in the Project file. In cases where quality control activities do not comply with the contract provisions, the Town may:
- a. Order the CMAR to replace ineffective or unqualified quality control personnel.
 - b. Order the CMAR to stop operations until appropriate corrective action is taken.
- 4.7.1.11 Although minimum testing requirements are specified herein, the CMAR bears full responsibility for the quality of the materials and their installation and may elect to perform additional testing beyond the requirements set forth herein to ensure compliance.
- 4.7.1.12 The Quality Control requirements contained in this Section are in addition to and separate from Quality Assurance Testing, which will be performed by the Town of Prescott Valley or its representative. If the Quality Assurance test results are not in agreement with the Quality Control test results, the CMAR will have the option to retain a third party consultant for referee tests. The third party consultant must meet the same requirements as the consultant performing the Quality Control Testing. The results of the third party will be binding. All cost incurred by the referee testing will be the CMAR's expense. If the CMAR elects not to retain a third party for



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referee testing, the Town of Prescott Valley test results will prevail.

- 4.7.1.13 Except as otherwise noted within this Section, Work or materials required by this Section are non-pay items. Per MAG Section 101, a non-pay item is an item of Work for which no separate payment will be made, the cost of which is to be included as an incidental cost for associated item(s) included on the Bid Schedule or Schedule of Values.
- 4.7.2 Trade Names and Substitutions.
 - 4.7.2.1 Substitutions prior to bid will only be considered if in compliance with Arizona Revised Statute § 34-104.
 - 4.7.2.2 CMAR, if requested by Town, must submit Samples or any additional information that may be necessary to evaluate the acceptability of the substitution.
 - 4.7.2.3 Town will make the final decision and will notify CMAR in writing as to whether the substitution has been accepted or rejected.
 - 4.7.2.4 If Town does not respond within 15 working days, CMAR must continue to perform the Work in accordance with the Contract Documents and the substitution will be considered rejected.
- 4.7.3 Shop Drawings.
 - 4.7.3.1 CMAR must prepare and submit Shop Drawings which show details of all Work to insure proper installation of the Work using those materials and equipment specified under the approved Plans and Specifications.
 - 4.7.3.2 CMAR must submit a schedule of Shop Drawing submissions, which avoids bulk submissions to the extent reasonably possible, with the Project Schedule for Town approval. The schedule of Shop Drawing submissions must include all of the items for which Shop Drawings are required by the Contract Documents, including the Specifications. Unless otherwise noted, Shop Drawings will not be required for items specified or detailed in the Uniform Standard Specifications and Details or the Technical Specifications.
 - 4.7.3.3 Shop Drawings must be numbered consecutively for each Specification section and must accurately and distinctly present the following:
 - a. All working and erection dimensions.
 - b. Arrangements and sectional views.
 - c. Necessary details, including complete information for making connections between work under this Contract and work under other Contracts.
 - d. Kinds of materials and finishes.
 - e. Parts list and description thereof.
 - 4.7.3.4 Each Drawing or page must include:
 - a. Project Name, Town of Prescott Valley Project Number and descriptions.
 - b. Submittal date and space for revision dates.
 - c. Identification of equipment, product or material.
 - d. Name of CMAR and Subcontractor.
 - e. Name of Supplier and Manufacturer.
 - f. Relation to adjacent structure of material.
 - g. Physical dimensions clearly identified.

- h. ASTM and Federal Specifications references.
 - i. Identification of and justification for deviations from the Contract Documents.
 - j. CMAR's stamp, initialed or signed, dated and certifying the review of submittal, certification of field measurements and compliance with Contract.
 - k. Location at which the equipment or materials are to be installed.
- 4.7.3.5 Location will mean both physical location and location relative to other connected or attached material. Town will return unchecked any submittal, which does not contain complete data on the Work and full information on related matters.
- 4.7.3.6 Stock or standard drawings will not be accepted for review unless full identification and supplementary information is shown thereon in ink or typewritten form.
- 4.7.3.7 CMAR must schedule, prepare and submit all Shop Drawings in accordance with a time-table that will allow its suppliers and manufacturers sufficient time to fabricate, manufacture, inspect, test and deliver their respective products to the project Site in a timely manner so as to not delay the complete performance of the Work.
- 4.7.3.8 If the Shop Drawings show departures from the Contract requirements, CMAR must make specific mention thereof in the Letter of Transmittal; otherwise review of such submittals by Town will not constitute review of the departure. Review of the Drawings will constitute review of the specific subject matter for which the Drawings were submitted and not of any other structure, material, equipment, or apparatus shown on the Drawings.
- 4.7.3.9 The review of Shop Drawings will be general and will not relieve CMAR of responsibility for the accuracy of such Drawings, nor for the proper fitting and construction of the Work, nor for the furnishing of materials or Work required by the Contract. No construction called for by Shop Drawings will be initiated until such Drawings have been reviewed and approved by Town.
- 4.7.3.10 The procedure in seeking review of the Shop Drawings will be as follows:
 - a. CMAR must submit complete sets of Shop Drawings and other descriptive data as specified in this Section.
 - b. After CMAR's submittal or resubmittal of Shop Drawings, if CMAR has submitted Shop Drawings in accordance with the Town-approved submittal schedule, or upon resubmission, Town will be provided with three (3) calendar weeks for review. Should Town require additional review time above and beyond the three (3) calendar weeks, CMAR may ask for a time extension or monetary compensation, if they can present valid, factual evidence that actual damage was incurred by CMAR. Town will determine the amount of the time extension or the monetary compensation to be awarded CMAR, if any, in accordance with Town's Policy Statement for Calculating Delays and Damages, Appendix 1.
- 4.7.3.11 CMAR will be responsible for all extra costs incurred by Town caused by CMAR's failure to comply with the procedure outline above.
- 4.7.4 Long Lead Time Items. CMAR must submit Shop Drawings, as required by the Engineer, on all long lead items to be furnished and installed as part of the project within 10 Days after the date of Notice of Executed Contract issued by Town. In addition, CMAR must order all long lead items to be furnished and installed as part of this Project within 3 Days after receiving approved Shop Drawings. For all long lead times for which Shop Drawings are not required, CMAR must order said long lead items within 15 Days after the date of Notice of Executed Contract issued by Town. Within 2 Days after ordering long lead items, CMAR must supply copies of all purchase orders, along with an accurate delivery schedule from the supplier.
- 4.7.5 Construction Water. If CMAR uses water from Town's water system for construction water,

CMAR must obtain a fire hydrant meter from Town of Prescott Valley Utility Services (928-759-3020) and all construction water must be obtained through the hydrant meter. CMAR must pay all fees related to the hydrant meter and all water bills for construction water. All cost for meters and construction water will be included in the Contract Price.

4.8 PROJECT RECORD DOCUMENTS

4.8.1 During the construction period, CMAR must maintain at the jobsite a full-size set of prints of the Construction Document Drawings and Shop Drawings for Project Record Document purposes.

4.8.2 CMAR must mark these Drawings to indicate the actual installation where the installation varies from the original Construction Documents. CMAR must give particular attention to information on elements that will be concealed, which would be difficult to identify or measure and record later. Items required to be marked include but are not limited to:

- a. Dimensional changes to the Drawings.
- b. Revisions to details shown on Drawings.
- c. Locations and depths of underground utilities.
- d. Revisions to routing of piping and conduits.
- e. Actual equipment locations.
- f. Changes made by Change Order or Addendum.
- g. Details not on original Contract Drawings.

4.8.3 CMAR must mark completely and accurately Project Record Drawing sets of Construction Documents.

4.8.4 CMAR must mark Project Record Drawings sets with red erasable colored pencil.

4.8.5 CMAR must note Request for Information (RFI) Numbers and Change Order numbers, etc., as required to identify the source of the change to the Construction Documents.

4.8.6 CMAR must submit Project Record Drawing sets and Shop Drawings to Town or its representative for review and comment.

4.8.7 Upon receipt of the reviewed Project Record Drawings from Town, CMAR must correct any deficiencies and omissions to the Drawings and submit the final original of the Project Record Drawings to Town prior to Final Payment.

4.8.8 Project Manager will review the Project Record Drawings monthly prior to the date established for the Payment Request and will be the sole judge of acceptance of these Drawings.

4.9 WARRANTY AND CORRECTION OF DEFECTIVE WORK

4.9.1 CMAR warrants to Town that the construction, including all materials and equipment furnished as part of the Work, will be new unless otherwise specified in the Contract Documents, of good quality, and free of defects in materials and workmanship. CMAR's warranty obligation excludes defects caused by abuse, alterations, or unreasonable failure to maintain the construction by persons other than CMAR, Subcontractors, or others under CMAR's control. Nothing in this warranty will limit any manufacturer's warranty which provides Town with greater warranty rights than set forth herein or in the Contract. CMAR will provide Town with all manufacturers' warranties and operation and maintenance manuals upon substantial completion of the Work. CMAR's warranty must be for two (2) year, in accordance with Town requirements and will commence for all portions of the Work upon Final Acceptance of the entire Work as determined by Town under the Contract. All statutory or other warranties, express or implied, related to latent defects will remain in force and are not limited by this provision.

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- 4.9.2 Town May Stop the Work. If the Work is defective, or CMAR fails to supply sufficient skilled workmen or suitable materials or equipment, Town may order CMAR to stop the Work without cost to Town, or any portion thereof, until the cause for such order has been eliminated; however, this right of Town to stop the Work will not give rise to any duty on the part of Town to exercise this right for the benefit of CMAR or any other party.
- 4.9.3 Correction or Removal of Defective Work.
- 4.9.3.1 If required by Town, CMAR must promptly, without cost to Town and as specified by Town, either correct any defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by Town, remove it from the Site and replace it with non-defective Work. CMAR must correct any Work which may be displaced in correcting, removing or replacing defective Work. No compensation will be allowed CMAR for such removal, replacement or remedial Work. CMAR must reimburse Town for costs incurred by Town due to such correction or removal including but not limited to additional expenses for inspection, testing or observation and for repeated reviews by the Town or Design Professional.
- 4.9.3.2 Upon failure on the part of the CMAR to comply within a reasonably prompt time with any written order of Town to correct or remove defective Work, Town has authority to cause nonconforming materials or rejected Work to be remedied, removed, or replaced at the CMAR's expense and to deduct the costs from any moneys due or to become due the CMAR.
- 4.9.4 Town May Correct Defective Work. If CMAR fails within a reasonable time after written notice of Town to proceed to correct defective Work or to remove and replace rejected Work as required by Town or if CMAR fails to perform the Work in accordance with the Contract Documents (including any requirements of the progress schedule), Town may, after 7 Days' written notice to CMAR, correct and remedy any such deficiency. To the extent necessary to complete corrective and remedial action, Town may exclude CMAR from all or part of the Work, and suspend CMAR's services related thereto, take possession of CMAR's tools, appliances, construction equipment and machinery at the Site and incorporate in the Work all materials and equipment stored at the Site or for which Town has paid CMAR, but which are stored elsewhere. CMAR must allow Town, Town representatives, agents and employees such access to the Site as may be necessary to enable Town to exercise Town's rights under this Section. All direct and indirect costs of Town in exercising such rights will be charged against CMAR in an amount verified by Town representative, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents and a reduction in the Contract Price. Such direct and indirect costs will include, in particular but without limitation, compensation for additional professional services required and all costs of repair and replacement of Work or others destroyed or damaged by correction, removal or replacement of CMAR's defective Work. CMAR will not be allowed an extension of the Contract Time because of any delay in CMAR's performance of the Work attributable to the exercise by Town or Town's rights hereunder.
- 4.9.5 Correction or Removal of Unauthorized Work.
- 4.9.5.1 Any Work done beyond the lines and grades shown on the Drawings or established by the Design Professional or any changes in, additions to, or deductions from the Work done without written authority will be considered as unauthorized and will not be paid for. Work so done may be ordered remedied, removed, or replaced at the CMAR's expense.
- 4.9.5.2 Upon failure on the part of the CMAR to comply promptly with any order of the Town, Town will have authority to cause unauthorized Work to be remedied, removed, or replaced at the CMAR's expense and to deduct the costs from any moneys due or to become due the CMAR.
- 4.9.6 Correction Period - Two Year Guarantee.
- 4.9.6.1 If, within two years after the date of Final Acceptance, or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract

Documents, or by any specific provision of the Contract Documents, any Work is found to be defective, CMAR must promptly, without cost to Town and in accordance with Town's written instructions, either correct such defective Work, or, if it has been rejected by Town, remove it from the Site and replace it with non-defective Work. If CMAR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, Town may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, must be paid by CMAR. Such action by the Town will not relieve the CMAR of the guarantees required by this Section or elsewhere in the Contract Documents.

- 4.9.6.2 If, in the opinion of the Town, defective Work creates a dangerous condition or requires immediate correction or attention to prevent further loss to the Town or to prevent interruption of operation of the Town, the Town will attempt to give the notice required by this Section. If the CMAR cannot be contacted or does not comply with the Town's request for correction within a reasonable time as determined by the Town, the Town may, notwithstanding the provisions of this Section, proceed to make such correction or provide such attention; and the costs of such correction or attention will be charged against the CMAR. Such action by the Town will not relieve the CMAR of the guarantees required by this Section or elsewhere in the Contract Documents.
- 4.9.6.3 This Section does not in any way limit the guarantee on any items for which a longer guarantee is specified or on any items for which a manufacturer or supplier gives a guarantee for a longer period. The CMAR agrees to act as co-guarantor with such manufacturer or supplier and must furnish the Town all appropriate guarantee or warranty certificates upon completion of the Project. No guarantee period, whether provided for in this Section or elsewhere, will in any way limit the liability of CMAR or their sureties or insurers under the indemnity or insurance provisions of these General Conditions and the Project Specific Special Conditions.
- 4.9.7 Acceptance of Defective Work.
- 4.9.7.1 If, instead of requiring correction or removal and replacement of defective Work, Town may accept Work when in the best interest of the Town to do so with appropriate monetary credit from CMAR. If any such acceptance occurs prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents, including appropriate reduction in the Contract Price; or, if the acceptance occurs after final payment, an appropriate amount must be paid by CMAR to Town.
- 4.9.7.2 Alternatively, Town may require CMAR to furnish at CMAR's expense, a special performance guarantee or other surety prior to acceptance of defective work.
- 4.9.8 The Warranty period begins on the Final Acceptance date noted in the Certificate of Completion, irrespective of early completion by some Subcontractors of their work.
- 4.9.9 CMAR must provide a 2-year warranty per Town policy.
- 4.9.10 Nothing in the warranties contained in the Contract Documents are intended to limit any manufacturer's warranty which provides Town with greater warranty rights than set forth in this Section or the Contract Documents. CMAR must provide Town with all manufacturers' warranties prior to Substantial Completion, if applicable, or Final Acceptance.
- 4.9.11 CMAR agrees that it will be responsible to manage and administer the correction of any Work that is not in conformance with the Contract Documents during the warranty periods set forth in this Section, or during any longer periods to the extent required by the Contract Documents. A progress payment, or partial or entire use or occupancy of the Project by Town, will not constitute acceptance of Work not in accordance with the Contract Documents.

- 4.9.12 When notified of a warranty issue, CMAR must respond in writing within 48-hours and must perform warranty Work as soon as material for said repairs are available (as judged solely by Town), and in any event CMAR must, take immediate steps to commence and complete correction of nonconforming Work no later than the time period set forth in Town's written notification in accordance with the Contract Documents. 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 defects develop which are determined by Town to be an emergency, Town will notify CMAR, via the most expeditious means regarding the nature and condition of the defects. In turn, CMAR must immediately dispatch necessary forces to correct the defect or the emergency condition in accordance with Contract Documents.
- 4.9.13 The time periods referenced in this Section apply only to CMAR's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies that Town may have regarding CMAR's other obligations under the Contract Documents.
- 4.9.14 Without limiting the foregoing or anything in these General Conditions or the Contract to the contrary, CMAR must obtain and provide to the Town all warranties for any portion of the Project offered by the manufacturer, installer or provider thereof. Town and the user of the facility will have the right to the full value and benefit of all such warranties. CMAR must ensure all such warranties are fully transferrable to facilitate the full value of this Section.
- 4.9.15 CMAR's warranty excludes damages or defects caused by abuse, alterations to the Work not executed by or through CMAR, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage.
- 4.9.16 In the event of any noncompliance with this entire Section 4, Town may require CMAR to stop or suspend the Work in whole or in part.

SECTION 5 - TOWN RESPONSIBILITIES

5.1 TOWN PROJECT MANAGER AND INSPECTORS

- 5.1.1 Project Manager is responsible for providing Town-supplied information and approvals in a timely manner to assist CMAR to fulfill its obligations under the Contract Documents.
- 5.1.2 Project Manager will also provide CMAR with prompt notice when it observes any failure on the part of CMAR to fulfill its contractual obligations, including any default or defect in the Project or non-conformance with the Drawings and Specifications.
- 5.1.3 Town may utilize Field Inspectors to assist Project Manager during construction in observing performance of CMAR. Town's use of Inspectors is for the purpose of assisting Project Manager.
- 5.1.4 The Inspectors are authorized to inspect all Work and materials furnished. Such inspections may extend to all or part of the Work and to preparation, fabrication or manufacture of the materials to be used. The Inspectors have the authority to issue instructions contrary to the Construction Documents if approved and coordinated with the directions of Project Manager.
- 5.1.5 The Inspectors have the authority to reject work or materials until any questions at issue can be decided by Project Manager.
- 5.1.6 The use of Inspectors by Town will not make Town responsible for or give Town control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs or responsibility for CMAR's failure to perform the Work in accordance with Contract Documents. The Inspectors are not authorized to direct any of CMAR's activities, employees or Subcontractors.

5.2 DESIGN PROFESSIONAL SERVICES

Town may contract separately with one or more Design Professionals to provide construction administration of the Project. The Design Professional's Contract, as well as other firms hired by Town may be furnished to CMAR. CMAR does not have the right to limit or restrict or reject any Contract modifications that are mutually acceptable to Town and Design Professional.

5.3 TOWN'S SEPARATE CONTRACTORS

Town is responsible for all work performed on the Project or at the Site by separate CMARs retained by Town. Town will contractually require its separate CMARs to reasonably cooperate with and reasonably coordinate their activities so as not to interfere with CMAR in order to enable CMAR to timely complete the Work consistent with the Contract Documents. CMAR must immediately notify the Project manager and address the matter in the next monthly status report, if any activities of such separate CMARs are expected to interfere, or are interfering, with CMAR and such interference will or could result in any delay in CMAR's performance of the Work.

5.4 PERMIT REVIEW AND INSPECTIONS

5.4.1 If requested by CMAR, Project Manager will provide assistance and guidance in obtaining necessary reviews, permits and inspections.

5.4.2 The regulating agencies of Town, such as Development Services Department, enforce legal requirements. The enforcement activities of Town are independent and separate from this Agreement.

5.5 PLANS AND SPECIFICATIONS TO THE CMAR.

CMAR will be provided up to five copies of the Contract Documents as are reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction.

SECTION 6 - CONTRACT TIME

6.1 CONTRACT TIME

6.1.1 The Contract Time will start with a Limited Notice to Proceed ("LNTP") and end with Final Acceptance, or at the Town's convenience. The LNTP will address pre-construction activities. The Town reserves the right to extend these pre-construction activities to include early procurement.

6.1.2 Beginning on the date of the full NTP, CMAR must begin to fulfill CMAR's obligations under the Contract. CMAR's obligations include providing Town and other agencies with any submittals required by the Project Specific Special Provisions, including but not limited to, an approved Project Schedule, Traffic Control Plans, and a Stormwater Pollution Prevention Plan. CMAR must submit all such required submittals before any physical construction work commences on the Site. NTP does not authorize construction work until all contract insurance, bonds, and schedules are submitted to and accepted by the Town.

6.1.3 The Contract Time will be as set forth in the Project Schedule. CMAR agrees that it will commence performance of the Work and complete the Project through both Substantial Completion and Final Acceptance within the Contract Time.

6.1.4 Time is of the essence of this Contract, for the Project, for the Work, and for each phase and designated Milestone thereof.

6.1.5 Failure of CMAR to perform any covenant or condition contained in the Contract Documents within the time periods specified herein, will constitute a material breach of this Contract entitling



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Town to terminate the Contract unless CMAR applies for and receives an extension of time, in accordance with the procedures set forth in the Contract Documents.

6.1.6 Failure of Town to insist upon the performance of any covenant or condition within the time periods specified herein, will not constitute a waiver of CMAR's duty to perform every other covenant or condition within the designated periods, unless a specific waiver is granted in writing for each such covenant or condition.

6.1.7 Town's agreement to waive a specific time provision or to extend the time for performance will not constitute a waiver of any other time provisions contained in the Contract Documents. Failure of CMAR to complete performance promptly within the additional time authorized in the waiver or extension of time agreement constitutes a material breach of this Contract entitling Town to all the remedies set forth herein or provided by law.

6.2 **PROJECT SCHEDULE**

6.2.1 The Project Schedule must be in Primavera P6 XER standard file format, must be updated and maintained throughout the Contract Time, and must contain the following:

6.2.1.1 Detailed representation of all activities for the project, both on-site construction and major procurement. All significant activities together with the resource loading requirements for each and all items appearing on the schedule of values or bid schedule for progress payments must be shown on the Project Schedule or in attached transmittal letter as described in Section 6.2.8.

6.2.1.2 Dependencies between activities must be indicated so that it may establish as to the effect the progress of any one activity would have on other activities and on the Schedule.

6.2.1.3 Activities for submission, review, and approval of all required submittals.

6.2.1.4 An amount of time will be established prior to the final completion date for "punch list and cleanup". No other activities will be scheduled during this period. Punch list and cleanup must be shown on the Project Schedule and must be entirely completed prior to the expiration of the Contract Time.

6.2.2 Within 10 Days of receipt of Town's comments, CMAR must make all required corrections, adjustments, and additions to complete the Project Schedule and resubmit to Town for review. Town's review of and response to the Project Schedule is for the purpose of: (1) Town planning and staffing for the Project as may be required from time to time; (2) ensuring CMAR's general conformance with the scheduling requirements of the Contract Documents and completion of the Project within the Contract Time; and (3) monitoring and evaluating the construction status for purposes of approving monthly progress payments. Acceptance of a submitted schedule by Town should in no way be construed as an affirmation or admission that the schedule is reasonable or workable by CMAR. The responsibility for completing the Work on the Project within the Contract Time remains the obligation of CMAR. Town's review does not relieve CMAR from compliance with the requirements of the Contract Documents or be construed as relieving CMAR of its complete and exclusive control over the means, methods, sequences and techniques for executing the work.

6.2.3 The Project Schedule must show milestones, including milestones for Town-furnished information, and must include activities for Town-furnished material and construction by other CMARs when those activities are interrelated with CMAR activities.

6.2.4 The Project Schedule must be revised as required by conditions and progress of the Work, but such revisions do not relieve CMAR of its obligations to complete the Work within the Contract Time, as adjusted in accordance with the Contract Documents. No modification to the Contract Documents or the Contract Time will be effective unless approved in advance by Town.

6.2.5 For all items of materials and equipment that are critical or may require long lead times to acquire,

the Project Schedule must show dates for submission, review and approval of submittals, ordering, and delivery.

- 6.2.6 An updated Project Schedule must be submitted monthly to Town as part of the Payment Request. The monthly submittal must include one full size plot of the entire schedule and one electronic copy containing the schedule in Microsoft Project standard file format. In addition, CMAR must, upon request by Town, provide a copy of all submitted schedule data in electronic format which must be clearly labeled with the Project description, scheduling program name and version number, and schedule print/data date.
- 6.2.7 CMAR must provide Town with a monthly status report with each Project Schedule detailing the progress of the Work, including: (i) if the Work is proceeding according to schedule, (ii) any discrepancies, conflicts, or ambiguities found to exist in the Contract Documents that require resolution, and (iii) other information detailing items that require resolution so as not to jeopardize the ability to complete the Work in the Contract Time.
- 6.2.8 With each Project Schedule submittal, CMAR must include a transmittal letter including the following:
- a. Description of problem tasks, referenced to field instructions or requests for information (RFI's), 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 impacts and their delay on other activities, milestones, and their impact on the Substantial Completion and Final Acceptance dates.
 - (iv) Changes in construction sequence.
 - c. Pending items and status thereof including but not limited to:
 - (i) Time Extension requests;
 - (ii) Substantial Completion date status;
 - (iii) Final Acceptance date status.
 - d. If ahead of schedule, the number of calendar Days ahead.
 - e. If behind schedule, the number of calendar Days behind.
 - f. Other Project or scheduling concerns.
- 6.2.9 Critical Path Method (CPM).
- 6.2.9.1 Unless otherwise specified in the Contract, the Project Schedule must include a Critical Path Method (CPM) diagram schedule showing the sequence of activities, the interdependence of each activity and identifies the Critical Path.
- 6.2.9.2 The CPM diagram schedule must be in calendar 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 must be presented in a time scaled graphical format for the Project as a whole.
- 6.2.9.3 The CPM diagram schedule must indicate all relationships between activities.
- 6.2.9.4 The activities making the Project Schedule must contain sufficient detail to assure that adequate planning has been done for proper execution of the Work and such that it provides an appropriate basis for monitoring and evaluation the progress of the Work. Individual activities must not exceed 30 Days in length, in most cases.



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- 6.2.9.5 The CPM diagram schedule must be based upon activities, which coincide with the Schedule of Values.
- 6.2.9.6 The CPM diagram schedule must show all submittals associated with each work activity and the review time for each submittal.
- 6.2.10 Float Time.
- 6.2.10.1 The total Float Time within the overall schedule is not owned by the CMAR or the Town. Available float will be for the benefit of either party when a delay is determined to have impacted the critical path and all such float must be consumed before any liquidated damages or extended overhead claims will be valid, regardless of the cause of the delay.
- 6.2.10.2 CMAR will not be allowed to sequence, hide, or reallocate Float Time through such strategies, as extending activity duration estimates to consume available Float, using preferential logic, or using extensive crew/resource sequencing, etc. No time extensions will be granted nor delay damages paid until a delay occurs which extends the Work beyond the Contract Time.
- 6.2.11 Town-Caused Delays. Town-caused delays on the Project, if any, may be offset by Town-caused time savings (i.e., Critical Path submittals returned in less time than allowed by the Contract, approval of substitution requests and credit changes which result in savings of time to CMAR, etc.) In such an event, CMAR will not be entitled to receive a time extension or delay damages until all Town-caused time savings are exceeded and the Contract Time is also exceeded.
- 6.2.12 Rain-Related Delays. CMAR is required, in preparing the Project Schedule to take into account all relevant weather conditions, including normal rainfall and distribution. No additional compensation will be given for any rain-related delays or impacts on the Work or the Project Schedule. No time extension will be granted in the Project Schedule unless the rainfall during the construction of Work is unusually severe, was not reasonably anticipated, and the total rainfall was significantly in excess of the normal rainfall for the Project Site location. Normal rainfall for the Project will be determined from the 10-year average rainfall for the Site as measured by the National Oceanic and Atmospheric Administration or comparable source of reliable information for rainfall in Town of Prescott Valley, Arizona. In addition, the excessive rainfall must have actually impacted Work activities on the Critical Path and caused delay beyond any remaining Float at the time of the rain caused delay. The burden of documenting normal rainfall, the excessive rainfall and the impact on Critical Path activities is on CMAR. All other provisions in the Contract Documents relating to claims, including without limitation notice requirements, apply to any claim by CMAR for a rain delay. A rain delay activity will be inserted into the critical path of the baseline CPM schedule submitted to the Town for approval based on the anticipated rain impacts of 10 year average rainfall event days for the project location.
- 6.2.13 Town's "Policy Statement for Calculating Delays and Damages," Appendix 1 to these General Conditions, will apply to all claims of delay and delay damages.
- 6.2.14 Force Majeure. If CMAR is delayed or prevented from the performance of any Work required under this Contract by reason of acts of God or other causes beyond the control and without fault of CMAR (financial inability excepted), performance of that Work will be excused, but only for the period of the delay. The time for performance of the Work will be extended for a period equivalent to the period of delay.
- 6.3 SUBSTANTIAL COMPLETION**
- 6.3.1 When CMAR considers that the Work, phase or a portion thereof, which Town agrees in writing to accept separately, is substantially complete, Town will prepare and submit to CMAR a comprehensive Punch List of items to be completed or corrected prior to Final Acceptance and Final Payment. Failure to include an item on such Punch List does not alter the responsibility of CMAR to complete all Work in accordance with the Contract Documents.
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6.3.2 Upon receipt of CMAR's Punch List, Project Manager will inspect to determine whether the Work or designated portion thereof is substantially complete. Project Manager may, at Project Manager's sole option, be assisted in such inspection by the Design Professional for the Project. If the inspection by the Project Manager discloses any item, whether or not included on CMAR's Punch List, which is not sufficiently completed in accordance with the Contract Documents so that Town can occupy or utilize the Work, phase or designated portion thereof for its intended use, CMAR must, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by Project Manager. In such case, CMAR must then submit a request for another inspection by Project Manager to determine Substantial Completion.

6.3.3 Certificate of Substantial Completion.

6.3.3.1 The Project Manager will not issue a Certificate of Substantial Completion unless and until the Work (or separable units or Phases as provided in the Contract Documents) is essentially and satisfactorily complete in accordance with the Contract Documents, such that the Project is ready for use by Town for its intended purpose, opening to the general public, full occupancy or use by Town (including, without limitation, all separate units, or rooms, facilities, access, income-generating areas, and all areas serving the general public, as applicable, must be ready for full-operation without material inconvenience or discomfort), including, to the extent applicable to the Work, the following: all materials, equipment, systems, controls, features, facilities, accessories and similar elements are installed in the proper manner and in operating condition, inspected and approved; surfaces have been painted; masonry and concrete cleaned with any sealer or other finish applied; utilities and systems connected and functioning; site work complete; permanent heating, ventilation, air condition, vertical transportation and other systems properly operating with proper controls; lighting and electrical systems installed, operable and controlled; paving completed, signage installed, and other Work as applicable, has been performed to a similar state of essential and satisfactory completion. A minor amount of Work, as determined by and at the discretion of the Project Manager, such as installation of minor accessories or items, a minor amount of painting, minor replacement of defective work, minor adjustment of controls or sound systems, or completion or correction of minor exterior work that cannot be completed as a result of weather conditions, will not delay determination of Substantial Completion. If prior written approval is obtained from Town for purposes of Substantial Completion, specified areas of the entire Work or Project may be individually certified as Substantially Complete. In no event will Substantial Completion be deemed to have occurred unless and until: (i) a temporary certificate of occupancy has been issued by the appropriate Governmental Authorities (as applicable) and (ii) all terms and Work required under this Agreement have been fulfilled by CMAR and same will have also been approved and accepted by Town, subject only to the Punch List items.

6.3.3.2 If requested by Town, CMAR must complete and turn-over to Town the Project on a phased basis. Each phase will have a separate inspection by the Project Manager, a Punch List generated, and then an inspection by Town with final approval and acceptance only after the Project Manager's Punch List.

6.4 PARTIAL UTILIZATION

6.4.1 Town at Town's option may use and occupy any substantially completed parts of the Work which has specifically been identified in the Contract Documents, or which Town, the Design Professional and CMAR agree constitutes a separately functioning and usable part of the Work that can be used by Town for its intended purpose, without significant interference with CMAR's performance of the remainder of the Work, provided, however, if the portion of the Work to be used or occupied has not been found to be substantially complete, Town must do so in accordance with Section 6.3 prior to such occupancy.

6.4.2 In lieu of the issuance of a Certificate of Substantial Completion as to part of the Work, Town may take over operation of a facility constituting part of the Work whether or not it is substantially complete if such facility is functionally and separately usable; provided that prior to any such

takeover, Town and CMAR agree in writing as to the division of responsibilities between Town and CMAR for security, operation, safety, maintenance, correction period, heat, utilities and insurance with respect to such facility.

- 6.4.3 Substantial Completion of, or Town's beneficial occupancy of, a part of the Project, will not alter the fact that the two-year warranty for the whole Project starts at the date of Final Completion of the whole Project.

6.5 FINAL ACCEPTANCE

- 6.5.1 Unless otherwise expressly agreed to in writing by Town, Final Acceptance must be obtained by no later than 30 Days after the date of Substantial Completion. Failure to timely obtain Final Acceptance will be a material breach of the Contract.

- 6.5.2 Upon receipt of written notice that the Work is ready for final inspection and acceptance, Town and CMAR will jointly inspect to verify that the remaining items of Work have been completed. There will be no partial acceptance. Final Acceptance will not occur until all items of Work, including Punch List Items, have been completed to Town's satisfaction as reflected in the written Final Acceptance.

- 6.5.3 Final Payment will not be due, owing, or paid by Town until Final Acceptance is issued.

6.6 CONTINUATION OF WORK

- 6.6.1 Permitting CMAR to continue and finish the Work or any part of it after the time fixed for its completion (whether milestone, phase, Substantial Completion or Final Acceptance) or after the date to which the time fixed for any completion may have been extended, does not operate as a waiver by Town of any rights under the Contract Documents, law or equity.

- 6.6.2 Furthermore, the timely completion of the Work being of the utmost importance under this Contract, notwithstanding the existence of one or more disputes between the parties concerning the scope of the Work, the Project Schedule, Contract Time, payments or any other matter, and further notwithstanding a party's invocation of the Dispute Resolution provisions specified in Appendix 6 of these General Conditions, unless Town suspends the Contract or CMAR's performance pursuant to Section 10 of these General Conditions, CMAR will continue to prosecute the Work, including any Change Order work or Extra Work Orders, in a diligent and timely manner and not stop, slow down or impede by action or inaction the progress of the Work, including commencing performance of and thereafter completing any additional work called out in any Change Order or Extra Work Order issued by Project Manager with the approval of Town, so long as Town makes payment to CMAR in accordance with Section 8 of these General Conditions.

SECTION 7 - CONTRACT PRICE

7.1 UNIT PRICE CONTRACTS

- 7.1.1 Not Applicable.

7.2 CHANGE ORDERS

- 7.2.1 Unit Price Change Orders. The Change Order Price for all Unit Price Change Orders will be the amount set forth in the Change Order multiplied by the verified quantity provided.

- 7.2.2 Mutually Agreed Lump Sum Pricing Both the Town and the CMAR will mutually agree on a lump sum amount required for any agreed change scope. If definite materials and labor cannot be estimated, any other method of arriving at a mutually agreed lump sum number can be used.

- 7.2.3 Time and Materials For changes in which the Town and the CMAR cannot agree upon a single fixed price for a change due either to the nature of the change itself, or a difference in the party's estimation of the



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materials and effort required to execute the change, the Town may, in writing, direct that the change scope proceed under a Time and Materials basis. During the change work the CMAR will, on a daily basis, fill out a T&M ticket in a format provided by, or agreed to, by the Town and submit such tickets to the Town's representative for signature. Tickets not submitted for approval on the day the work is performed will be rejected.

7.2.4 All Inclusive Changes Unless specifically notified by the CMAR, all proposals for Change Orders will be complete and will include any requests for extra contract time, direct costs of the work, any supervision, indirect costs, extended overhead costs and taxes and fees.

7.3

TAXES CMAR is required to pay all applicable taxes in accordance with the law of the state of Arizona and this cost must be included in all Contract Prices. When equipment, materials or supplies generally taxable to CMAR are eligible for a tax exemption due to the nature of the Project, CMAR must assist Town in applying for and obtaining such tax credits and exemptions which will be paid or credited to Town.

SECTION 8 - PAYMENT

8.1 PAYMENT FOR CONSTRUCTION SERVICES

8.1.1 Payment for the Work will be made in accordance with MAG Standard Specification § 109 as amended below.

8.1.2 CMAR must submit to Town for review a completed CMAR Payment Request signed by CMAR, covering the Work completed as of the date of the Request and accompanied by such supporting documentation as is required by the Contract Documents and also as Town may reasonably require. A CMAR Payment Request will not be considered complete unless it is accompanied by an updated Project Schedule and a certification that the on-site, red lined, as built Drawings are up to date. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably, securely stored at the Site or at another location (such as a bonded warehouse) agreed to in writing, the CMAR Payment Request must also be accompanied by such data, satisfactory to Town, as will establish Town's title to the material and equipment and protect Town's interest therein, including applicable insurance. Each subsequent CMAR Payment Request must include an affidavit of CMAR stating that all previous progress payments received on account of the Work have been applied to discharge in full all of CMAR's obligations reflected in prior CMAR Payment Requests.

8.1.3 The Contracting Agency will retain 10 percent of all estimates as a guarantee for complete performance of the Contract in accordance with Arizona Revised Statutes Section 34-221 or 34-607, unless the CMAR elects to deposit securities in accordance with Arizona Revised Statutes Section 34-221, Paragraph C.5. or 34-607, Paragraph B.5.

8.1.4 The payment process functions as follows: Prior to the payment cycle date, CMAR must send a draft CMAR Payment Request to Project Manager. The Project Team will review the Request and agree upon any necessary adjustments. CMAR must certify the final Request by signing and returning to Project Manager.

8.1.5 When construction of the Project is fifty percent (50%) completed, CMAR may request payment of one-half of the retention pursuant to A.R.S. § 34-609(B)(3), subject to all of Town's rights to withhold or offset payments, and other rights of Town, under the Contract.

8.1.6 Town reserves the right under A.R.S. § 34-609(B)(3) to reinstate the ten percent (10%) retention if Town determines that satisfactory progress is not being made.

8.1.7 CMAR's Warranty of Title.



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- 8.1.7.1 CMAR warrants and guarantees that title to all Work, materials and equipment covered by any CMAR Payment Request, whether incorporated in the Project or not, will pass to Town at the time of payment, free and clear of all liens, claims, security interests, and encumbrances, provided that this will not preclude the CMAR from installing metering devices or other equipment of utility companies or municipalities, the title of which is commonly retained by the utility company or municipality.
- 8.1.7.2 No materials, supplies, or equipment for the Work under this Contract will be purchased subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest therein, or any part thereof, is retained by the seller or supplier.
- 8.1.7.3 Nothing contained in this Section will defeat or impair the right of such persons furnishing materials or labor under any bond given by the CMAR for their protection, or any right under any law permitting such persons to look to funds due the CMAR in the hands of the Town. The provisions of this Section must be inserted in all subcontracts and material contracts, and notices of its provision must be given to all persons furnishing materials for the Work when no formal contract is entered into for such materials.

8.2 **PAYMENT UPON SUBSTANTIAL COMPLETION**

- 8.2.1 No payment will be made upon Substantial Completion, except for a regularly-scheduled monthly progress payment, as allowed by Section 8.2.2.
- 8.2.2 No further payments will be made to CMAR until Final Acceptance.

8.3 **FINAL PAYMENT**

- 8.3.1 Subject to all of Town's rights to withhold or offset payment, and other rights under the Contract, Final Payment including remaining retainage will be paid only after:
- Work has been fully completed (including completion of all incorrect or incomplete work items) and the written Final Acceptance has been issued by Town;
 - Necessary operating manuals, any excess materials and supplies necessary for matching materials and supplies incorporated into the Work, acceptable sewer video results (if applicable), and complete "as-built" Drawings (including the Building Information Model, if required by the Contract Documents) have been delivered to Town, as specified in this Section 8.4;
 - Full and unconditional lien waivers and releases by CMAR and any person performing labor or supplying material, machinery, fixtures, or tools for the Work have been delivered to CMAR;
 - All conditions and requirements imposed by Town or any financing entity for the corresponding disbursement have been met; and
 - CMAR delivers to Town a CMAR Payment Request requesting Final Payment.
- 8.3.2 CMAR must also submit a signed copy of CMAR's Affidavit Regarding Settlement of Claims, Appendix 3 to these General Conditions, and Certificate of Completion, Appendix 7 to these General Conditions, prior to Final Payment.
- 8.3.3 In addition, if required under the Project Specifications CMAR must compile a complete equipment list and maintenance manual to be submitted to Town as a precondition to Final Payment. The list must include the following items for all equipment supplied under the Plumbing, Electrical, Air Conditioning, Elevator, and other Special Equipment Specifications:
- Name, Model and Manufacturer.
 - Complete parts lists and Drawings.

- c. Local source of supply for replacement parts along with suppliers' telephone numbers.
- d. Local service organizations serving the equipment and their telephone numbers.
- e. All tags, inspection slips, instruction packages, etc., removed from equipment must be properly identified as to pieces of equipment from which they were taken.

8.3.4 CMAR must also deliver to Town, prior to Final Payment, one (1) digital (in the format specified by Town), and if requested by Town, one (1) hard copy, of any applicable Maintenance manuals. Each manual must include all manufacturer's operation and maintenance instructions and "as-built" Drawings with the list herein specified. It must also include all other diagrams and instructions necessary to properly operate and maintain the equipment, the name, address and telephone number of CMAR and all Subcontractors involved.

8.4 TOWN'S RIGHT TO WITHHOLD PAYMENT

Town may withhold payment to such extent as may be necessary in Town's opinion to protect Town from loss for which CMAR is responsible, including, without limitation, if any of the following conditions exist:

- a. Defective Work not remedied;
- b. Third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to Town is provided by CMAR;
- c. Failure of CMAR to make payments properly to Subcontractors or for labor, materials or equipment;
- d. Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price;
- e. Damage to Town or another CMAR;
- f. Reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- g. Failure to carry out the Work in accordance with the Contract Documents; or
- h. CMAR is in default of any of its other obligations under the Contract Documents.

8.5 JOINT/DIRECT CHECKS

To promote the timely completion and progress of the Work or when appropriate and necessary, payments to CMAR may be made jointly to CMAR and its employees, agents, Subcontractors and suppliers, or any of them.

8.6 PAYMENT NOT A WAIVER

No payment (nor use or occupancy of the Project by Town) will be deemed acceptance or approval of the Work or as a waiver of any claims, rights, or remedies of Town.

8.7 LIENS AND BOND CLAIMS

CMAR must make all payments, in the time required, of all labor and materials furnished to CMAR in the course of the Work and must promptly furnish evidence of such payments as Town may require. CMAR must pay when due all claims arising out of performance of the Work covered by this Contract for which a lien may be filed either against the real estate or leasehold interest of Town, or against payments due from Town to CMAR, or for which a claim may be made against any payment or performance bond or both. To the fullest extent permitted by law, CMAR agrees that no liens or other claims in the nature of a lien against the real estate, leasehold, or other interest of Town, against payment due from Town to CMAR, or against any payment or performance bond, must be filed or made in connection with the Work by any party who has supplied professional services, labor, materials, machinery, fixtures, tools, or equipment

used in or in connection with the performance of this Contract, and CMAR agrees to remove or to cause to be removed any such liens or claims in the nature of a lien or bond claim within 10 Days upon receiving notice or obtaining actual knowledge of the existence of such liens or claim. In addition, CMAR agrees to defend, indemnify, and hold harmless Town from and against any and all such liens and claims. This paragraph does not apply to claims and liens of CMAR due to non-payment for work performed.

8.8 FINANCIAL RECORDKEEPING AND TOWN'S AUDIT RIGHT

8.8.1 Records for all Contracts between Town and CMAR must, upon reasonable notice, be open to inspection and subject to audit, scanning, and reproduction during normal business working hours. Such audits may be performed by any Town's representative or any outside representative engaged by Town for the purpose of examining such records. Town or its designee may conduct such audits or inspections throughout the term of this Contract and for a period of five years after Final Payment or longer if required by law. Town's representatives may (without limitation) conduct verifications such as counting employees at the Site, witnessing the distribution of payroll, verifying information and amounts through interviews and written confirmations with CMAR employees, field and agency labor, Subcontractors, and vendors.

8.8.2 CMAR's "records" must include any and all information, materials and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may in Town's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract Document. Such records must include (hard copy, as well as computer readable data if it can be made available), written policies and procedures; time sheets; payroll registers; payroll records; cancelled payroll checks; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, negotiation notes, etc.); original bid estimates; estimating work sheets; correspondence; Change Order files (including documentation covering negotiated settlements); back-charge logs and supporting documentation; invoices and related payment documentation; general ledger, information detailing cash and trade discounts earned, insurance rebates and dividends; and any other CMAR records which may have a bearing on matters of interest to Town or the Project in connection with CMAR's dealings with Town or the Project (all foregoing hereinafter referred to as "records") to the extent necessary to adequately permit evaluation and verification of any or all of the following:

- a. Compliance with Contract requirements for deliverables;
- b. Compliance with approved Plans and Specifications;
- c. Compliance with § 14.9 below;
- d. Compliance with Contract provisions regarding the pricing of Change Orders;
- e. Accuracy of CMAR representations regarding the pricing of invoices; or
- f. Accuracy of CMAR representations related to claims submitted by CMAR or any of their employees.

8.8.3 CMAR must require all payees (examples of payees include Subcontractors, Suppliers, Insurance Carriers, etc.) to comply with the provisions of this Section by including the requirements hereof in a written Contract Agreement between CMAR and payee. CMAR will ensure that all payees (including those entering into lump sum contracts) have the same right to audit provisions contained in this contract included in their contracts with CMAR.

8.8.4 Town's authorized representative(s) (including, without limitation, Project Manager) must have reasonable access to CMAR's facilities, must be allowed to interview all current or former employees to discuss matters pertinent to the performance of this contract and must be provided adequate and appropriate work space, in order to conduct audits in compliance with this Section.

- 8.8.5 If an audit inspection or examination in accordance with this Section, discloses overpricing or overcharges to Town (of any nature) by CMAR or CMAR's Subcontractors in excess of \$100,000 in addition to making adjustments for the overcharges, the reasonable actual cost of Town's audit must be reimbursed to Town by CMAR. Any adjustments or payments which must be made as a result of any such audit or inspection of CMAR's invoices or records must be made within a reasonable amount of time (not to exceed 90 Days) from presentation of Town's findings to CMAR.
- 8.8.6 In addition to the normal paperwork documentation CMAR typically furnishes to Town, CMAR agrees to furnish, upon written request from Town, any of the documentation necessary for Town to exercise its audit rights under this Section 8.8 in computer readable file formats (Word, Excel, or .pdf), as Town may designate.
- 8.8.7 Town, its authorized representative, and the appropriate agency, reserve the right to audit CMAR's records in compliance with local, state or federal policies, statutes or at Town's discretion, within three (3) years of Final Acceptance of the Work.

SECTION 9 - CHANGES TO THE CONTRACT

9.1 FIELD ORDERS

Town may authorize minor changes in the Work not involving an adjustment in the Contract Price or the Contract Times, which are consistent with the overall intent of the Contract Documents. These may be accomplished by a written Field Order on the standard form approved and executed by Town. Such Field Orders must be binding and CMAR must perform the change promptly. If CMAR believes that a Field Order justifies an increase in the Contract Price or Contract Time, CMAR may make a claim therefore as provided in Section 7.2.

9.2 EXTRA WORK/CHANGES IN THE WORK

- 9.2.1 Town reserves the right to make such changes in the Plans and Specifications for the Work, as it may deem appropriate and any such change as set forth in a written Change Order must be deemed a part of this Contract as if originally incorporated herein.
- 9.2.2 In the event Town and CMAR cannot agree on the terms of a Change Order, or when circumstances otherwise require, the Project Manager has the authority to direct the CMAR to perform extra work, if the work in question is an item not provided for in the Contract as awarded. The Project Manager will have the authority to determine, based upon factual evidence presented by the CMAR, whether the work in question is an item not provided for in the Contract as awarded. If the Project Manager directs the CMAR to perform extra work, the Project Manager's instructions will include a price that the CMAR cannot exceed in charging the Town for the extra work. Upon receipt of the Project Manager's directions to perform extra work, the CMAR must promptly proceed with the extra work and document the actual cost thereof. CMAR's right to payment for extra work will be determined under Subsection 9.2.4 below. The CMAR is responsible for managing the extra work to ensure that the price limits set by the Project Manager are not exceeded. CMAR must perform the extra work and submit documentation for the actual cost of the extra work to the Town. A Change Order will be issued to cover this work.
- 9.2.3 CMAR will not be entitled to payment for extra work unless a written Change Order, in form and content prescribed by Town, has been executed by Town. On all requests for Change Orders, CMAR must specify the increased or decreased costs and whether it believes any extensions of time will be necessary to complete its Work as modified by the Change Order. If extra work is performed under Subsection 9.2.2 above, a corresponding Change Order will be prepared, approved and processed by Town before payment can be made to CMAR.
- 9.2.4 In general, pricing for Change Orders will include the same mark-up percentages that were in effect when the Contract was awarded. The cost or credit to the Town resulting from a change in the Work is subject to Appendix 1 (Policy Statement for Calculating Delays and Damages)

and will be determined, based on the type of pricing for the Contract involved, as follows:

- a. By mutual acceptance of a lump sum properly itemized in a form acceptable to Town;
- b. By unit prices stated in the Contract Documents;
- c. When the Town determines that a Unit Price Book Job Order associated with a Job Order Contract requires a Change Order, by using the same Total Cost Data and CCI that are in effect when the Change Order is anticipated to be issued; or
- d. By actual cost and a percentage fee covering overhead and profit, as follows:
 - (i) CMAR will perform the extra work and be compensated for actual cost of labor, materials and equipment.
 - (ii) CMAR will have the right to add the fee percentage applicable to the Work under the Contract, or if no such fee has been agreed to by the parties, not more than five percent (5%) to the Subcontractor's prices for authorized extra work performed solely by Subcontractors. Such percentage will include all of CMAR's charges for overhead, profit, administration and supervision.
 - (iii) CMAR or Subcontractor will have the right to add the fee percentage applicable to Work under the Contract for self-performed extra work, or if no such fee has been agreed to by the parties, CMAR's or Subcontractor's maximum total allowable additions for overhead, profit, administration and supervision will not exceed ten percent (10%) of actual verifiable labor, materials and equipment for such self-performed extra work.

9.2.5 Any agreement which modifies the terms of the Contract (including Change Orders) will be approved in writing by the Project Manager. Once properly executed by both parties, these modifications to the Contract will have the same effect as if they had been included in the original Contract.

9.3 ACCURACY OF CHANGE ORDER PRICING INFORMATION

9.3.1 Subject to Sections 9.3.2 through 9.3.4, signature by the contracting parties constitutes full accord and satisfaction between Town and CMAR for all costs, damages, and expenses of whatever kind of nature, including delay, impact or acceleration damages, which may be occasioned by a Change Order of other modification of the Contract agreed to in writing.

9.3.2 Accurate Change Order Pricing Information: CMAR agrees that it is responsible for submitting accurate cost and pricing data to Town to support its Fixed Price, Unit Price, or Cost-Plus Change Order Proposals or other Contract Price adjustments under the Contract. CMAR further agrees to submit Change Order proposals with cost and pricing data which is accurate, complete, current, and in accordance with the terms of the Contract with respect to pricing of change orders. CMAR agrees that any "buy-out savings" on Change Orders will accrue 100% to Owner. "Buy-out savings" are defined as any savings negotiated by the CMAR with a Subcontractor or a Material Supplier after receiving approval of a Change Order amount that was designated to be paid to a specific Subcontractor or Supplier for the Approved Change Order work.

9.3.3 Right to Verify Change Order Pricing Information: CMAR agrees that Town, through its designated representative, will have the right to examine, copy, and scan the records of the CMAR, Subcontractor or Sub-Subcontractor's records (during the Contract period and up to three years after final payment is made on the Contract) to verify the accuracy and appropriateness of the pricing data used to price all Change Order proposals or claims. CMAR agrees that if Town determines the cost and pricing data submitted (whether approved



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or not) was inaccurate, incomplete, not current, or not in compliance with the terms of the Contract regarding pricing of Change Orders, an appropriate Contract Price adjustment will be made. Such post-approval Contract Price adjustments will apply to all levels of CMARs and subcontractors and to all types of Change Order proposals, specifically including Fixed Price, Unit Price, and Cost Plus Change Orders.

- 9.3.4 **Requirements for Detailed Change Order Pricing Information:** CMAR agrees to provide a detailed breakdown of allowable labor and labor burden cost (i.e., base wage rate of applicable classifications of workers, payroll taxes, and insurance and benefits costs). This information will be used to evaluate the potential cost of labor and labor burden related to Change Order work. It is intended that this information represent an accurate estimate of the CMAR's actual labor and labor burden cost components. Information is not intended to establish fixed billing or Change Order pricing labor rates. However, at the time Change Orders are priced, the submitted cost data for labor rates may be used to price Change Order work. The accuracy of any such agreed upon labor rate cost components used to price Change Orders will be subject to later audit. Approved Change Order amounts may be adjusted later to correct the impact of inaccurate labor cost components if the agreed upon labor cost components are determined to be inaccurate.

9.4 **EMERGENCIES**

In any emergency affecting the safety of persons or property, CMAR will act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price or Contract Time resulting from emergency work will be determined as provided in this Section.

9.5 **DIFFERING SITE CONDITIONS**

- 9.5.1 If Differing Site Conditions are encountered at the Project Site, then notice by the observing party must be given to the other party promptly before conditions are disturbed (to the extent practicable) and in no event later than 14 Days after first observance of the conditions. Town will promptly investigate such conditions and, if Town determines that Differing Site Conditions exist and they materially cause an increase in the cost of, or time required for, performance of any part of the Work, CMAR will be entitled to equitable adjustment in the Contract Price or Construction Schedule (and other time requirements), or both. If it is determined by Town that the conditions at the Project Site are not Differing Site Conditions and no change is justified, then Town will notify CMAR in writing, stating the reasons. Claims in opposition to such determination must be made within 14 Days after Town has given notice of its decision. If Town and CMAR cannot agree on an adjustment in the Contract Price or Construction Schedule (and other time requirements), the adjustment may be submitted to dispute resolution as provided these General Conditions.

9.6 **CHANGES IN LAWS, REGULATIONS, OR LEGAL REQUIREMENTS OR TAXES**

In the event of a material change in applicable Laws, Regulations, or Legal Requirements, or taxes subsequent to the date of the Contract by the parties, CMAR may be entitled to a Change Order, in Town's discretion, to the extent CMAR can document to the satisfaction of Town that such change significantly increases CMAR's actual cost of performance of the Work.

SECTION 10 -SUSPENSION AND TERMINATION

10.1 **SUSPENSION**

- 10.2 Town may suspend the Contract and CMAR's performance in accordance with MAG Specifications § 105.1, 108.7, **TERMINATION BY THE TOWN FOR CAUSE**

- 10.2.1 MAG Specifications § 108.11 and 108.10

applies to the Contract.

- 10.2.2 Town may also terminate the Contract if Town determines, in its sole discretion that CMAR has:



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- a. After prior written notice, refused or failed to supply enough properly skilled workers or proper materials;
- b. After prior written notice, failed to make payment to Subcontractors for materials or labor in accordance with the respective agreements between CMAR and the Subcontractors;
- c. After prior written notice, disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
- d. After prior written notice, repeatedly failed to comply with written directives from Town;
- e. Is adjudged as bankrupt or insolvent;
- f. Made a general assignment for the benefit of creditors;
- g. Appointed a trustee or receiver for itself or any of its property;
- h. Filed a petition to take advantage of any debtor's act, or to reorganize under bankruptcy or similar laws; or
- i. Otherwise breached a provision of the Contract Documents or any other contract between Town and CMAR.

10.2.3 When any of the above reasons exist, Town may terminate the Contract, without prejudice to any other rights or remedies of Town, after giving CMAR and CMARs' surety, if any, 7 Days written notice of Town's intent to terminate the Contract and CMAR's failure to cure any such reasons. Upon such termination, Town may: (1) take possession of the Site and of all materials thereon owned by CMAR; or (2) finish the Work by whatever reasonable method Town may deem expedient. When Town terminates the Contract for one of the reasons state above, CMAR will not be entitled to receive further payment until the Work is finished. If the unpaid balance of the Contract Price existing at the time of such termination exceeds the costs and expenses of finishing the Work and any other damages incurred by Town, such excess will be paid to CMAR. If such costs, expenses and damages exceed such unpaid balance, CMAR must pay the difference to Town. This obligation for payment will survive termination of the Contract.

10.3 **TERMINATION BY TOWN FOR CONVENIENCE**

Town may also terminate the Contract at any time for its convenience upon 7 Days written notice to CMAR specifying the termination date. In the event of termination which is not the fault, in whole or in part, of CMAR, Town will pay to CMAR only such compensation, including reimbursable expenses, due for Work properly performed on the Project prior to the termination date. Upon any termination of the Contract, no further payments will be due from Town to CMAR.

10.4 **A.R.S. § 38-511, 38-848, 35-393.01, & 35-394**

The Contract is subject to, and may be terminated by Town in accordance with, the provisions of A.R.S. § 38-511, A.R.S. § 38-848, A.R.S. § 35-393.01, and A.R.S. § 35-394.

SECTION 11 -INSURANCE AND BONDS

11.1 **INSURANCE REQUIREMENTS**

11.1.1 At the time Town issues Notice of Contract Award, the CMAR must furnish the Town a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to Town. Provided, however, the A.M. Best rating requirement may not be deemed to apply to required Worker's Compensation coverage.

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- 11.1.2 The CMAR and any of its Subcontractor must procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, the insurances set forth below.
- 11.1.3 The insurance requirements set forth below are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract.
- 11.1.4 The Town in no way warrants that the minimum insurance limits contained in this Contract are sufficient to protect CMAR from liabilities that might arise out of the performance of the Contract services under this Contract by CMAR, its agents, representatives, employees, or Subcontractors and the CMAR is free to purchase any additional insurance as may be determined necessary.
- 11.1.5 Failure to demand evidence of full compliance with the insurance requirements in this Contract or failure to identify any insurance deficiency will not relieve the CMAR from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Contract.
- 11.1.6 Use of Subcontractors: If any Work is subcontracted in any way, the CMAR must execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the Town requires of the CMAR in this Contract. The CMAR is responsible for executing the Contract with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.
- 11.1.7 Contractor shall require any and all subcontractor performing work under this contract to carry insurance of the types and with limits of liability, as Contractor shall deem appropriate and adequate for the work being performed. Contractor shall obtain and make available for inspection by Owner upon request current certificates of insurance evidencing insurance coverages carries by such subcontractors.
- 11.2 MINIMUM SCOPE AND LIMITS OF INSURANCE**
- 11.2.1 The CMAR must provide coverage with limits of liability not less than those stated below.
- 11.2.1.1 Professional Indemnity Liability Insurance.
Professional Liability. If the Agreement is the subject of any professional services or work performed by CMAR, or if CMAR engages in any professional services or work adjunct or residual to performing the work under this Agreement, CMAR must maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed by CMAR, or anyone employed by CMAR, or anyone whose acts, mistakes, errors and omissions CMAR is legally liable, with a liability limit of \$1,000,000 each claim and \$2,000,000 all claims. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage must extend for 3 years past completion and acceptance of the work or services, and CMAR, or its selected Design Professional will submit Certificates of Insurance as evidence the required coverage is in effect. The Design Professional must annually submit Certificates of Insurance citing that the applicable coverage is in force and contains the required provisions for a 3 year period.
- 11.2.1.2 Commercial General Liability-Occurrence Form. CMAR must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent CMARs, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
- 11.2.1.3 Automobile Liability-Any Automobile or Owned, Hired and Non-Owned Vehicles. CMAR must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on CMAR owned, hired, and non-owned vehicles assigned to or used in the performance under this
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Contract. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

- 11.2.1.4 Workers Compensation and Employers Liability Insurance. CMAR must maintain Worker Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CMAR employees engaged in the performance of Work under this Contract and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.
- 11.2.1.5 Builders' Risk/Installation Floater Insurance. The CMAR bears all responsibility for loss to all equipment or Work under construction. Unless waived in writing by the Town the CMAR will purchase and maintain in force Builders' Risk/Installation Floater insurance on the entire Work until substantial completion. This insurance will be Special Causes of Loss policy form, (minimally including perils of fire, flood, lightning, explosion, windstorm and hail, smoke, aircraft and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, and collapse), completed value, replacement cost policy form equal to the contract price and all subsequent modifications. The CMAR's Builders' Risk/Installation Floater insurance must be primary and not contributory.
- a. Builders' Risk/Installation Floater insurance must cover the entire Work including reasonable compensation for architects and engineers' services and expenses and other "soft costs" made necessary by an insured loss. Builders' Risk/Installation Floater insurance must provide coverage from the time any covered property comes under the CMAR's control and or responsibility, and continue without interruption during course of construction, renovation and or installation, including any time during which any Project property or equipment is in transit, off Site, or while on Site for future use or installation. Insured property must include, but not be limited to, scaffolding, false work, and temporary buildings at the Site. This insurance must also cover the cost of removing debris, including demolition as may be legally required by operation of any law, ordinance, regulation or code.
 - b. The CMAR must also purchase and maintain Boiler and Machinery insurance with the same requirements as Builders' Risk/Installation Floater insurance cited above if the Work to be performed involves any exposures or insurable property normally covered under a Boiler and Machinery insurance policy or made necessary as required by law or testing requirements in the performance of this Contract/Agreement. The CMAR will be responsible for any and all deductibles under these policies and the CMAR waives all rights of recovery and subrogation against the Town under the CMAR- Builders' Risk/Installation Floater insurance described herein.
 - c. Builders' Risk/Installation Floater Insurance must be maintained until whichever of the following first occurs: (i) final payment has been made; or, (ii) until no person or entity, other than the Town, has an insurable interest in the property required to be covered.
 - d. The Builders' Risk/Installation Floater insurance must be endorsed so that the insurance will not be canceled or lapse because of any partial use or occupancy by the Town.
 - e. The Builders Risk/Installation Floater insurance must include CMAR will be named insured; the Town, and all tiers of subcontractors and others with an insurable interest in the Work who will be named as additional insureds unless they are able to provide the same level of coverage with the Town. Certificates must contain a provision that the insurance will not be canceled or materially altered without at least 30 Days advance notice to the Town. The Town must also be named as a Loss Payee under the Builders' Risk/Installation Floater coverage.
 - f. The Builders Risk/Installation Floater insurance must be written using the Special

Causes of Loss policy form, replacement cost basis.

- g. All rights of subrogation under the Builders Risk/Installation Floater insurance are, by this Contract/Agreement, waived against the Town, its officers, officials, agents and employees.
- h. The CMAR is responsible for payment of all deductibles under the Builders' Risk/Installation Floater insurance policy.

11.2.1.6 Pollution Liability Insurance (Including Errors and Omissions). For Job Orders, Pollution Liability Insurance is only required if applicable and determined on a project specific basis. CMAR must maintain Pollution Liability Insurance with a limit of not less than \$5,000,000 per loss, \$5,000,000 aggregate for losses caused by pollution conditions including coverage for bodily injury, property damage, defense costs, clean-up costs, and completed operations that arise from the operations of CMAR as described in this Contract.

- a. The policy must provide for complete professional service coverage, including coverage for pollution liability that is a result of a breach of professional duties.
- b. The policy must provide for protection again claims for third-party bodily injury, property damage, or environmental damage caused for pollution conditions resulting from general contracting activities for which CMAR is legally liable.
- c. The policy must provide for cleanup costs when mandated by governmental entities, when required by law, or as a result of third-party claims.
- d. Completed Operations Coverage must be kept in place for up to the statute of repose.
- e. The policy must be endorsed to include the following additional insured language: "Town, its elected officials, trustees, employees, agents, and volunteers must be named as additional insureds with respect to liability arising out of the activities performed by, or on behalf of CMAR".
- f. If Work under this Contract requires the transportation of any hazardous material or regulated substances, CMAR must carry Auto Liability with a CA 9948 endorsement or equivalent.
- g. If Work under this Contract requires the disposal of any hazardous materials from the job site, CMAR must obtain a certificate of insurance for Pollution Legal Liability from the disposal site operator with a limit of not less than \$5,000,000 per loss, \$5,000,000 aggregate.

11.3 **ADDITIONAL POLICY PROVISIONS REQUIRED**

11.3.1 Self-Insured Retentions or Deductibles. Any self-insured retentions and deductibles must be declared and approved by the Town. If not approved, the Town may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the Town, its officers, officials, agents, employees, and volunteers.

11.3.2 The CMAR's insurance must contain broad form contractual liability coverage.

11.3.3 The CMAR's insurance coverage must be primary insurance with respect to the Town, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the Town, its officers, officials, agents, and employees will be in excess of the coverage provided by the CMAR and must not contribute to it.

11.3.4 The CMAR's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

11.3.5 Coverage provided by the CMAR must not be limited to the liability assumed under the indemnification provisions of this Contract.



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- 11.3.6 The policies must contain a severability of interest clause and waiver of subrogation against the Town, its officers, officials, agents, and employees, for losses arising from Work performed by the CMAR for the Town.
- 11.3.7 The CMAR, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Contract for a minimum period of 3 years following completion and acceptance of the Work. The CMAR must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Contract insurance requirements, including naming the required Additional Insureds set forth herein.
- 11.3.8 If a Certificate of Insurance is submitted as verification of coverage, the Town will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Contract.
- 11.3.9 Insurance Cancellation During Contract Term.
- 11.3.9.1 If any of the required policies expire during the life of this Contract, the CMAR must forward renewal or replacement Certificates to the Town within 10 Days after the renewal date containing all the required insurance provisions.
- 11.3.9.2 Each insurance policy required by the insurance provisions of this Contract must provide the required coverage and must not be suspended, voided or canceled except after 30 Days prior written notice has been given to the Town, except when cancellation is for non-payment of premium, then 10 Days prior notice may be given. Such notice must be sent directly to all Parties. If any insurance company refuses to provide the required notice, the CMAR or its insurance broker must notify the Town of any cancellation, suspension, non-renewal of any insurance within 7 Days of receipt of insurers' notification to that effect.
- 11.3.10 Town as Additional Insured. The above-referenced policies are to contain, or be endorsed to contain, the following provisions:
- 11.3.10.1 The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The Town, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the CMAR including the Town's general supervision of the CMAR; Products and Completed Operations of the CMAR; and automobiles owned, leased, hired, or borrowed by the CMAR.
- 11.3.10.2 The Town, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the CMAR even if those limits of liability are in excess of those required by this Contract.
- 11.3.10.3 Upon acceptance of the GMP, CMAR shall add the PM / CM and Architect as additional insureds.
- 11.4 BONDS AND OTHER PERFORMANCE SECURITY**
- 11.4.1 At the time Town issues Notice of Contract Award, CMAR must provide a Performance Bond and a Payment Bond, each in an amount equal to the full amount of the Contract Price.
- 11.4.2 Each such bond must be executed by a surety company or companies holding a Certificate of Authority to transact surety business in the State of Arizona, issued by the Director of the Arizona Department of Insurance and must be named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. A copy of the Certificate of Authority must accompany the bonds. The Certificate must have been issued or updated within two (2) years prior to the execution of this Agreement. The bonds must be written or countersigned by an authorized representative of the surety who is either a resident of the state of Arizona or whose principal office is maintained in this state, as by law required.



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- 11.4.3 The bonds must be made payable and be acceptable to Town. The bond forms for the performance and payment bonds must be in the forms required under A.R.S. § 34-221, *et. Seq.*, as in Appendices 4 and 5 of these General Conditions.
- 11.4.4 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract Documents, CMAR must promptly furnish a copy of the bonds or must permit a copy to be made.
- 11.4.5 All bonds submitted for this Project must be provided by a company which has been rated AM Best rating of A- or better for the prior four quarters by the latest edition of the 'Results Best's Key Rating Guide (Property/Casualty)' published by the A.M. Best Company.
- 11.4.6 Personal or individual bonds are not acceptable.
- 11.4.7 If the surety on any Bond furnished by CMAR is declared a bankrupt or becomes insolvent, or CMAR's right to do business is terminated in any state where any part of the Project is located, or it ceases to meet the requirements of this Section 11.4, CMAR must within 5 Days thereafter substitute another Bond and surety, both of which must be acceptable to Town.

SECTION 12 - INDEMNIFICATION

- 12.1 The CMAR and its owners, officers, directors, agents, employees, and subconsultants (collectively "Indemnitor") must indemnify, save, and hold harmless the Town and its officers, officials, agents, and employees (collectively "Indemnitee") from any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation, and litigation) (collectively "Claims") caused or alleged to be caused, in whole or in part, by the negligent, reckless, wrongful, or willful acts, errors, or omissions of Indemnitor in connection with this Agreement. This indemnity includes any Claim or amount arising out of or recovered under workers' compensation laws or on account of Indemnitor's failure to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. Indemnitor must indemnify Indemnitee from and against any and all Claims, except those arising solely from Indemnitee's own negligent, reckless, wrongful, or willful acts, errors, or omissions. Indemnitor is responsible for primary loss investigation, defense, and judgment costs where this indemnification applies. In consideration of the award of this Agreement, Indemnitor agrees to waive all rights of subrogation against Indemnitee for losses arising from or related to this Agreement. Indemnitor's obligations under this provision survive the termination or expiration of this Agreement.

SECTION 13 -DISPUTE RESOLUTION

- 13.1 Except as otherwise provided herein, any dispute arising out of the Services which is not otherwise disposed of by separate agreement shall be decided by authorized Town staff, who shall mail or otherwise furnish a written decision to the CMAR authorized representative. Such decision by the Town shall be final unless the CMAR, within thirty (30) calendar days after notice of the Town's decision, files with the Town a written protest stating clearly and in detail the basis thereof. The CMAR shall continue its performance under this Agreement during any such dispute resolution process.
- 13.2 Notwithstanding any other provision in this Contract, Town has the right to immediately file in court and pursue an action for a temporary restraining order and injunctive relief against CMAR if Town determines that such action is necessary to protect its interests under the Contract, to obtain specific performance of any provision of the Contract, to advance the completion of the Project, or to protect health, welfare and safety.

SECTION 14 - MISCELLANEOUS PROVISIONS

14.1 CONTRACT DOCUMENTS



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- 14.1.1 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Times for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards.
- 14.1.2 It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result must be provided by CMAR whether specifically called for at no additional cost to Town.
- 14.1.3 The Contract Documents establish the rights and obligations of the parties and include the Contract, Addenda (which pertain to the Contract Documents), CMAR's Bid or Proposal (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Contract, the accepted Project Schedule, the Notice to Proceed, the Performance Bond, the Payment Bond, Project Design, Engineering and Specifications, these General Conditions, the Project Specific Special Provisions, Technical Specifications, Contract Drawings, as the same may be more specifically identified in the Contract, Change Orders, Work Change Directives, Field Orders and the written interpretations and clarifications of the Design Professional or Town representative and Modifications issued after execution of the Contract. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.
- 14.1.4 In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Contract Documents will take precedence as follows from highest to lowest: Change Orders, Addenda, Contract, Project Specific Special Provisions, General Conditions, Technical Specifications, Drawings/Plans, Town of Prescott Valley Amendments to MAG Standard Specifications and Town of Prescott Valley Standard Details, and MAG Uniform Standard Specifications and Details for Public Works Construction. If applicable to this Contract, Federal Provisions prevail.
- 14.1.5 On the Drawings, given dimensions will take precedence over scaled measurements and large-scale drawings over small-scale drawings.
- 14.1.6 Clarifications and interpretations of the Contract Documents will be issued by the Design Professional through the Town.
- 14.1.7 The headings used in this Agreement or any other Contract Documents, are for ease of reference only and must not in any way be construed to limit or alter the meaning of any provision.
- 14.1.8 The Contract Documents form the entire agreement between Town and CMAR. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.
- 14.1.9 The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party in the form of a Change Order.
- 14.1.10 Re-Use of Documents. Neither CMAR nor any Subcontractor, manufacturer, fabricator, supplier or distributor will have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of the Design Professional; and they must not re-use any of them on extensions of the Project or any other project without written consent of Town and the Design Professional and specific written verification or adaptation by the Design Professional.

14.2 REFERENCE STANDARDS

- 14.2.1 Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, will mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
- 14.2.2 The provisions of any such standard, specification, manual or code, or any instruction of a Supplier will not change the duties Subcontractors responsibilities of Town, CMAR, Design Professional or Project Manager, or any of their Subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor will any such provision or instruction assign to Town, CMAR, Design Professional, or any of their agents, or employees any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

14.3 COMPLIANCE WITH ARIZONA LAW AND FEDERAL LAW

- 14.3.1 Compliance with A.R.S. § 41-4401. Pursuant to the provisions of A.R.S. § 41-4401, the CMAR hereby warrants to the Town that the CMAR and each of its subcontractors ("Subcontractors") must comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A).
- 14.3.2 A breach of the CMAR Immigration Warranty constitutes a material breach of this Contract and subject to penalties up to and including termination of this Contract.
- 14.3.3 The Town retains the legal right to inspect the papers of any CMAR or Subcontractor employee who works on this Contract to ensure that the CMAR or Subcontractor is complying with the CMAR Immigration Warranty. The CMAR agrees to assist the Subcontractor in the conduct of any such inspections.
- 14.3.4 The Town may, at its sole discretion, conduct random verifications of the employment records of the CMAR and any Subcontractors to ensure compliance with CMAR's Immigration Warranty. The CMAR agrees to assist the Town in performing any such random verifications.
- 14.3.5 The provisions of this Article must be included in any contract the CMAR enters into with any and all of its Subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a CMAR or Subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

14.4 HAZARDOUS ENVIRONMENTAL CONDITIONS

- 14.4.1 CMAR will not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Document to be within the scope of the Work. CMAR will be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by CMAR, Subcontractors, Suppliers, or anyone else for whom CMAR is responsible.
- 14.4.2 If CMAR encounters a Hazardous Environmental Condition or if CMAR or anyone for whom CMAR is responsible creates a Hazardous Environmental Condition. CMAR must immediately:
- a. Secure or otherwise isolate such condition;
 - b. Stop all Work in connection with such condition and in any area affected thereby; and
 - c. Notify Town and promptly thereafter confirm such notice in writing.



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- 14.4.3 Town will promptly retain a qualified expert to evaluate such condition or take corrective action, if any.
- 14.4.4 CMAR will be responsible for all civil or criminal penalties, fines, damages, or other charges imposed by any regulatory agency or court for sewage discharges that are in violation of applicable statutes and laws and that are a result, direct or indirect, of work performed under this Contract. CMAR will also be responsible for reimbursement to Town for administration, reporting, and tracking expenses required because of any spill event. In the event the regulatory agency or court imposes a probationary period, CMAR must post bond for the probationary period to ensure that all such costs are reimbursed to Town. This responsibility will apply whether penalties are imposed directly on CMAR or any of its Subcontractors, or the Town of Prescott Valley. CMAR must defend and indemnify Town against such penalties. Regulatory agencies may include, but are not limited to, the Arizona Department of Environmental Quality (ADEQ) and the United States Environmental Protection Agency (USEPA).
- 14.5 **COOPERATION AND FURTHER DOCUMENTATION**
CMAR agrees to provide the Town such other duly executed documents as may be reasonably requested by Town to implement the intent of the Contract Documents.
- 14.6 **ASSIGNMENT**
Neither CMAR nor Town will, without the written consent of the other assign, transfer or sublet any portion of this Agreement or part of the Work or the obligations required by the Contract Documents, any such assignment will be void, will transfer no rights to the purported assignee, and would be a material breach of the Contract.
- 14.7 **SUCCESSORS**
CMAR and Town intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.
- 14.8 **LAWFUL PRESENCE**
Pursuant to A.R.S. §§ 1-501 and 1-502, Town is prohibited from awarding a contract to any natural person who cannot establish that such person is lawfully present in the United States. To establish lawful presence, a person must produce qualifying identification and sign a Town-provided affidavit affirming the identification provided is genuine. This requirement will be imposed at the time of contract award. This requirement does not apply to business organizations such as corporations, partnerships, or limited liability companies.
- 14.9 **NO BOYCOTT OF ISRAEL CERTIFICATION**
By CMAR's signature on this Contract, CMAR certifies under A.R.S. § 35-393.01 that CMAR is not currently engaged in and for the duration of this Contract will not engage in a boycott of Israel.
- 14.10 **NO THIRD PARTY BENEFICIARY**
Nothing under the Contract Documents will be construed to give any rights or benefits in the Contract Documents to anyone other than Town and CMAR, and all duties and responsibilities undertaken pursuant to the Contract Documents will be for the sole and exclusive benefit of Town and CMAR and not for the benefit of any other party, unless otherwise expressly set forth in the Contract Documents.
- 14.11 **GOVERNING LAW AND VENUE**
The Agreement and all Contract Documents will be deemed to be made under and will be construed in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions thereof. Any court action to enforce any provision of the Contract or to obtain any remedy with respect hereto must be brought in the Superior Court, Maricopa County, Arizona, and for this purpose, each party hereby expressly and irrevocably consents to the jurisdiction and venue of such Court.
- 14.12 **SEVERABILITY**

If any provision of the Contract Documents or the application thereof to any person or circumstance will be invalid, illegal or unenforceable to any extent, the remainder of the affected provision, the remainder of the Contract Documents, and the application thereof will not be affected and will be enforceable to the fullest extent permitted by law.

14.13 LEGAL REQUIREMENTS

At all times relevant to its entry into this Contract and performance of the Services and the Work, CMAR must fully comply with all Laws, Regulations, or Legal Requirements applicable to Town, the Project, and the Contract, including, without limitation, those set forth on Exhibit C of the Contract.

14.14 PARTIAL INVALIDITY

If any provision of the Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

14.15 ATTORNEYS' FEES

Should either party to the Contract bring an action to enforce any provision of the Contract, the prevailing party will be entitled to recover reasonable attorneys' fees and costs in connection therewith.

14.16 CONFLICT OF INTEREST

14.16.1 CMAR agrees to disclose any financial or economic interest with the Project property, or any property affected by the Project, existing prior to the execution of the Contract. Further, CMAR agrees to disclose any financial or economic interest with the Project property, or any property affected by the Project, if CMAR gains such interest during the course of this Contract. If CMAR gains financial or economic interest in the Project during the course of this Contract, this may be grounds for terminating this Contract. Any decision to terminate the Contract must be at the sole discretion of Town.

14.16.2 CMAR will not engage the services on this Contract of any present Town employee who was involved as a decision maker in the selection or approval processes, or who negotiated or approved billings or Contract Modifications for this Contract.

14.16.3 CMAR agrees that it will not perform services on this Project for a CMAR, Subcontractor, or any supplier, not covered under this Contract.

14.17 INDEPENDENT CMAR

CMAR is and must be an independent CMAR. Any provisions in the Contract Documents that may appear to give Town the right to direct CMAR as to the details of accomplishing the Work or to exercise a measure of control over the Work means that CMAR must follow the wishes of Town as the results of the Work only. These results must comply with all applicable laws and ordinances.

14.18 NOTICE OF INJURY

Should Town or CMAR suffer injury or damage to their person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim must be made in writing to the other party within 7 Days of the first observance of such injury or damage.

14.19 CONFIDENTIALITY

CMAR, for the benefit of Town, hereby agrees it will not release or cause or permit to be released to the public any press notices, publicity (oral or written) or advertising promotion relating to, any statement regarding, or any other public announcement or disclosure or cause or permit to be publicly announced or disclosed, in any manner whatsoever, the specific terms and conditions of this Agreement or any comment relating to the Project or the Site.

Notwithstanding the foregoing, CMAR will be entitled to disclose the terms of the Agreement to the extent required by law or in the course of enforcing or defending a claim or action hereunder. CMAR must give Town reasonably prompt notice of any disclosure or statement made pursuant to this provision.

14.20 DATA CONFIDENTIALITY

14.20.1 As used in the Contract, "data" means all information, whether written or verbal, including plans, specifications, renderings, 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, obtained by, or transmitted to the Town in the performance of this Contract.

14.20.2 CMAR agrees that all data, regardless of form, including originals, images, and reproductions, prepared by, obtained by, or transmitted to Town in connection with the CMAR's performance of this Contract is confidential and proprietary information belonging to Town.

14.20.3 Except as specifically provided in this Contract, CMAR or its Subcontractors must not divulge data to any third party without prior written consent of Town. CMAR or its Subcontractors must not use data for any purposes except to perform Work required under this Contract. These prohibitions will not apply to the following data provided CMAR has first given the required notice to Town:

- a. Data which was known to CMAR or its Subcontractors prior to its performance under this Contract unless such data was acquired in connection with Work performed for Town;
- b. Data which was acquired by CMAR or its Subcontractors in its performance under this Contract and which was disclosed to CMAR or its Subcontractors by a third party, who to the best of CMAR's or its Subcontractor's knowledge and belief, had the legal right to make such disclosure and CMAR or its Subcontractors are not otherwise required to hold such data in confidence; or
- c. Data which is required to be disclosed by virtue of law, regulation, or court order, to which the CMAR or its Subcontractors are subject.

14.20.4 In the event the CMAR or its Subcontractors are required or Subcontractors to disclose data to a third party, or any other information to which the CMAR or its Subcontractors became privy as a result of any other contract with Town, the CMAR must first notify Town as set forth in this Section of the request or demand for the data. The CMAR or its Subcontractors must give Town sufficient facts so that Town can be given an opportunity to first give its consent or take such action that Town may deem appropriate to protect such data or other information from disclosure.

14.20.5 Unless prohibited by law, within 10 Days after completion of services for a third party on real or personal property owned or leased by Town, the CMAR must promptly deliver, as set forth in this Section, a copy of all data to Town. All data will continue to be subject to the confidentiality agreements of this Contract.

14.20.6 CMAR or its Subcontractors assume all liability for maintaining the confidentiality of the data in its possession and agree to compensate Town if any of the provisions of this Section are violated by CMAR, its employees, agents, or Subcontractors. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this Section will be deemed to cause irreparable harm that justified injunctive relief in court. CMAR agrees that the requirements of this Section will be incorporated into all subcontracts entered into by CMAR. A violation of this Section may result in immediate termination of this Contract without notice.

14.21 SURVIVAL

All warranties, representations and indemnifications by CMAR must survive the completion or termination of this Agreement.



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14.22 **COVENANTS AGAINST CONTINGENT FEES**

CMAR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that no member of Town Council, or any employee of Town has any interest, financially, or otherwise, in the firm. For breach or violation of this warrant, Town will have the right to annul the Contract without liability or at its discretion to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

14.23 **NO WAIVER**

The failure of either party to enforce any of the provisions of the Contract Documents or to require performance of the other party of any of the provisions hereof must not be construed to be a waiver of such provisions, nor will it affect the validity of the Contract Documents or any part thereof, or the right of either party to thereafter enforce each and every provision.

14.24 **NONEXCLUSIVE REMEDIES**

The remedies set forth in this Contract are cumulative and not exclusive, and failure to exercise any remedy (including, without limitation, any right to terminate) will not preclude any party from exercising any other right in seeking any other remedy available to it at law or in equity.

14.25 **PROJECT COMMUNICATIONS**

14.25.1 All communications concerning the performance of the Work or the Project will be provided to the designated Project Manager and CMAR's Representative set forth in Article 1 of the Contract. Town may change the designated Project Manager and, subject to Section 4.4.20 of these General Conditions, CMAR may change CMAR Representative, by written notice to the other.

14.25.2 Project communications may be exchanged by e-mail, but email communications cannot change the terms of the Contract or the Scope of Work or effectuate any change that requires a written Change Order.

14.25.3 When any provisions of the Contract Documents requires CMAR or the Design Professional to give written notice to Town, it will be deemed to have been validly given if delivered in person to the person designated in the Contract Documents as Project Manager, or if delivered at or sent by registered or certified mail, postage prepaid, to the Town Engineer addressed as follows:

To Town:	Town of Prescott Valley Public Works Director: Heather Ruder Phone: 928-759-3071 Email: hruder@prescottvalley-az.gov
With a Copy to:	
With a Copy to:	
To CMAR:	CORE Construction, Inc. President: Todd Steffen, and/or designee Phone: 602-494-0800 Email: toddsteffen@coreconstruction.com



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- 14.25.4 When any provisions of the Contract Documents requires Town, Project Manager, or the Design Professional to give written notice to CMAR, it will be deemed to have been validly given if delivered in person to the person designated in the Contract Documents as CMAR's Resident Superintendent, or if delivered at or sent by registered or certified mail, postage prepaid, to CMAR at the last address in the Contract Documents or such substitute address which CMAR designates in writing, or to the business address known to the giver of notice.

14.26 DRUG FREE WORKPLACE PROGRAM

- 14.26.1 Town has adopted a policy establishing a drug free workplace for itself and as a requirement for CMARs doing business with Town, to ensure the safety and health of employees working on Town projects.
- 14.26.2 CMAR must require a drug free workplace for all employees working under the Contract. Specifically, all employees of CMAR who are working under a Contract with Town must be notified, in writing, by CMAR that they are prohibited from the manufacture, distribution, dispensation, possession or unlawful use of a controlled substance in the workplace.
- 14.27 Failure to require a drug free workplace in accordance with the Town's policy may result in termination of the Contract and possible debarment from bidding on future Town projects.

SECTION 15 - PROVISIONS APPLICABLE SOLELY TO GMP AND COST-BASED CONTRACTS. CHANGE ORDERS. AND JOB ORDERS

15.1 ADDITIONAL DEFINITIONS

The definitions set forth in Section 2 apply to GMP and Cost-Based Contracts, Change Orders, and Job Orders, together with the additional definitions set forth below.

Baseline Cost Model –

A breakdown and estimate of the scope of the Project developed by CMAR pursuant to Section 17.5 of these General Conditions.

CMAR or Construction Manager at Risk –

The person or firm selected by Town to provide pre-construction and/or construction services as detailed in a Construction Manager at Risk Contract with Town. In these General Conditions, the term "CMAR" includes CMAR under both Pre-Construction and Construction Services Contracts.

CMAR Fee or CMAR's Fee –

An agreed to percentage in an accepted GMP that represents the CMAR's fee for performance of the Work.

Contract Documents –

Where compensation under the Contract is based upon a GMP accepted by Town, the term "Contract Documents" also includes the accepted GMP Proposal.

Contract Price –

Where compensation under the Contract based upon a GMP accepted by Town, the term "Contract Price" refers to the GMP.

Cost-Based Contract, Change Order, or Job Order –

A Contract, Change Order, or Job Order where the Contract Price is based upon the actual cost of performing the Work, subject to the terms of the Contract Documents, including this Section 15. These would include those generally referred to as "Cost of the Work plus a Fee with a GMP," "Time and Materials," or "Cost Plus a Fee."

Cost of the Work –

The direct costs necessarily incurred by CMAR in the proper, timely, and complete performance on the Work. The Cost of the Work will include only those costs set forth in Section 15.2 of these General Conditions.



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Deliverables –

The work products prepared by CMAR in performing the scope of work described in the Contract. Some of the major deliverables to be prepared and provided by CMAR during pre-construction may include but are not limited to: the Baseline Cost Model and Schedule that validate Town's plan and budget, Construction Management Plan, Detailed Project Schedule, Schedule of Values, alternative system evaluations, procurement strategies and plans, Detailed Cost Estimates, construction market surveys, cash flow projections, GMP Proposals, Subcontractor procurement plan, Subcontractor agreements, Subcontractor bid packages, Supplier agreements, Constructability Review, Cost Control Log, Traffic control and phasing plans and others as indicated in this Contract or required by the Project Team.

Pre-Construction Services Contract –

The Contract entered into between Town and the CMAR for Pre-Construction Services to be provided by the CMAR, including, without limitation, the generation of a GMP Proposal. If the GMP Proposal is accepted by Town and a Construction Contract is entered into between Town and CMAR, the duties, obligations and warranties of the CMAR under the Pre-Construction Services Contract survive and are incorporated into the resulting Construction Contract.

Pre-Construction Services –

The services to be provided under the Pre-Construction Services Contract, including Section 17 of these General Conditions.

Detailed Project Schedule –

The Detailed Project Schedule developed by the CMAR for the review and approval of the Project Manager in accordance with Section 17.3 of these General Conditions, if applicable.

General Conditions Costs –

Those costs set forth in Section 4 of Appendix 9 to these General Conditions.

GMP Plans and Specifications –

The plan and specifications upon which the Guaranteed Maximum Price Proposal is based.

GMP Proposal –

The proposal of CMAR submitted pursuant to Section 17.7 of these General Conditions for the entire Work and/or portion (phases) of the Work.

Guaranteed Maximum Price or GMP –

The Guaranteed Maximum Price set forth in the Contract, Change Order, or Job Order if applicable.

15.2 CONTRACT PRICE

- 15.2.1 The Contract Price for all Contracts, Change Orders, and Job Orders based upon payment of the Cost of the Work plus a Fee with a GMP, time and materials, or cost-plus a fee will be the Cost of the Work incurred plus the Fee agreed to in writing by Town, limited to the amount of the GMP, if agreed to. Unless otherwise expressly provided in the Contract, Change Order, or Job Order, all Cost Based pricing will be subject to and limited to GMP.
- 15.2.2 The Contract Price may only be changed as set forth in Section 9 above.
- 15.2.3 Only costs specifically designated as reimbursable costs are eligible for payment by Town or may be charged against the Contract Price. All other costs will not be paid by Town and will not be chargeable against the Contract Price.
- 15.2.4 Cost-Based Contracts. For Contracts, Change Orders, or Job Orders, reimbursable costs must be determined pursuant to Appendix 9 to these General Conditions, Cost of the Work, and not by MAG Specifications §109.5.

15.3 ALLOWANCES

- 15.3.1 CMAR must include in the Contract Price all Allowances stated in the Contract Documents and agreed to in writing by Town. Items covered by these Allowances must be supplied for such amounts and by such persons as Town may direct, provided CMAR will not be required to employ persons against whom CMAR makes a reasonable objection. Materials, labor, and equipment under an Allowance will be selected by Town in accordance with a schedule to be mutually agreed upon by Town, Design Professional and CMAR or otherwise in reasonably sufficient time to avoid delay in the Work.
- 15.3.2 Unless otherwise provided in the Contract Documents:
- 15.3.2.1 These Allowances must cover the cost to CMAR, less any applicable trade discount, of the materials, labor, and equipment required by the Allowances, delivered at the Site, and all applicable taxes;
- 15.3.2.2 CMAR's costs for unloading and handling on the Site, labor, installation costs, overhead, profit and other expenses relating to materials, labor, and equipment required by the Allowance must be included in the Contract Sum and not in the Allowance; and
- 15.3.2.3 Whenever the cost is more or less than the Allowance, the Contract Sum must be adjusted accordingly by Change Order, the amount of which will recognize the difference between actual costs for an Allowance item and the amount of the Allowance item and changes, if any, in handling costs on the Site, labor, installation costs, overhead, profit and other expenses.

15.4 CONTINGENCY

An agreed to amount in the GMP that may only be used in accordance with the terms set forth in these General Conditions and with prior written approval by the Town.

- 15.4.1 Construction Contingency. This GMP includes a dollar amount listed as a Construction Contingency which will be readily available for increased costs for Subcontractors, material, and equipment subject to prior approval of Town, which approval will not be withheld unreasonably. The Construction Contingency may also be used, at the discretion of Town, to reimburse CMAR for unexpected costs due to (a) scope gaps between trade Subcontractors; (b) contract default by trade Subcontractors; (c) unforeseen field conditions, but only as defined in Section 9.5 above; (d) work completed to meet the intent of the design, but which was not indicated on the plans; (e) costs overruns not covered by allowances; (f) costs of corrective work not provided for elsewhere; and (g) implementation of any Recovery Plan. Cost for which CMAR desires to be paid from the Construction Contingency must be documented by CMAR on a time and materials basis and are subject to verification by Town. If agreed to by Town, a "Use of Contingency" form will be executed by both parties authorizing the actual cost of the work to be paid and included in the Work Item Direct Costs. The Construction Contingency is not allocated to any particular item of the Project but may be used for any portion of the work as determined above. Any amount not used in the Construction Contingency will belong to Town and will reduce the GMP.
- 15.4.2 Owner's Contingency. This GMP also includes a dollar amount listed as an Owner's Contingency which may be used only by the Town (owner department) for upgrades and changes in scope or other changes not already included within the intent of the Project Program. Town will provide CMAR with a Work Change Directive authorizing CMAR to perform the additional work and to transfer funds from the Owner's Contingency to the Work Item Direct Costs category to be paid with such direct costs. These additional costs will be in an amount mutually agreed upon by CMAR and Town or will be documented by CMAR on a time and materials basis and are subject to verification by Town. Any amount not used in the Owner's Contingency will belong to the Town and will reduce the GMP.

15.5 REDUCTION IN RETENTION

If the Contract Price is based upon a GMP, in order to receive payment of one-half of the retention as set forth in Section 8.1.5 above, CMAR must also submit to the Project Manager a complete accounting of the Actual Reimbursable Cost of the Work to date, including all such

documentation (including, without limitation, invoices, subcontract, Subcontractor change orders, purchase orders, records of payment, etc.) as Town may require, to establish whether the payments made to CMAR equal, exceed, or are less than the actual reimbursable Cost of the Work to date. Any excess payments by Town, as determined by the Project Manager, will be deducted from the one-half retention payment to be made to CMAR, and any additional excess amounts paid to CMAR will be refunded by CMAR to Town. The Project Manager's determinations as to Actual Reimbursable Cost of the Work will be the basis of payment until final Project Closeout and Final Payment under the Contract.

15.6 **FINAL PAYMENT**

If the Contract Price is based upon a GMP, as a further condition precedent to Final Payment by Town, CMAR must submit to the Project Manager a complete final accounting of the Actual Reimbursable Cost of the Work, including all such documentation (including, without limitation, invoices, subcontracts, Subcontractor change orders, purchase orders, records of payment, etc.) as Town may require, to establish whether the payments made to CMAR equal, exceed, or are less than the Actual Reimbursable Cost of the Work to date. Any excess payments by Town, as determined by the Project Manager, will be deducted from the one-half retention payment to be made to CMAR, and any additional excess amounts paid to CMAR will be refunded by CMAR to Town. Disputes relating to the Final Cost of the Work will be subject to Town's audit rights under Sections 8.8 above and 15.7 below, and the dispute resolution process under Section 13 above.

15.7 **OPEN BOOK**

On any GMP-based or Cost-Based Contract, Job Order, or Change Order, Town may attend any and all meetings or discussions pertaining to the Project, including bid openings, and must have access to all books, invoices, accounts, memoranda, correspondence, and written communications or records of any kind pertaining to the Project, including without limitation, those stored in electronic format.

15.8 **DIFFERING SITE CONDITIONS AND/OR CHANGE IN LAWS**

A Change Order for increased costs under Section 9.5 or 9.6 above will only be considered or granted by Town to the extent such actual, documented costs are justified.

SECTION 16 - PROVISIONS APPLICABLE SOLELY TO JOB ORDER CONTRACTS (JOC)
NOT USED

SECTION 17 - PROVISIONS APPLICABLE SOLELY TO PRE-CONSTRUCTION SERVICES FOR CONSTRUCTION MANAGER AT RISK

17.1 **ADDITIONAL DEFINITIONS**

The definitions set forth in Section 2 and 15.1 above will apply to all Pre-Construction Services

17.2 **GENERAL**

17.2.1 CMAR must perform the Services required by, and in accordance with the Contract Documents and as outlined in Exhibit A of the Contract to the satisfaction of the Project Manager, exercising the degree of care, skill, diligence and judgment a professional construction manager experienced in the performance of such services for construction and/or facilities of similar scope, function, size, quality, complexity and detail to the Project in urban areas throughout the United States, would exercise at such time, under similar conditions. CMAR must, at all times, perform the required services consistent with sound and generally accepted engineering principles and construction management and construction contracting practices.

17.2.2 As a participating member of the Project Team, CMAR must provide to Town and Design Professional a written evaluation of Town's Project Program and budget, each in terms of the other, with recommendations as to the appropriateness of each. CMAR must prepare a Baseline Cost Model that validates Town's budget. The Baseline Cost Model must include all assumptions and basis of estimates in enough detail so that the Project Team can compare

future detail estimates to the Baseline Cost model for variances. Town and Design Professional will provide all the reasonably required data that is available in order to reach agreement between the team members that the Baseline Cost Model is an accurate projection of the costs of the Project.

- 17.2.3 CMAR must attend Project Team meetings, which may include, but are not limited to, bi-weekly Project management meetings, Project workshops, special Project meetings, construction document rolling reviews, public meetings and partnering sessions. CMAR attendance at design or other meetings in which CMAR is provided the opportunity but does not actively participate and/or is not properly prepared is not acceptable. Repeated instances of non-participation and/or lack of preparedness will be grounds for termination of CMAR Contract for default.
- 17.2.4 CMAR must provide Pre-Construction Services, described herein, in a timely manner and consistent with the intent of the most current Drawings and Specifications. CMAR must promptly notify Town in writing whenever CMAR determines any Drawings or Specifications are inappropriate for the Project and/or cause changes in the scope of Work that deviates more than the allowed contingencies within the Baseline Cost Model or requires an adjustment in the Baseline Cost Model, Detailed Cost Estimate, Detailed Project Schedule, GMP Proposals and/or in the Contract Time for the Work, to the extent such as established.
- 17.2.5 CMAR when requested by Town, must attend, make presentations and participate as may be appropriate in public agency and or community meetings, relevant to the Project. CMAR must provide drawings, schedule diagrams, budget charges and other materials describing the Project when their use is required or appropriate in any such public agency meetings.
- 17.2.6 Ownership of Work Product. All Work Product prepared or otherwise created in connection with the performance of this Contract, including the Work, are to be and remain the property of Town. For purposes of this provision, "Work Product" will include all designs, drawings, plans, specifications, ideas, renderings and other information or material, in whatever form created (e.g., electronic or printed) and in all media now know or hereinafter created. All Work Product will be considered Work Made for Hire as defined in the United States Copyright Act 17 U.S.C. §101 (Copyright Act). If for any reason any such Work is found not to be a work for hire, CMAR hereby transfers and assigns ownership of the copyright in such Work to Town. The rights in this Section are exclusive to Town in perpetuity.
- 17.2.7 CMAR represents to Town in completing Pre-Construction Services and providing the reports and analysis required thereunder, that Work can be properly and timely constructed within the GMP Proposal, if accepted. CMAR does not assume any design responsibilities unless specifically called for in the scope of work, but CMAR will be responsible for their errors, omissions or inconsistencies included in the Work.

17.3 DETAILED PROJECT SCHEDULE

- 17.3.1 The fundamental purpose of the Detailed Project Schedule is to identify, coordinate and record the tasks and activities to be performed by all of the Project Team members and then for the Project Team to utilize that Deliverable as a basis for managing and monitoring all member's compliance with the schedule requirements of the Project. Each Project Team member is responsible for its compliance with the Detailed Project Schedule requirements. CMAR must, however, develop and maintain the Detailed Project Schedule on behalf of and to be used by the Project Team based on input from the other Project Team members. The Baseline Project Schedule must be developed as part of the Baseline Cost Model. The Detailed Project Schedule must use the Critical Path method ("CPM") technique, unless required otherwise, in writing by Town. CMAR must use scheduling software acceptable to Town to develop the Detailed Project Schedule. The Detailed Project Schedule must be presented in graphical and tabular reports as agreed upon by the Project Team. If Project phasing as described below is required, the Detailed Project Schedule must indicate milestone dates for the phases once determined. As part of construction phase, Town may require CMAR to prepare a "cost or resource loaded" schedule for all work, including work performed by Subcontractors, detailing

each of the project tasks and the required/anticipated number of personnel per day for each task. CMAR must also indicate on the schedule its ability to meet said required/anticipated personnel requirements.

- 17.3.2 CMAR must include and integrate in the Detailed Project Schedule the services and activities required of Town, Design Professional and CMAR including all construction phase activities based on the input received from Town and the Design Professional. The Detailed Project Schedule must define activities as determined by Town to the extent required to show: (a) the coordination between preliminary design and various pre-construction documents, (b) any separate long-lead procurements, (c) any permitting issues, (d) any land, right-of-way, or easement acquisition, (e) bid packaging strategy and awards to Subcontractors and Suppliers, (f) major stages of construction, (g) start-up and commissioning, and (h) occupancy of the completed Work by Town. The Detailed Project Schedule must 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 (if any), milestone dates for various construction phases, Total Float for all activities to the extent authorized by Town, relationships between the activities, Town's occupancy requirements showing portions of the Project having occupancy priority, and proposed dates for Final Acceptance.
- 17.3.3 A Baseline Project Schedule must be initiated with the project Baseline Cost Model and agreed to by the project team at the same time. CMAR must update and maintain a detailed Project Schedule throughout pre-construction such that it will not require major changes at the start of the construction phase to incorporate CMAR's plan for the performance of the construction phase Work. CMAR must provide updates and/or revisions to the Detailed Project Schedule for use by the Project Team, whenever required, but no less often than at the Project Team meetings. CMAR must include with such submittals a narrative describing its analysis of the progress achieved to-date vs. the Baseline Project Schedule, including any concerns regarding delays or potential delays, and any recommendations regarding mitigating actions.
- 17.3.4 If phased construction is deemed appropriate at the time of developing the Baseline Cost Model or during the development of the Detailed Project Schedule, and Town approves, CMAR must review the design and make recommendations regarding the phased issuance of Construction Documents to facilitate phased construction of the Work, with the objective of reducing the Project Schedule and/or Cost of the Work. CMAR must 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.
- 17.3.5 Long Lead Time Items. As part of developing the Detailed Project Schedule, CMAR must identify all long lead time materials, fabrications, equipment, or other items which may impact the Project Schedule and may require early action on the part of the Project Team. Dates for selecting and ordering long lead time items will be included and highlighted in the Detailed Project Schedule.
- 17.3.6 Equipment Plan. CMAR must develop an Equipment Plan that addresses all rental and owned equipment, regardless of whether such equipment will be provided by CMAR or Subcontractor(s), that will be necessary to construct the Project and the cost of which will be included as a Cost of the Work in the GMP Proposal. The Equipment Plan will seek to minimize the cost of the equipment to Town and maximize the efficient and coordinated use of the equipment for completion of the Project. The Equipment Plan will not only include the costs and allowable lease rates for the equipment, but will also include an equipment schedule that will be incorporated into the Detailed Project Schedule and the Schedule of Values submitted with the GMP Proposal.

17.4 DESIGN DOCUMENT REVIEWS

- 17.4.1 CMAR must evaluate periodically the availability of labor, materials/equipment, cost- sensitive

aspects of the design; and other factors that may create an unacceptable variance to the Baseline Cost Model and/or Baseline Project Schedule.

- 17.4.2 CMAR must recommend, in conjunction with the Project Team, those additional surface and subsurface investigations that, in its professional opinion, are required to provide the necessary information for CMAR to construct the Project. These additional investigations, if agreed to be necessary by the Project Manager and the Design Professional, will be acquired by Town and copies of thereports will be provided to CMAR.
- 17.4.3 CMAR must meet with the Project Team as required to review designs during their development. CMAR must familiarize itself with the evolving documents through pre-construction. CMAR must 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. CMAR must furthermore advise the Project Team on proposed site improvements, excavation and foundation considerations, as well as concerns that exist with respect to coordination of the Drawings and Specifications. CMAR must use established value analysis principles in recommending cost effective alternatives.
- 17.4.4 CMAR must routinely conduct constructability and bid-ability reviews of the Drawings and Specifications as necessary to satisfy the needs of the Project Team. The reviews must attempt to identify all discrepancies and inconsistencies in the Construction Documents, especially those related to clarity, consistency, completeness and coordination of Work of Subcontractors and Suppliers.
- 17.4.4.1 CMAR must evaluate whether: (a) the Drawings and Specifications are configured to enable efficient construction; (b) design elements are standardized; (c) construction efficiency is properly considered in the Drawings and Specifications; (d) module/preassembly design is prepared to facilitate fabrication, transport and installation; (e) sequences of Work required by or inferable from the Drawings and Specifications are practicable; (f) 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; and (g) the design maintains continued operation of the existing Town systems and maintains traffic on adjacent roadways. CMAR must also review the Drawings and Specifications to ensure that what is depicted therein can be constructed as designed and must promptly inform the Project Team of any issues.
- 17.4.4.2 CMAR must check cross-reference and complementary Drawings and sections within the Specifications and in general evaluate whether: (a) the Drawings 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) Specifications include alternatives in the event a requirement cannot be met in the field; and (d) in its professional opinion, the Project is likely to be subject to Differing Site Conditions.
- 17.4.4.3 The results of the reviews must be provided to Project Team in formal, written reports clearly identifying all reviewed documents and the discovered discrepancies and inconsistencies in the Drawings and Specifications with notations and recommendations made on the Drawings, Specifications and other documents. CMAR must meet with Project Team to discuss any findings and review reports.
- 17.4.4.4 CMAR's reviews must be from a CMAR's perspective, and though it will serve to eliminate/reduce the number of RFIs) and changes during the construction phase, responsibility for the Drawings and Specifications will remain with the Design Professional and not CMAR.
- 17.4.5 It is CMAR's responsibility to assist the Design Professional in ascertaining that, in CMAR's professional opinion, the Construction Documents are in accordance with applicable Laws, Regulations, or Legal Requirements, building codes, sound engineering principle's rules and regulations. If CMAR recognizes that portions of the Construction Documents are at variance

with applicable laws, statutes, ordinances, building codes, sound engineering principle's rules and regulations, it must promptly notify the Project Team in writing, describing the apparent variance of deficiency. However, the Design Professional is ultimately responsible for the compliance of the Drawings and Specifications with those laws, statutes, ordinances, building codes, rules and regulations.

- 17.4.6 The Project Team will routinely identify and evaluate using value analysis principles and alternate systems, approaches, design changes that have the potential to reduce Project costs while still delivering a high quality and fully functional Project consistent with the Project Program. If the Project Team agrees, CMAR in cooperation with the Design Professional, will perform a cost/benefit analysis of the alternatives and submit such in writing to the Project Team. Town, through the Project Manager, will direct which alternatives will be incorporated into the Project. The Design Professional will have full design responsibility for the review and incorporation of CMAR suggested alternatives into the Drawings and Specifications. CMAR must analyze the costs and schedule impacts of the alternatives against the Baseline Cost Model and Schedule and provide a recommendation for the Project Team's consideration and Town's approval prior to the establishment of the GMP.

17.5 BASELINE COSTS MODEL, DETAILED COST ESTIMATES, AND SCHEDULE OF VALUES

- 17.5.1 At the conclusion of the Master Planning and Programming, if required, CMAR will review all available information regarding the design and scope of the Project using CMAR's experience in performing similar work, knowledge of similar projects and current and projected construction costs and, based upon that review, must develop a Baseline Cost Model for review by the Project Team and approval by Town. Once approved by Town, the Baseline Cost Model will be continually referenced as detailed estimates are created as the design progresses throughout Pre-Construction until the final GMP for the entire Project is established. A final GMP for the entire Project must be established and approved by Town prior to the start of construction. It is the responsibility of CMAR to ensure Town has sufficient information to evaluate and approve a final GMP prior to the time necessary to start construction so construction can be completed within the Contract Time. The Project Detailed Cost Estimate will be the best representation from CMAR of what the complete functional Project's construction costs will be as indicated by the most current available documents and will be constantly checked against the Baseline Cost Model. CMAR must communicate to the Project Team and assumptions made in preparing the Baseline Cost Model. The Baseline Cost Model must support CMAR's Detailed Cost Estimates and may be broken down initially as dictated by the available information, as required by Town.
- 17.5.2 After receipt of the Design Professional's most current documents from certain specified pre-construction milestones, CMAR must provide a draft Detailed Cost Estimate including a detailed written report detailing any variances to the Baseline Cost Model and Baseline Project Schedule. The Design Professional and CMAR will reconcile any disagreements on the estimate to arrive at an agreed upon Detailed Cost Estimate for the construction costs based on the scope of the Project through that specified pre-construction milestone. Pre-Construction milestones applicable to this paragraph are: Master Planning and Programming, Schematic Design, 50% Design Development, 100% Design Development, and 50% Construction Drawings. If no consensus is reached, Town will make the final determination. If the Project Team requires additional updates of the Detailed Cost Estimate beyond that specified in this paragraph, CMAR must provide the requested information in a timely manner.
- 17.5.3 If at any point the Detailed Cost Estimate submitted to Town exceeds the previously accepted Baseline Cost Model or previously approved Detailed Cost Estimate agreed to as set forth in Section 17.5.2 above, CMAR must make appropriate recommendations to project Team on means/methods, materials, and or other design elements that it believes will reduce the estimated construction costs, such that it is equal to or less than the established Project Team's Baseline Cost Model.
- 17.5.4 Unless other levels of completion are agreed to in writing in the Construction Documents, at 50% Construction Drawings and included with the associated report, CMAR must also submit

- to the Project Team for review and approval a Schedule of Values that complies with the following requirements. The Schedule of Values must be based on Town standard bid schedule and highlight significant variances from any previously submitted Schedule of Values. The Schedule of Values must be directly related to the breakdowns reflected in the Detailed Project Schedule and CMAR's Detailed Cost Estimate. In addition, the Schedule of Values must: (a) detail unit prices and quantity take-offs, (b) detail all other contingencies and unit price Work shown and specified in the detailed design documents.
- 17.5.5 CMAR is to track, estimate/price and address the Project Team's overall project cost issues that arise outside of the Baseline Cost Model and the latest approved Detailed Cost Estimate such as: Town generated changes, Project Team proposed changes, alternate system analysis, constructability items and value engineering analysis. The system used to implement this process will be referred to as the Design Evolution Log. This is to be addressed between the Baseline Cost Model and the Master Planning and Programming Detailed Cost Estimate, and then (unless other levels of completion are agreed to in writing in the Construction Documents) between the Detailed Cost Estimates for each of the pre-construction milestones thereafter, Schematic Design, 50% Design Development, 100% Design Development, and 50% Construction Documents, and the bid packages for all Phases.
- 17.5.6 Upon request by Town, CMAR must submit to Town a cash flow projection for the Project based on the current updated/revised Detailed Project Schedule and the anticipated level of payments for CMAR during the design and construction phases. In addition, if requested by Town and based on information provided by Town, CMAR must prepare a cash flow projection for the entire Project based on historical records for similar types of projects to assist Town in the financing process.
- 17.5.7 Construction Water. CMAR must estimate the quantity of water to be used and include the cost thereof in each Detailed Cost Estimate and GMP Proposal provided by Town.
- 17.6 SUBCONTRACTOR AND MAJOR SUPPLIER SELECTIONS**
- 17.6.1 There are two ways to select subcontractors and major suppliers prior to submission of a GMP Proposal: (1) qualifications-based selection; or (2) a combination of qualifications and price. Except as noted below, the selection of Subcontractors/Suppliers is the sole responsibility of CMAR. In any case, CMAR is solely responsible for the performance of the selected subcontractors/suppliers, and for compliance with the requirements of Title 34 of the Arizona Revised Statutes in the selection of a subcontractors/suppliers, to the extent applicable. CMAR must comply with its subcontractor Selection Plan submitted with its Statement of Qualifications.
- 17.6.2 Town may approve the selection of a subcontractor(s) or suppliers(s) based only on their qualifications when CMAR can demonstrate it is in the best interest of the Project. All Work that is performed, after such a qualifications-based selection, for a price that is negotiated by CMAR will be billed in accordance with the GMP for actual costs and may be subject to audit by Town.
- 17.6.2.1 Qualifications based selection of a subcontractor(s)/supplier(s) should only occur prior to the submittal of the GMP Proposal.
- 17.6.2.2 If a subcontractor/supplier selection plan was submitted and agreed to by Town, CMAR must apply the plan in the evaluation of the qualifications of a subcontractor(s) or supplier(s) and provide Town with its review and recommendations.
- 17.6.2.3 CMAR must receive written Town approval for each selected subcontractor(s) and supplier(s).
- 17.6.2.4 CMAR must negotiate costs for services/supplies from each subcontractor/supplier selected under this method.
- 17.6.3 All Work must be competitively bid unless a subcontractor or supplier was selected pursuant to Section 17.6.2 above.

- 17.6.3.1 CMAR must develop subcontractor and supplier interest, submit the names of a minimum of three qualified subcontractors or suppliers for each trade in the Project for approval by Town and solicit bids for the various Work categories. If there are not three qualified subcontractors/suppliers available for a specific trade or are extenuating circumstances warranting such, CMAR may request approval by Town to submit less than three names. Without prior written notice to Town, no change in the recommended subcontractors/supplies will be allowed.
- 17.6.3.2 If Town objects to any nominated subcontractor/supplier or to any self-performed Work for good reason, CMAR must nominate a substitute subcontractor/supplier that is acceptable to Town.
- 17.6.3.3 CMAR must distribute Drawings and Specifications, and when appropriate, conduct a Pre-Bid Conference with prospective subcontractors and suppliers.
- 17.6.3.4 If CMAR desires to self-perform certain portions of the Work, it must request to be one of the approved subcontractor bidders for those specific bid packages. CMAR's bid will be evaluated in accordance with the process identified below. If events warrant and Town concurs that it is necessary in order to ensure compliance with the Project Schedule and/or the most recent Detailed Cost Estimate, CMAR may be authorized to self-perform Work without bidding or rebidding the Work. When CMAR self-performs work without bidding, only the actual costs associated with performing the Work in accordance with the approved GMP will be billed and may be subject to audit by Town.
- 17.6.3.5 CMAR must receive, open, record and evaluate the bids; provided, however, that if CMAR or one of its affiliates is bidding to self-perform the Work that is the subject of the bid, then the bids must be received, opened, recorded and evaluated by Project Manager instead of CMAR. Bids for each category of Work must be opened and recorded at a pre-determined time. The apparent low bidders must be interviewed to determine the responsiveness of their proposals. In evaluating the responsiveness of bid proposals CMAR, in addition to bid price, may consider the following factors: past performance on similar projects, qualifications and experience of personnel assigned, quality management plan, approach or understanding of the Work to be performed, and performance schedule to complete the Work. The final evaluation of subcontractor/supplier bids must be done with Project Manager in attendance to observe and witness the process. CMAR must resolve any subcontractor/supplier bid withdrawal, protest or disqualification in connection with the award at no increase in the Cost of Work.
- 17.6.4 CMAR will be required to prepare two different reports on the subcontracting process.
- 17.6.4.1 Within fifteen days after each major subcontractor/supplier bid opening process; CMAR must prepare a report for Town's review and approval identifying the recommended subcontractors/supplier for each category of Work. The report must detail: (a) the name of the recommended subcontractor/supplier and the amount of the subcontractor/supplier bid for each sub-agreement; (b) the sum of all recommended subcontractor/supplier bids received; (c) and trade work and its cost that CMAR intends to self-perform, if any.
- 17.6.4.2 Upon completion of the subcontractor/supplier bidding process, CMAR must submit a summary report to Town of the entire subcontractor/supplier selection process. The report must indicate, by bid process, all subcontractors/suppliers contacted to determine interest, the subcontractors/suppliers solicited, the bids received and costs negotiated, and the recommended subcontractors/suppliers for each category of Work.
- 17.6.5 The approved subcontractors/suppliers will provide a Schedule of Values with their bid proposals, which will be used to create the overall Project Schedule of Values.
- 17.6.6 If after receipt of sub-bids or after award to subcontractors and suppliers, Town objects to any nominated subcontractor/supplier or to any self-performed Work without any reasonable basis, CMAR must nominate a substitute subcontractor or supplier, preferably if such option is still available, from those who submitted subcontractor bids for the Work affected. Once such

substitute subcontractors and suppliers are consented to by Town, CMAR's proposed GMP for the Work or portion thereof must be correspondingly adjusted to reflect any higher or lower costs form any such substitution.

17.7 GMP PROPOSAL

17.7.1 When a GMP Proposal is submitted for a phase of the Work, the GMP will have a Detailed Cost Estimate of the Costs of the Work (as set forth in Section 15.2) in each phase of the Work that is being proposed plus the current estimate for all other Work. Town will not approve the GMP for the phase of work without a total estimate for the complete Project. Town may request a GMP Proposal for all or any portion of the Project and at any time during pre-construction. Any GMP Proposals submitted by CMAR must be based on and consistent with Baseline Cost Model and the current update/revised Detailed Cost Estimate at the time of the request and include any clarifications or assumptions upon which the GMP Proposal(s) are based.

17.7.2 A GMP Proposal for the entire Project will be the sum of the Cost of the Work, CMAR Fee, and General Conditions Cost. CMAR guarantees to complete the Project at or less than the final GMP Proposal amount plus approved Change Orders. CMAR will be responsible for any costs for expenses that would cause the Cost of the Work actually incurred, including the Construction Fee and General Conditions Costs, to exceed the GMP.

17.7.3 CMAR must prepare its GMP Proposal in accordance with Town's request for GMP Proposal requirements based on the most current completed Drawings and Specifications at that time, which unless otherwise directed by Town in writing, will be at 100% Construction Drawings. CMAR must mark the face of each document of each set upon which its GMP Proposal is based. These documents must be identified as the GMP Plans and Specifications. CMAR must send one set of those documents to the Project Manager, keep one set and return the third set to the Design Professional.

17.7.4 An updated/revised Detailed Project Schedule, Equipment Plan, and Schedule of Values must be included in any GMP Proposal(s), all of which must reflect the GMP Plans and Specifications the Detailed Project Schedule must be shown in relationship to the Project Schedule and identify any variance to the Baseline Project Schedule. Any such Detailed Project Schedule updates/revisions must continue to comply with the requirements of Section 17.3.1 through 17.3.5.

17.7.5 GMP Proposals(s) Review and Approval

17.7.5.1 CMAR must meet with the Project Team to review the GMP Proposal(s) and the written statement of its basis. In the event the Project Team discovers inconsistencies or inaccuracies in the information presented, CMAR must make adjustments as necessary to the GMP Proposal.

17.7.5.2 If during the review and negotiation of GMP Proposals design changes are required, Town may authorize and cause the Design Professional to revise the GMP Plans and Specifications to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the final approved GMP Proposal. Such revised GMP Plans and Specification will be furnished to CMAR. CMAR must promptly notify the Project Team in writing if any such revised GMP Plans and Specifications are inconsistent with the agreed upon assumptions and clarifications.

17.7.6 All portions of or items comprising the GMP Proposal are subject to audit by Town, as deemed appropriate by Town, including, without limitation, any based upon unit prices or Work to be self-performed by CMAR, or its affiliates.

17.8 PAYMENT PROCEDURE FOR PRE-CONSTRUCTION SERVICES

17.8.1 Requests for monthly payments by CMAR for Pre-Construction Services must be submitted monthly and must be accompanied by a progress report, detailed invoices and receipts, if applicable. Any requests for payment must include, as a minimum, a narrative description of



TOWN OF PRESCOTT VALLEY

CIP# CF2503 – Prescott Valley Aquatics and Recreation Facility

the tasks accomplished during the billing period, a listing of any Deliverables submitted, and copies of any Subconsultants' requests for payment, plus similar narrative and listings of Deliverables associated with their Work. Payment for services negotiated as a lump sum will be made in accordance with the percentage of work completed during the preceding month.

17.8.2 CMAR agrees that no charges or claims for costs or damages of any type will be made by it for any delays or hindrances beyond the reasonable control of Town during the progress of any portion of Pre-Construction Services specified in this Contract. Such delays or hindrances, if any, will be solely compensated for by an extension of time for such reasonable period and may be mutually agreed between the parties. It is understood and agreed, however, that permitting CMAR to proceed to complete any such Services, in whole or in part after the date to which the time of completion may have been extended, will in no way act as a waiver on the part of Town of any of their respective legal rights herein.

17.8.3 No compensation to CMAR will be allowed contrary to Article I, Chapter I, Title 34 of the Arizona Revised Statutes.

17.8.4 If any service(s) executed by CMAR is abandoned or suspended in whole or in part, for a period of more than 180 days through no fault of CMAR, CMAR is to be paid for the services performed prior to the abandonment or suspension.

17.9 **SURVIVAL OF THE DESIGN SERVICES CONTRACT. DUTIES, OBLIGATIONS AND WARRANTIES**

If the GMP Proposal is accepted by Town and a Construction Contract is entered into between Town and CMAR, the duties, obligations and warranties of CMAR under the Pre-Construction Services Contract survive and are incorporated into the resulting Construction Contract.

EXHIBIT B

ACCEPTED PRECONSTRUCTION SERVICES FEE PROPOSAL

CORE Construction, Inc.'s Preconstruction Services Fee Proposal dated July 31, 2026, is incorporated into the Contract for purposes of defining the agreed preconstruction staffing, effort, pricing, and related scope assumptions, except as modified by the Contract.

In the event of any conflict or inconsistency between the Proposal and the Contract, including Article 3 or Article 7, the Contract shall control. Incorporation of the Proposal does not modify the Town's rights or CMAR's obligations under the Contract except as expressly stated therein.



13835 N. Northsight Blvd., Suite 100
Scottsdale, AZ 85260

T 602.494.0800

Ryan Brady
Operation Manager
Kitchell CEM
2231 East Camelback Road, Suite 400
Phoenix, Arizona 85016

July 31st, 2026

Re: Preconstruction Services Fee Proposal | Town of Prescott Valley Aquatics and Recreation Facility
(Project - PW260329)

Mr. Brady,

The CORE Team is truly appreciative of the opportunity to serve the Town of Prescott Valley. We are honored by the trust you have placed in our team and are fully committed to successfully delivering the Prescott Valley Aquatics and Recreation Facility, which will serve the community for decades to come!

PROJECT DEFINING ELEMENTS

This proposal is based upon the following project defining elements:

1. Pending the November 2026 election, the project is anticipated to include a new approximately 30,000 square foot aquatics and recreation facility located at Mountain Valley Park, 8600 E. Nace Ln., Prescott Valley. The full project scope is anticipated to include an indoor competitive pool with associated recreation and splashpad area, gymnasium, weights and conditioning space, part-time child watch studios, group exercise studios, multi-purpose rooms, and an indoor track.
2. The total project budget of \$30,000,000 for the full scope of the Project. If voters do not approve full funding in the November 2026 election, the Project will proceed as an Aquatic Center only, with a committed budget of \$16,000,000.
3. The project will be delivered using the CMAR method, with the Town's PM/CM, Kitchell CEM, Inc., coordinating the project and the CMAR participating in preconstruction and construction services. The RFQ and scope documents state that the Town will execute separate agreements for the Architect and CMAR.
4. The project must be planned with sensitivity to existing operations, public expectations, and budget constraints. The pre-submittal minutes note that the existing pool is to remain operational through the final season and that the Town expects creative solutions, constructability focus, and strong team commitment.
5. The project team is expected to work collaboratively through programming, concept development, schematic design, design development, construction documents, and GMP development, with weekly meetings and presentations as directed by the Town and the PM/CM.
6. Public engagement has occurred to a significant extent to date. The Town indicated during the pre-submittal conference that further community input is not expected to be extensive, although a rendering may still be released for public consumption if directed by the Town.



7. CORE will provide Cost Model estimates at the following anticipated design milestones. Each estimate phase is anticipated to require approximately four (4) weeks for pricing.
 - a) Conceptual
 - b) Schematic Design (SD)
 - c) Design Development (DD)
 - d) Construction Documents (CD)

DESIGN PHASE SERVICES UP TO GMP APPROVAL

CORE'S PRECONSTRUCTION PHASE SERVICES SCOPE

CORE scope of services begins with a **Mission** to provide **Leadership** and **Professional Service** towards **Best Value** through a collaborative and transparent process. As the CMAR team, CORE leads the preconstruction effort, facilitating coordination, informing project decisions, and managing key milestones while working closely with the Owner and Design Team to align priorities and develop a reliable, Best Value Guaranteed Maximum Price (GMP), when authorized by the project's funding path.

CORE's approach is structured around the three critical drivers of project success: Cost (C), Quality (Q), and Schedule (S). The CORE process seeks to eliminate industry-consistent issues that impact project success. Industry issues include cost dependability, quality documentation and clarity, and starting and completing construction on time. Most of these challenges are influenced by communication gaps and misaligned expectations. Our process is designed to daylight these issues early, improve team alignment, and allow our team to manage projects with clarity, accountability, and exceptional success.

Below, we have compiled a specific list of services that will facilitate this mission within our unique process.

During pre-design, the project team will define the project objectives and establish a total building area with an understanding of the Town's Big Picture Outcome goals for the project.

1. PROGRAM / CONCEPT DESIGN PHASE

At this phase, the team will focus on establishing a clear understanding of the Town's operational needs, project goals, funding constraints, and site opportunities associated with the aquatics and recreation facility. This effort will include evaluation of the aquatic program, recreation components, site layout, and opportunities for integrating future expansion capability. Early considerations will include facility function, public use, long-term durability, operational flexibility, and overall alignment with the Town's funding strategy. During this phase, CORE will evaluate costs for the Full scope and Aquatics only scope options for this project. CORE understands that the scope of the project (full versus aquatics only) will be determined after the November 2026 election, however, providing these cost models during this phase will allow the project to move forward efficiently with either scenario.

CORE's approach to quality begins long before construction documents are issued; it starts with the Town's vision. Quality is initially benchmarked not through specifications alone, but through a clear understanding





of what success looks like for the Town. These goals, referred to as Big Picture Outcomes, may include durability, functionality, operational flexibility, user experience, maintainability, and the ability to adapt to future community needs. Defining these outcomes early allows the entire team to align expectations and evaluate decisions through a shared lens.

a. **CORE's role during the Concept Phase:**

CORE will develop a flexible, data-informed cost model aligned with the anticipated scope, scale, and performance requirements of the Prescott Valley Aquatics and Recreation Facility. This model will reflect quantity, quality, intent, Big Picture Outcomes, and unique features of the work, including considerations associated with aquatic systems, recreation components, and future expansion potential. CORE will facilitate early discussions with Town stakeholders to define and document these outcomes, ensuring they guide programming, systems evaluation, and cost alignment throughout the process.

CORE will assist in identifying the Best Value structure, envelope, systems, aquatic equipment, and site development strategies, while establishing preliminary allowances for finishes, equipment, long-lead items, and specialty components. These evaluations will be grounded in cost clarity, operational performance, and alignment with the Town's goals.

b. **Basic Scope of Services required to fulfill this role:**

i. **Cost Benchmarking and Alignment**

CORE will begin by developing a project-specific cost benchmark based on comparable facilities and prior relevant experience. This will help establish an early cost reference point and identify any major differences between the concept scope and similar project types.

ii. **Selective Quantity Take-off & Estimate**

CORE will perform selective quantity take-off where appropriate to support the concept level estimate. At this stage, the focus will be on the major scope elements that can be reasonably identified from the concept documents.

iii. **Scope Narratives and Basis of Estimate**

CORE will develop scope narratives to help define the concept level understanding of the project. These narratives will clarify what is included, what is assumed, and what items may need further study as the design progresses. The Basis of Estimate will align with these narratives and document the key assumptions, inclusions, exclusions, and known design variables influencing the cost model.

iv. **Trade Partner Input**

CORE will engage selected Trade Partners as appropriate to gather early market feedback on unit cost, constructability, and scope understanding. This input will help support the concept level estimate and identify items that may need further refinement.

v. **Options Studies**

CORE will provide limited options analysis where appropriate to help evaluate major project decisions at the concept level. This may include aquatic systems, recreation components, building systems, or site-related options that could affect cost, function, or schedule.

1. **Work Breakdown Structure (WBS)**



The WBS will summarize the concept level estimate and organize the cost model by major scope category. This structure will help the team understand how costs are distributed and support future estimate updates as the design advances.

2. Preliminary Project Schedule

This will be developed from the concept level scope and will take into consideration the overall design duration, major procurement timelines, and general construction sequencing. At this stage, CORE, the Owner, and Design Team may discuss whether any early work packages or long-lead items should be considered as the project develops.

3. FF&E

CORE will support the Owner and Design Team as they develop scope and budget for all FF&E.

2. SCHEMATIC DESIGN PHASE

At this phase, the design team will begin to define the overall layout, configuration, and character of the aquatics and recreation facility based on the established program. By the end of schematic design, the project footprint, site orientation, and major building and aquatic components will be defined. The team will advance the organization of spaces, confirm access and circulation, and begin to evaluate materials, systems, and integration with the site. Preliminary aquatic, mechanical, and building systems will be outlined in coordination with the overall design approach.

a. CORE's role during the Schematic Design Phase:

To create a detailed, flexible cost model for the project based on the schematic design documents. This cost model will account for quantity, quality, intent, Big Picture Outcomes, and unique features of the work, including considerations associated with aquatic systems, site constraints, and future expansion capability. CORE will refine and validate the proposed systems, including aquatic, structural, envelope, and building systems, ensuring alignment with budget, constructability, and performance goals. At this stage, CORE will also advance scope definition and pricing for finishes, equipment, and specialty components.

In parallel, CORE will work with the team to identify and address risks that could impact project cost, schedule, or quality. These Risk/Solutions will be addressed during design to provide clarity of scope, alignment of responsibilities, and to reduce the potential for rework or delays during construction. Each item will be evaluated through the lens of CORE's six factors of Operational Excellence: Safety, Quality, Schedule, Cost, Trade Partners, and Client, to ensure alignment with overall project performance and Owner priorities.

b. Basic Scope of Services required to fulfill this role:

i. Detailed Quantity Take-off & Estimate

CORE will utilize Construct Connect (On-Screen Take-off software) to provide a detailed quantity estimate that is graphically represented. This take-off will identify scope and quantities by being directly overlaid onto the schematic documents.

ii. Work Breakdown Structure (WBS)

The WBS is essentially the summary of the detailed estimate. It will be summarized the same way



at each phase, so the team will clearly see the cost variance between line items. It will be organized based upon the "ten groups".

iii. **Basis of Estimate**

This document will clarify all cost assumptions, inclusions and exclusions, unit pricing, and the rationale behind key estimating strategies.

iv. **Options Studies**

CORE will provide system and material options analysis where appropriate, including aquatic systems, finishes, MEP systems, and any Unique Features of Work. Each study will evaluate cost, safety, QA/QC, logistics, constructability, and schedule impacts.

As part of this process, CORE will maintain a Scope Options Log, a dynamic tracking tool that provides real-time visibility into additive and deductive scope alternatives. Each option is evaluated based on its cost, impact on quality, and alignment with the project's Big Picture Outcomes. The log supports transparent, collaborative decision-making and ensures the Owner retains control over both budget and design intent as the project evolves.

v. **Constructability Review**

The purpose of the Constructability Review is to develop design issues related to construction. This deliverable will be the result of the team study of the unique features of work. This study will analyze each Unique Feature of Work (UFW) for:

1. How does it impact the milestone schedule?
2. Should the team involve a subcontractor for additional feedback?
3. What safety considerations should be made?
4. Are there any site logistics issues?
5. How should it be detailed on the documents?
6. What are the QA/QC considerations?
7. Are there options to consider (i.e. alternate systems/materials evaluation)?

vi. **Updated Preconstruction and Construction Schedule**

This will be a milestone construction schedule specific to the scope identified in the Schematic Design Documents. Long-lead procurement will be included in the schedule.

vii. **Development of initial prequalified Trade Partner list**

This will include a minimum of three bidders per trade where practical. CORE will pursue Trade Partner input at this stage focused on unit cost and constructability.

viii. **FF&E**

CORE will continue to support the Owner and Design Team as they continue to develop scope and budget for all FF&E.

3. DESIGN DEVELOPMENT PHASE

At this stage, the project's size and systems have been defined. The team now shifts focus to finishes, functional details, and specification development for the aquatics and recreation facility, including coordination with the building, site, and aquatic systems. CORE's role is to keep the evolving design aligned with the project's Cost, Quality, and Schedule goals while supporting risk resolution and constructability validation.



CORE will update the cost model based on design progression and Trade Partner input, while working closely with the Design Team and Owner to address issues that could impact scope, cost, or schedule. These efforts help maintain alignment with the Town's Big Picture Outcomes and support timely, informed decision-making.

a. **CORE's role during the Design Development Phase:**

To provide an updated estimate and construction insight based on quantity take-offs and Trade Partner feedback, while supporting design validation, scope clarity, and alignment with project priorities. At this stage, CORE may work with the Owner and Design Team to evaluate the potential for an early GMP at Design Development for site-related construction, long-lead materials, or other applicable work packages.

b. **Basic Scope of Services required to fulfill this role:**

i. **Detailed Quantity Take-off & Estimate**

CORE will update the cost model to reflect the design development documents and incorporate feedback from estimating and trade input.

ii. **Work Breakdown Structure (WBS)**

The WBS will be updated to reflect design evolution. CORE will provide a variance report with each estimate.

iii. **Basis of Estimate**

This document will be revised to reflect the current estimate and will clarify assumptions, inclusions and exclusions, and any scope considerations that may impact cost. It serves to clarify design intent and inform design development as the project moves forward.

iv. **Scope Options Log (Design Evolution Log)**

CORE will maintain a Scope Options Log, also serving as the Design Evolution Log, to track additive and deductive scope alternatives, major design changes, and key project decisions as the concept develops. The log will help the team confirm direction, compare options, and maintain alignment with cost, quality, schedule, and the Town's Big Picture Outcomes.

v. **Options Studies**

CORE will provide options analysis on finishes, systems, or unique scope elements as needed. Each option will be evaluated for cost, schedule, quality, and constructability impacts and tracked through the scope options process to support informed decision-making.

vi. **Constructability Review**

Again, the purpose of the constructability review is to identify design issues related to construction. This information will be updated based upon newly identified Unique Features of Work. Reviews will evaluate sequencing, access, logistics, maintainability, procurement strategy, and coordination of major building systems.

vii. **Updated Preconstruction and Construction Schedule**

This will be a milestone construction schedule specific to the scope identified in the Design Development Documents. Long-lead procurement will be included in the schedule.

viii. **Updated Prequalified Subcontractor List**

CORE will provide a specific list of subcontractors to bid the design development documents and





incorporate Owner feedback, including Town and project team input and suggestions.

ix. **Preliminary Site Lay-Down, Logistics, and Phasing Plan**

This will be the first draft submitted to the team for review. It will indicate site access, site control, material lay-down, and trailer location.

x. **FF&E**

CORE will continue to support the Owner and Design Team as they continue to develop scope and budget for all FF&E.

4. **CONSTRUCTION DOCUMENT PHASE**

During this phase, CORE will continue supporting constructability review, procurement strategy, scope reconciliation, and cost alignment as the Construction Documents are finalized. If appropriate, the project team may proceed with an early GMP package that was identified during Design Development. Otherwise, CORE will develop one final Guaranteed Maximum Price (GMP) for the project based on the completed Construction Documents. The goal during this phase is to ensure the final documents support a complete, coordinated, and executable GMP aligned with the Owner's budget, schedule, and operational goals.

a. **CORE's role during the Construction Document Phase:**

During this phase, CORE will likely provide the Guaranteed Maximum Price, if authorized by the project's funding path. As previously mentioned, there could be early GMPs developed during the Design Development Phase, so this GMP would be for the balance of the project scope, if it is deemed appropriate to have multiple GMPs. If the project team determines that multiple GMPs are not appropriate, CORE will develop one final GMP for the full project scope.

CORE will continue supporting constructability review, procurement strategy, scope reconciliation, and cost alignment efforts as the Construction Documents are finalized. The goal during this phase is to ensure the final documents support a complete, coordinated, and executable GMP aligned with the Owner's budget, schedule, and operational goals.

b. **Basic Scope of Services required to fulfill this role**

i. **Final Estimate & GMP Development**

CORE will update the cost model to reflect the Construction Documents and incorporate updated Trade Partner input.

ii. **Work Breakdown Structure (WBS)**

The WBS will be updated to reflect design evolution. CORE will provide a variance report with each estimate.

iii. **Basis of Estimate**

This will be the clarification to each GMP. It will define any and all allowances, proprietary specifications and/or vendors, procurement assumptions, scope inclusions, scope exclusions, and anything else that serves to clarify the basis of our GMP.

iv. **Options Studies & VE Tracking**

CORE will continue to provide options analysis on finishes, systems, or unique scope elements as



needed. Each option will be evaluated for cost, schedule, quality, and constructability impacts and tracked through the Scope Options Log.

v. **Constructability Review**

This will be an updated look at the analysis completed during previous phases as well as a review of newly identified Unique Features of Work, coordination items, procurement concerns, and construction sequencing considerations.

vi. **Updated Construction Schedule**

This will be a milestone construction schedule specific to the scope identified in the Construction Documents. Long-lead procurement durations, utility coordination, permitting durations, phased procurement opportunities, and early release packages will continue to be updated in this schedule.

vii. **Finalized List of Prequalified Subcontractors to Bid**

CORE will look for input from the entire team on the final list of invited subcontractors. This will include a minimum of three bidders per trade where practical; major trades of construction will be sought with a minimum of five bidders per trade.

Final trade partner selection will be coordinated with the Town and PM/CM consistent with the project's procurement requirements.

viii. **Final Site Logistics Plan and Phasing Plan**

As all other details are finalized, CORE will have the information necessary to finalize the site logistics and lay-down plan for review and approval. This plan will include site access, staging, material lay-down, utility coordination, and construction phasing considerations.

ix. **FF&E**

CORE will continue coordinating FF&E requirements with the Design Team and Owner, including budget alignment, procurement coordination, installation impacts, and integration with the construction documents. Final FF&E selection and procurement will remain the responsibility of the Owner.

5. **GENERAL COMMENTS**

Please consider the following items as it relates to this proposal and project, we have made the following general assumptions:

a. **Independent Estimate Reconciliation**

CORE has included participation in independent estimate reconciliation at the SD, DD, and CD phases. This effort will include review of estimate assumptions, scope alignment, quantity variances, and cost differences in coordination with the Owner, design team, and independent estimator to support a clear and defensible project budget.

b. **Building Information Modeling During Preconstruction:**

CORE will use the REVIT model provided by the designer to look for clashes, provide clarification to subcontractors for bidding, and to partner with this project team.

c. **Meeting Attendance:**

CORE will participate in project kick-off, Project Team, stakeholder, user group, public, partnering,





workshop, utility coordination, comment resolution, GMP review, and design review meetings, as required. Meeting attendance is assumed to be a blend of virtual and in-person participation based on project needs and Town direction.

d. **LEED:**

CORE has not considered costs for a LEED Champion or registration with the USGBC, our LEED Accredited Team Members will support the Design Professional and Owner during Preconstruction.

e. **Topographic Survey:**

CORE has not included any costs for topographic survey.

f. **Envelope Consultant:**

CORE has not included any costs for an envelope consultant.

g. **Order Long Lead Items Allowance:**

CORE has not included any costs for ordering long lead items. CORE has included the services necessary to assess Long Lead Items, and if necessary, prepare an early procurement GMP.

h. **Allowances**

CORE has carried the following allowances:

1. **Site Investigation Allowance:**

CORE has included a site investigation allowance to support estimate validation, utility locating, potholing, flow testing, constructability review, utility coordination, exploratory investigation, and risk identification during preconstruction.

2. **Aquatic Systems Design-Assist Allowance:**

CORE has included Design-Assist services for the aquatic systems contractor only. No other trade-specific Design-Assist services have been included in this proposal unless specifically identified or authorized by the Owner.

3. **10% Owner's Allowance**

CORE has included an Owner's Allowance equal to ten percent (10%) of the total preconstruction fee. This allowance is intended to provide flexibility for Owner-directed changes, additional services, or unforeseen preconstruction efforts that may arise during the course of the project. Any use of this allowance will require Owner authorization.

i. **Hazardous Material Survey and/or Remediation**

CORE has not included costs for Hazardous Material Survey and/or Remediation

j. **Owner-Managed AV / IT / Security Systems**

It is understood that the design team will provide the design for the AV, IT, and Security systems. The Town will provide direction through its internal staff or designated representatives during design. CORE has included coordination of these scopes throughout preconstruction and will include the associated construction scope in the Guaranteed Maximum Price (GMP). If these systems are procured separately by the Town, CORE will administer those contracts during construction. Final design responsibility, system standards, and vendor selection will remain with the Town and its designated representatives unless otherwise directed by the Owner.



13835 N. Northsight Blvd., Suite 100
Scottsdale, AZ 85260

T 602.494.0800

PRECONSTRUCTION LABOR FEE – BASE SERVICES

This proposal includes Programming and Concept Design services to develop concept-level cost models for both Aquatics & Recreation Facility funding scenarios, supporting the Town's funding evaluation and decision-making process.

This proposal includes Programming and Concept Design services to develop concept-level cost models for both Aquatics & Recreation Facility funding scenarios, supporting the Town's funding evaluation and decision-making process. If the November 2026 election does not approve full funding, CORE will continue through Schematic Design, Design Development, and Construction Documents for the approximately \$16M Aquatic Center, including GMP development as appropriate for the reduced scope.

PRECONSTRUCTION (\$16M PROGRAM) - PRECONSTRUCTION WORKFORCE PROJECTIONS											
DESCRIPTION	UNITS	Concept Estimate	Schematic Design	Design Develop.	Construct Drawings	RATE	Concept Estimate	Schematic Design	Design Develop.	Construct Drawings	TOTAL
PROJECT DIRECTOR	HRS	27	33	37	40	\$ 190	\$ 5,130	\$ 6,270	\$ 7,030	\$ 7,600	\$ 26,030
SENIOR PRECON MANAGER	HRS	53	67	73	80	\$ 162	\$ 8,586	\$ 10,854	\$ 11,826	\$ 12,960	\$ 44,226
PRECON MANAGER	HRS	53	67	73	80	\$ 151	\$ 8,003	\$ 10,117	\$ 11,023	\$ 12,080	\$ 41,223
ASST. PRECON MANAGER	HRS	53	67	73	80	\$ 114	\$ 6,042	\$ 7,638	\$ 8,322	\$ 9,120	\$ 31,122
PROJECT MANAGER	HRS	27	33	37	40	\$ 151	\$ 4,077	\$ 4,983	\$ 5,587	\$ 6,040	\$ 20,687
SUPERINTENDENT	HRS	8	8	8	10	\$ 151	\$ 1,208	\$ 1,208	\$ 1,208	\$ 1,510	\$ 5,134
PHASE TOTALS		221	275	301	330		\$ 33,046	\$ 41,070	\$ 44,996	\$ 49,310	
											GRAND TOTAL: \$ 168,422

Attachment A

Preconstruction Services Fee		
Phase of Preconstruction	% of Preconstruction	Total
Concept Estimate	20%	\$ 33,046
Schematic Design	24%	\$ 41,070
Design Development	27%	\$ 44,996
Construction Drawings	29%	\$ 49,310
	100%	\$ 168,422

TOTAL PRECONSTRUCTION SERVICES FEE: \$ 168,422





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Scottsdale, AZ 85260

T 602.494.0800

PRECONSTRUCTION LABOR FEE – EXPANDED SERVICES

If the November 2026 election results in approval of the full funding package, CORE will continue through Schematic Design, Design Development, and Construction Documents for the approximately \$30M Aquatics and Recreation Facility, including GMP development as appropriate for the expanded scope and evaluation of early procurement opportunities where beneficial.

PRECONSTRUCTION (\$30M PROGRAM) - PRECONSTRUCTION WORKFORCE PROJECTIONS											
DESCRIPTION	UNITS	Concept Estimate	Schematic Design	Design Develop.	Construct Drawings	RATE	Concept Estimate	Schematic Design	Design Develop.	Construct Drawings	TOTAL
PROJECT DIRECTOR	HRS	27	47	50	53	\$ 190	\$ 5,130	\$ 8,930	\$ 9,500	\$ 10,070	\$ 33,630
SENIOR PRECON MANAGER	HRS	53	93	100	107	\$ 162	\$ 8,586	\$ 15,066	\$ 16,200	\$ 17,334	\$ 57,186
PRECON MANAGER	HRS	53	187	200	213	\$ 151	\$ 8,003	\$ 28,237	\$ 30,200	\$ 32,163	\$ 98,603
ASST. PRECON MANAGER	HRS	53	140	150	160	\$ 114	\$ 6,042	\$ 15,960	\$ 17,100	\$ 18,240	\$ 57,342
PROJECT MANAGER	HRS	27	47	50	53	\$ 151	\$ 4,077	\$ 7,097	\$ 7,550	\$ 8,003	\$ 26,727
SUPERINTENDENT	HRS	8	10	10	12	\$ 151	\$ 1,208	\$ 1,510	\$ 1,510	\$ 1,812	\$ 6,040
PHASE TOTALS		221	524	560	598		\$ 33,046	\$ 76,800	\$ 82,060	\$ 87,622	
GRAND TOTAL: \$ 279,528											

Attachment A

Preconstruction Services Fee		
Phase of Preconstruction	% of Preconstruction	Total
Concept Estimate	12%	\$ 33,046
Schematic Design	27%	\$ 76,800
Design Development	29%	\$ 82,060
Construction Drawings	31%	\$ 87,622
		\$ 279,528

TOTAL PRECONSTRUCTION SERVICES FEE: \$ 279,528





13835 N. Northsight Blvd., Suite 100
Scottsdale, AZ 85260

T 602.494.0800

PRECONSTRUCTION LABOR FEE & ALLOWANCES

	\$16M Program Option	\$30M Program Option
TOTAL PRECONSTRUCTION (LABOR) SERVICES FEE:	\$ 168,422	\$ 279,528
Allowances		
Description		
Site Investigation Allowance	\$ 20,000	\$ 20,000
Aquatic Systems Design-Assist Allowance	\$ 15,000	\$ 15,000
10% Owner Allowance	\$ 22,602	\$ 34,948
TOTAL	\$ 57,602	\$ 69,948
	\$16M Program Option	\$30M Program Option
TOTAL PRECONSTRUCTION FEE WITH ALLOWANCES	\$ 226,024	\$ 349,476

Please do not hesitate to contact me with any questions or comments. We are grateful for the opportunity to serve the Town of Prescott Valley and appreciate your consideration of CORE Construction for the Prescott Valley Aquatic & Recreation Center. We look forward to the opportunity to work together on this exciting community project.

Sincerely,

Jason Santor
Vice President | PreConstruction
CORE Construction



SUBCONTRACTOR'S LIST FORM	
Project No.	

Company Name:	
Contact Name:	
Contact Email:	
Contact Phone:	
Work Component:	
Percentage of Total Work Performed:	

Company Name:	
Contact Name:	
Contact Email:	
Contact Phone:	
Work Component:	
Percentage of Total Work Performed:	

Company Name:	
Contact Name:	
Contact Email:	
Contact Phone:	
Work Component:	
Percentage of Total Work Performed:	

Company Name:	
Contact Name:	
Contact Email:	
Contact Phone:	
Work Component:	
Percentage of Total Work Performed:	

Company Name:	
Contact Name:	
Contact Email:	
Contact Phone:	
Work Component:	
Percentage of Total Work Performed:	

Company Name:	
Contact Name:	
Contact Email:	
Contact Phone:	
Work Component:	
Percentage of Total Work Performed:	

EXHIBIT D

PROJECT-SPECIFIC MODIFICATIONS TO GENERAL CONDITIONS – INSURANCE

This Appendix D modifies the insurance provisions of the General Conditions solely for the Prescott Valley Aquatics and Recreation Facility Project. In the event of a conflict between this Appendix D and the General Conditions, this Appendix D controls. Except as expressly modified below, the General Conditions remain unchanged and in full force and effect.

D.1 Section 11.1.1 – Insurance Requirements

Section 11.1.1 is supplemented and clarified as follows: CMAR shall furnish the Town evidence of the insurance required of CMAR under the Contract Documents. CMAR shall require each Subcontractor to maintain insurance appropriate to the Subcontractor's scope of work, consistent with industry standards and sufficient to support CMAR's obligations under the Contract. Coverage types and limits applicable to Subcontractors may vary based upon the nature and risk of the subcontracted work, subject to the specific requirements stated in this Appendix D. CMAR remains fully responsible for performance of the Work and compliance with the Contract Documents regardless of the insurance maintained by any Subcontractor.

D.2 Sections 11.1.2, 11.1.6 and 11.1.7 – Subcontractor Insurance

Any provision requiring every Subcontractor to maintain the same insurance coverages or limits required of CMAR is deleted. CMAR shall obtain and maintain the insurance required of CMAR by the Contract Documents, and shall require Subcontractors to maintain insurance appropriate to their respective scopes of work in accordance with Section D.1 above and the pollution-liability requirements in Section D.4 below.

D.3 Section 11.2.1.5 – Builders' Risk / Installation Floater

The first paragraph of Section 11.2.1.5 is modified to provide that CMAR shall purchase and maintain Builders' Risk/Installation Floater insurance on the entire Work through Substantial Completion, unless otherwise agreed in writing by the Town. The phrase "until completed and accepted by the Town" is deleted and replaced with "until achieving Substantial Completion". All other requirements of Section 11.2.1.5 remain unchanged, except that any provision addressing the duration of Builders' Risk coverage shall be interpreted consistently with this Section D.3.

D.4 Section 11.2.1.6 – Pollution Liability Insurance

CMAR shall maintain Pollution Liability Insurance with limits of not less than \$5,000,000 per loss and \$5,000,000 aggregate for losses caused by pollution conditions, including bodily injury, property damage, defense costs, cleanup costs, and completed operations arising from CMAR's operations under the Contract.

CMAR shall require Pollution Liability Insurance from Subcontractors whose scopes of work present a material pollution exposure, as follows:

- Subcontractors with pollution exposure: not less than \$1,000,000 per claim and \$1,000,000 aggregate.
- Subcontractors handling, transporting, storing, disposing of, disturbing, or remediating hazardous materials: not less than \$5,000,000 per claim and \$5,000,000 aggregate.
- Subcontractors whose scopes of work do not present a material pollution exposure: Pollution Liability Insurance is not required unless otherwise required by the Contract Documents or directed by the Town based on the actual scope of work.

The remaining coverage requirements in Section 11.2.1.6, including applicable completed-operations, transportation, disposal-site, and additional-insured requirements, remain in effect except to the extent expressly modified by this Appendix D.

D.5 Section 11.3.3 – Primary and Noncontributory Coverage

Section 11.3.3 is replaced with the following: "CMAR's insurance coverage shall be primary and noncontributory with respect to the Town, its officers, officials, agents, and employees, except for Workers'

EXHIBIT D

PROJECT-SPECIFIC MODIFICATIONS TO GENERAL CONDITIONS – INSURANCE

Compensation and Employers Liability and Professional Liability. Any insurance or self-insurance maintained by the Town, its officers, officials, agents, and employees shall be excess of the coverage provided by CMAR and shall not contribute with it."

D.6 Section 11.3.10.1 – Additional Insured Causation Language

In Section 11.3.10.1, the phrase "arising out of" is replaced with "caused, in whole or in part, by," so that the additional-insured requirement applies with respect to liability caused, in whole or in part, by activities performed by or on behalf of CMAR, including Products and Completed Operations and applicable automobile liability exposures.

EXHIBIT E

PROJECT-SPECIFIC MODIFICATIONS TO GENERAL CONDITIONS – INDEMNIFICATION

This Appendix E replaces Section 12.1 of the General Conditions solely for the Prescott Valley Aquatics and Recreation Facility Project. In the event of a conflict between this Appendix E and the General Conditions, this Appendix E controls. Except as expressly modified below, the General Conditions remain unchanged and in full force and effect.

E.1 Section 12.1 – Indemnification

Section 12.1 is deleted in its entirety and replaced with the following:

“To the fullest extent permitted by law, CMAR and its owners, officers, directors, agents, employees, and Subcontractors (collectively, “Indemnitor”) shall indemnify, defend, and hold harmless the Town, its officers, officials, employees, agents, and consultants (collectively, “Indemnatee”) from and against claims, damages, losses, and expenses, including reasonable attorneys’ fees, but only to the extent caused by the negligent acts or omissions, recklessness, or willful misconduct of CMAR, its Subcontractors, or anyone directly or indirectly employed by them or for whose acts they may be liable. Such obligation shall not require CMAR to indemnify an Indemnatee for that Indemnatee’s own negligence or willful misconduct. This obligation shall survive Final Completion and termination of the Contract.”

E.2 Waiver of Subrogation

To the extent permitted by applicable insurance policies, CMAR waives rights of subrogation against the Town for losses covered by insurance and arising out of the Work.

EXHIBIT F

PROJECT RESPONSIBILITY & RISK ALLOCATION MATRIX

Risk / Obligation	TOWN	DESIGNER	CMAR	Process / Contracting Structure	Key Deliverable / Control
Program definition and funding decision	Owms final program, budget, funding and election decision	Designs to the Town-authorized program and funding path	Provides estimating, constructability and schedule input; identifies cost/schedule implications of each program alternative	Town decision supported by Grace/CORE pre-election reconciliation and written plan/scope/program authorization	Approved program matrix for approximately \$18M and \$30M paths, with reconciled cost/schedule decision package
Topographic and utility survey	Pays / provides access	Scopes and coordinates survey, uses results in design	Provides constructability input and Town-authorized potholing/site-investigation support within the applicable investigation allowance	Grace survey subcontractor or Town-direct surveyor; CORE allowance used only for specifically authorized field investigation/potholing support	Certified survey, utility-confidence statement, and documented potholing/investigation results where authorized
Geotechnical investigation	Pays and owns baseline data risk	Defines boring/testing criteria early and designs to the final report	Coordinates access and evaluates constructability; manages supplemental investigation only if specifically authorized by the Town	Town-direct or Grace subcontractor for baseline geotechnical services; any CORE-managed supplemental work requires written authorization and identified funding	Geotechnical report, with reliance rights, boring/testing criteria, and documented supplemental findings if authorized
Hazardous materials survey	Owms unknown pre-existing conditions	Coordinates design implications	Provides access and demolition input	Town-direct environmental consultant	Pre-demolition survey and abatement scope
Hazardous materials remediation	Pays for disclosed/unknown pre-existing conditions	Provides required professional design support	Owms means, methods, safety, transport, disposal and pollution caused by operations	CORE early-work package / GMP after characterization	Abatement plan, manifests, clearance reports
Special inspections	Pays for independent owner QA	Prepares Statement of Special Inspections and reviews reports	Coordinates access, scheduling and corrections	Town-direct special inspector	Statement, reports and final certificate
Construction QC testing	None except oversight	Reviews design implications	Procures and manages subcontractor/QC testing	CORE / trade scope	QC plan and test reports
Owner QA/material acceptance testing	Retains independent lab	Reviews reports	Coordinates access and corrects deficiencies	Town-direct testing laboratory	QA reports and nonconformance log
Envelope consulting and testing	May retain independent Owner acceptance testing	Owms envelope design, specialist coordination, performance criteria and testing requirements	Coordinates mockups and contractor-controlled QC/field testing; includes assigned contractor/trade testing in the GMP	Grace envelope specialist plus CORE-controlled mockup/QC testing; Town-direct independent acceptance testing where independence is desired	Envelope design criteria, testing responsibility matrix, mockup plan and acceptance-testing plan finalized before GMP
Systems commissioning	Retains independent commissioning authority where desired	Responds to commissioning design review and witnesses testing as required	Coordinates and executes defined functional testing through trades and carries assigned testing costs in the GMP	Town-direct commissioning authority; commissioning responsibility/testing matrix finalized before GMP	OPR, BOD, commissioning plan, responsibility matrix, functional test procedures/reports and deficiency log
Aquatic system start-up	Participates through operations staff and approves objective acceptance criteria	Pool engineer observes/evaluates design compliance and reviews startup documentation	Aquatic trade and CORE execute, adjust and document the defined startup/testing protocol	CORE construction scope with Grace/pool-consultant oversight; written startup protocol finalized before GMP	Startup protocol defining systems, seven-day test, utilities, chemical/consumables, training, Town participation, documentation and acceptance criteria
FF&E selection and procurement	Approves and purchases unless expressly included in the GMP; identifies Owner-furnished items	Programs, designs, specifies and assists procurement; coordinates required design interfaces	Coordinates construction interfaces, delivery, storage, installation, connections and schedule for items assigned to CORE	Split scope using a detailed FF&E/O&E responsibility matrix, including OFC/OFCO or equivalent categories	FF&E budget, item list and responsibility matrix assigning selection, purchase, receipt, storage, installation, connection, startup, warranty and schedule

EXHIBIT F

PROJECT RESPONSIBILITY & RISK ALLOCATION MATRIX

Risk / Obligation	TOWN	DESIGNER	CMAR	Process / Contracting Structure	Key Deliverable / Control
Record documents	Receives and accepts	Reviews apparent completeness; incorporates design-issued changes	Maintains field as-built and prepares closeout set	CORE prepares; Grace reviews	Monthly updates and final record set
Warranty administration	Owms maintenance and timely notice	Responds to design-related issues; 10-month review	Manages construction warranty; 22-month inspection	Separate but coordinated obligations	Warranty platform, inspections, issue log
Subconsultant scope and contract management	Approves named key subconsultants and negotiated prime scope	Fully responsible for all disciplines; downstream terms do not limit prime obligations	Coordinates with design team but has no responsibility for Grace's consultant contracts	Prime agreement plus reconciled consultant scope matrix; downstream contracts not incorporated	Order-of-precedence clause and signed scope matrix
Discipline construction observations	Receives reports and may request targeted attendance	Provides sufficient architectural/engineer/pool/civil/landscape observations despite downstream visit caps	Schedules work and gives advance notice before critical work is concealed	Grace Basic Services with milestone-based visit schedule	Visit matrix, field reports and deficiency log
MEP/technology scope completeness	Confirms owner systems and operational criteria	Provides complete MEP, AV, structured cabling and security design; establishes fire-protection performance/design criteria and coordinates building/water-supply interfaces; reviews delegated design for conformance	Provides constructability, procurement and trade coordination; qualified fire-protection trade completes delegated/delayed design, calculations, permit submittal and installation within the GMP	Grace design criteria and interface coordination plus CORE fire-protection trade delegated design in GMP; delegation boundaries documented before GMP	System responsibility matrix, basis-of-design narratives, fire-protection performance criteria and delegated-design submittal requirements
Aquatic/structural interfaces	Approves program and operational requirements	Owms complete design and closes pool/structural/civil/MEP interfaces among its consultants	Provides constructability and delegated-design input where expressly specified and prices the resulting construction scope	Signed Grace discipline/interface matrix incorporated into prime scope and completed before GMP and affected design packages	Component matrix for pool shells, deck, slides/features, pits, drains, bonding, structural supports, MEP/controls and civil/utilities
Demolition design and environmental characterization	Procures hazardous-material survey and owns genuinely unknown pre-existing conditions	Provides ordinary architectural/structural/MEP/civil/pool demolition, decommissioning and utility-cutover documents	Owms demolition means, methods, safety and disposal; receives relief only for genuinely unknown conditions qualifying under the Contract differing-site/hazardous-condition procedures	Town environmental consultant plus Grace demolition design plus CORE execution, with prompt-notice/investigation/equitable-adjustment mechanism for qualifying unknown conditions	Environmental survey, demolition plans, utility cutover plan, abatement package, notice protocol, manifests and clearance documentation
Subconsultant fees, travel and reimbursables	Pays only prime-agreement compensation and approved add services	Manages downstream fees, markups, travel and visit costs within negotiated compensation	Not applicable	Consolidated Grace fee exhibit controls	Included-services schedule and written add-service authorization
Permitting and agency approvals	Provides required owner signatures/authorizations and pays Town-responsible agency fees unless otherwise assigned	Identifies required design approvals; prepares/seals design permit documents and responds to design-review comments	Coordinates construction/trade permit logistics and obtains permits expressly assigned to CMAR/R/trades, including delegated/delayed-submittal permits in the GMP	Permit responsibility matrix completed during design and finalized before GMP; avoid blanket "permits by contractor" allocation	Permit/approval log for building, civil, health/aquatics, fire, utility, demolition/abatement and trade/delayed permits; identifying preparer, submitter, fee payer, comment response and final approval
Dry utility coordination	Provides owner authorizations and pays owner-responsible utility/service fees unless included elsewhere	Civil/MEP team establishes loads, service applications, joints of connection, routing and design requirements and coordinates design information with serving utilities	Supports potholing/constructability, procurement and scheduling; coordinates utility construction, including temporary service and trade interfaces included in the GMP	Design-team utility coordination during design; electric, gas and communications responsibilities and utility-company work finalized before GMP	Utility responsibility matrix, load/utility/service applications, utility-company design/work assignments, routes, trench/ductwork scope, easements, temporary service, milestone schedule and final connections

EXHIBIT G

CMAR FEE, GMP CALCULATION & FINAL RECONCILIATION

This Exhibit establishes the agreed construction-phase CMAR Fee methodology and the treatment of GMP components for fee calculation and final reconciliation. It supplements Section 3.6.3 of the Contract and controls in the event of a conflict concerning the calculation or reconciliation of the CMAR Fee.

Item	Agreed Treatment
CMAR Fee	Five percent (5%) of the accepted GMP, as adjusted by duly executed Change Orders or amendments.
Fee relationship	The CMAR Fee is included within the GMP and is not an additional amount above the accepted GMP.
Fee-bearing GMP components	The agreed 5% fee structure is based on the overall GMP, including Direct Construction Costs, General Requirements, General Conditions, CMAR construction contingency, approved allowances, bonds, insurance, Builder's Risk, applicable taxes, and other approved GMP costs, except as expressly excluded below.
Excluded from fee basis	The CMAR Fee itself shall not be treated as an additional cost item for purposes of applying a second or duplicative markup. Owner-controlled contingency held outside the GMP and costs paid directly by the Town are not fee-bearing unless expressly incorporated into the GMP by written amendment.
General Conditions / General Requirements	General Conditions and General Requirements shall be separately identified in the Baseline Cost Model and GMP Proposal, supported by appropriate cost detail, and shall not duplicate home-office overhead, profit, or other amounts compensated through the CMAR Fee.
Other markups	No separate CMAR corporate markup, overhead markup, or fee-on-fee charge may be added in addition to the 5% CMAR Fee unless expressly authorized in a written Change Order or GMP Amendment. Approved subcontractor markups properly included in Direct Construction Costs may remain part of the GMP.

G.1 Fee Calculation

The parties intend the CMAR Fee to equal exactly five percent (5%) of the final accepted GMP. Accordingly, when the GMP is developed from costs before the CMAR Fee is added, the fee may be calculated as 5% of the pre-fee GMP cost base. This is solely a mathematical method to produce a CMAR Fee equal to 5% of the final GMP and does not authorize a second fee or fee-on-fee markup.

The applicable formula is as follows: $\text{CMAR Fee} = 5\% \times \text{Final GMP}$. When calculating the CMAR Fee from the GMP costs before adding the CMAR Fee, the equivalent calculation is $\text{CMAR Fee} = 5.26316\% \times \text{Pre-Fee GMP Cost Base}$.

EXHIBIT G

CMAR FEE, GMP CALCULATION & FINAL RECONCILIATION

Illustrative Scenario	Final GMP	CMAR Fee (5%)	Pre-Fee GMP Cost Base
\$30M Full Aquatics + Recreation example	\$30,000,000	\$1,500,000	\$28,500,000
\$16M Aquatics-only example	\$16,000,000	\$800,000	\$15,200,000

G.2 Contingencies, Allowances, Credits & Final Reconciliation

Contingency and allowances are not earned compensation. Amounts carried in the GMP as CMAR contingency or allowances may be used only for purposes permitted by the Contract and the approved GMP. Unused balances remain for the benefit of the Town and shall reduce the GMP at final reconciliation unless the Town has authorized their use for other Work.

Fee follows the final adjusted GMP. When the GMP is reduced for unused contingency, unused allowances, scope reductions, buyout savings, refunds, credits, rebates, audit adjustments, or similar amounts that ultimately reduce the GMP, the CMAR Fee shall be reduced as necessary so that the CMAR Fee remains equal to 5% of the final adjusted GMP.

GMP increases require written authorization. If the GMP is increased by an executed Change Order or amendment, the CMAR Fee may be adjusted so that it remains 5% of the revised GMP, except where the governing Change Order expressly identifies an amount as non-fee-bearing.

No duplicate recovery. Any refund, credit, rebate, insurance adjustment, bond adjustment, tax adjustment, or other recovery attributable to a GMP cost shall be credited to the Project to the extent required by the Contract. The CMAR shall not retain both the credit and a fee calculated on a cost that is removed from the final GMP.

Open-book support. The GMP Proposal and final reconciliation shall separately identify Direct Construction Costs, General Requirements, General Conditions, contingency, allowances, bonds, insurance, Builder's Risk, taxes, CMAR Fee, and other material cost categories, with reasonable supporting detail sufficient for Town review.

G.3 Relationship to Preconstruction Compensation

The CMAR Fee described in this Exhibit applies to construction-phase GMP compensation and is separate from the Pre-Construction Services compensation established in Section 7.1.2 and Exhibit B. Pre-Construction Services compensation shall not be included in the GMP fee calculation unless expressly incorporated into a later GMP Amendment by the Town