CMAR REQUEST FOR PROPOSALS

Date: October 1, 2015

Project Identification

Project Name: Advance Planning: Nevada National Guard Readiness Center
Project Address: Speedway Blvd.,/N. Hollywood Blvd., North Las Vegas, Nevada
SPWD Project No.: 15-P02

Owner

State Public Works Division
515 E. Musser Street, Suite 102
Carson City, Nevada 89701-4263
(775) 684-4141

SPWD Project Manager: Chandra Bandi

The CMAR shall be qualified to bid on public work in accordance with Nevada Revised Statutes Section 338.1379 prior to submitting a response to this Request for Proposals.

SPWD RFP/Interview Submittal Contact: Ward Patrick, Chief of Planning (775) 684-4102

All questions or comments pertaining to the RFP and/or the Interview Submittal shall be directed to the State Public Works Division RFP/Interview Submittal Contact listed above.

Using Agency: Office of the Military

Architect

Firm Name: H+K ARCHITECTS
Address: 5485 Reno Corporate Drive, Suite 100
City, State, Zip Code: Reno, Nevada 89511-2262
Phone: (775) 332-6640

Delivery Deadline for Proposals

Proposal packages (7 copies required) from all interested parties will be accepted at the front desk of the State Public Works Division office (address listed above) until:

Date: October 22, 2015
Time: 2:00 PM (local time)

ARTICLE 1 PROJECT DESCRIPTION AND BUDGET

Building Name: Speedway Readiness Center

Gross Building Area: 97,000 square feet

Established Construction Budget: $29,400,000

General Project Description:

The scope of this project is to complete the schematic design for a new 97,000 sf National Guard/Reserve Readiness Center to serve the peacetime missions of the assigned units. This project will provide the administration, storage, classrooms, locker rooms, break area, restroom/showers, roads, sidewalks, curb and gutters, storm drainage, parking areas to include 270 privately owned vehicles and site improvements to establish and maintain the readiness posture of the assigned units.

This facility will be designed to meet industry standards as well as local, state and federal building codes. Facilities will be designed to a minimum life of 50 years and energy efficiency standards through improved building envelope and integrated building systems performance. Access for individuals with disabilities will be provided. Anti-terrorism measures are included in accordance with DOD minimum standards.

Once completed, it will provide the necessary administrative, training, supply, classrooms and storage areas required to achieve proficiency in required training tasks for the 272 soldiers of the 17th sustainment brigade (WPDNAA) and 43 soldiers of the EOD Company (WPANAA) of the Nevada Army National Guard (NANG). The new facility is planned to be constructed on 40 acres of state land located at the north end of the Las Vegas valley.

This is a 100% federally funded design and construction project. This advance design will better position the project to insure that in the current federal fiscal environment, this project is not moved to a later fiscal year. The NGB construction funding is planned to be received on or about October 2017. This project is funded through schematic design. Further funding is pending Federal and State approval.

ARTICLE 2 PAYMENT TERMS AND DEFINITIONS

See CMAR General Conditions of the Contract (Section 7.5).

ARTICLE 3 CMAR PRE-CONSTRUCTION SERVICES

See Owner-CMAR Pre-Construction Agreement for description of required services.

The CMAR's participation will commence at or near the date that the Schematic Design Phase documents are issued by the Architect.

ARTICLE 4 PROJECT AND RFP TIME SCHEDULE

See Baseline Project Schedule (Article 8). The Baseline Project Schedule includes a tentative schedule of events and dates. The Baseline Project Schedule is subject to change as deemed appropriate by the Owner.

ARTICLE 5 CMAR REQUEST FOR PROPOSALS SUBMITTAL REQUIREMENTS

The submittal shall be bound and indexed, shall be separated into the following specific categories, and the information within each category shall be ordered to match those listed in this request for proposals.

A cover letter shall be included that addresses pertinent general information as deemed appropriate by the CMAR. The cover letter shall also include the appropriate contact person at the CMAR firm, along with their phone number and e-mail address, and a list of 3 references with their contact information.

CMAR Firm General Information

Firm Information
Provide firm name, business address, year established, type of firm ownership (i.e., single source, joint venture), name and address of parent company, former parent company names, name and contact information for principal personnel, areas of responsibility, and total number of personnel.

Firm Organizational Chart
Indicate lines of responsibility and/or communication.

Current Workload
Provide a list and a summary paragraph describing the firm's current workload, including a list of project names and the associated contract values.

1. Key Personnel Qualifications

   a. Provide a resume for each key person that will be assigned to this project. Include their name and title, project assignment, total years of construction experience, years of experience with CMAR, years of experience with this firm, education including degree(s), year and discipline, active registrations and licenses including the number and State, other qualifications, and experience. Also, provide a summary of any experience with CMAR pre-construction services.
   b. Describe the specific role performed on each project listed in the resume, highlighting projects of similar size and scope where the person's role was similar to their role on this project.
   c. As a minimum, provide resumes (that include qualifications and experience) for the Project Manager, Superintendent, Estimator, and Schedule Coordinator. Provide this information for both the Pre-Construction and Construction phases, if different personnel will be utilized.
   d. Provide a project-specific organizational chart.

2. Project Experience (Similar Projects)
   a. Include experience on up to 10 projects of similar size and scope in either public or private sector. Include project name, project description, client references for each project (including contact name, address, and telephone), completion date, project budget, type of services provided, and other pertinent information.
   b. Include any applicable experience in the State of Nevada.
   c. Include a statement as to whether the proposed key personnel were involved in any of the listed projects.
   d. Specify the delivery method utilized for each of the listed projects. Relevant project experience may include projects using any delivery method, including without limitation, CMAR, Design-Build, Design-Assist, Negotiated, or Value-Engineered work.

3. Past Performance
   For each project listed under project experience (above) provide the following information:
   a. List the name, location, and a general description of each project.
   b. List your firm's record of cost performance (list contract award amount versus final construction cost). Explain any cost deviations.
   c. List your firm's record of schedule performance (list original schedule versus final completion date). Explain any schedule deviations.

4. Project Implementation Plan
   a. Describe your approach to performing pre-construction services.
   b. Describe your subcontractor qualification process.
   c. Describe how you will involve subcontractors in the Pre-Construction process.
   d. Describe how you will obtain subcontractor bids (in accordance with CMAR General Conditions of the Contract Section 3.17 and in accordance with Nevada Revised Statutes Sections 338.16991 and 338.16995).
   e. Describe your approach to performing construction administration and management.
   f. Describe your approach to controlling the project construction budget and schedule.
   g. Describe your approach to performing quality assurance/quality control during construction.
   h. Describe your approach to achieving project close-out (commissioning, punch-list completion, and warranty work).
   i. Describe your approach to achieving compliance with Nevada Revised Statutes Section 338.130 (which requires the preferential employment of honorably discharged veterans and citizens of the State of Nevada in the construction of public works).

5. Safety Program
   a. Provide a summary description of your safety program including sample documentation/forms.
   b. Provide a summary description of your safety program implementation plan, including assigned personnel and the percentage of their time that will be allocated to this project.
   c. Provide your safety record for the last 5 years.

6. Miscellaneous Submittal Requirements
   a. CMAR shall include a copy of his current Certificate of Eligibility (when/if applicable).
   b. CMAR shall include a copy of the signed Affidavit of Compliance (when/if applicable).
   c. CMAR shall include a copy of his current Nevada Contractor's License.
   d. CMAR shall include a copy of his current Qualified Bidder Status letter (per NRS 338.1379).
   e. CMAR shall submit a statement as to whether his firm has been found liable for breach of contract with respect to a previous project, other than breach for legitimate cause, during the 5 years preceding the date of this Request for Proposals.
   f. CMAR shall submit a statement as to whether his firm has been disqualified from being awarded a contract pursuant to Nevada Revised Statutes Sections 338.017 or 338.13895.

7. Insurance and Bonding Capacity
   a. Submit evidence of ability to obtain all insurance as stipulated in the CMAR General Conditions of the Contract.
   b. Submit evidence of the financial capability of your bonding company.
   c. Submit evidence that your bonding company is listed by the United States Treasury.
   d. Submit written certification or other appropriate evidence from your bonding company confirming that your firm will have bonding capacity if this project, estimated at the value listed in Article 1 of this Request for Proposals, is added to your current and anticipated workload.
   e. Submit evidence that your firm is covered by workers compensation insurance as stipulated in the CMAR General Conditions of the Contract.

ARTICLE 6 CMAR SELECTION SCHEDULE

The following dates are tentative and are subject to revision by the Owner:

	Date
Notification Letter Issued to Short-Listed CMAR Firms	November 5, 2015
CMAR Interview Submittal due in SPWD Office	November 19, 2015
Board of Examiners Approval of Owner-CMAR Pre-Construction Agreement	February 9, 2016

ARTICLE 7 CMAR SELECTION PROCESS

The CMAR selection process will be conducted in accordance with all of the requirements stipulated in Nevada Revised Statutes Chapters 338 and 341 and Nevada Administrative Code Chapters 338 and 341.

A short-list of between 2 and 5 CMAR firms will be determined based on proposals only. Each of the short-listed firms will be asked to prepare and submit a CMAR Fee Proposal responding to the CMAR Interview Submittal. The final selection will be based on the interview and the CMAR Fee Proposal (see Final Selection Criteria and Weighting listed in Article 8).

ARTICLE 8 CMAR EVALUATION AND SELECTION CRITERIA

Evaluation of the CMAR firms will be based on the information requested and provided in the CMAR's Proposal. The defined categories will be evaluated on a percentage score or on a pass/fail basis, as may be applicable. All proposers understand and accept that the weighted selection criteria are both subjective and objective by nature and that the weight factor of each category is intended to define its relative importance. The final ranking of each firm will be based on a combined evaluation of all applicable criteria. By submitting a Proposal, the proposer acknowledges that the State Public Works Division has sole and absolute discretion in determining the selection criteria and in evaluating the proposer based on the selection criteria in each category.

Short-List Selection Criteria and Weighting

1. Key Personnel Qualifications	25 Points
2. Project Experience (Similar Projects)	20 Points
3. Past Performance	20 Points
4. Project Implementation Plan	25 Points
5. Safety Program	5 Points
6. Certificate of Eligibility	5 Points
Short-List Selection Point Subtotal	100 Points
Nevada Licensed Contractor	Pass/Fail
Qualified Bidder Status	Pass/Fail
Prior Breach of Contract	Pass/Fail
Prior Disqualification	Pass/Fail

Final Selection Criteria and Weighting

1. Key Personnel Qualifications	20 Points
2. Project Experience (Similar Projects)	10 Points
3. Past Performance	10 Points
4. Project Implementation Plan	20 Points
5. Safety Program	5 Points
6. Certificate of Eligibility	5 Points
7. CMAR Fee Proposal	20 Points
8. Interview	10 Points
Final Selection Point Total	100 Points

The CMAR Fee Proposal will be evaluated and scored based on the costs and fees listed in Articles No. 2 thru 6 in the CMAR Fee Proposal.

Scores will be calculated by dividing the lowest Proposed Fee Arrangement by the applicant's Proposed Fee Arrangement multiplied by the total possible 20 points.

ARTICLE 9 SAMPLE PROJECT SCHEDULE

Note: Listed durations are intended only to serve as examples.	Date/Duration
Professional Services Agreement Executed	01-18-2016
Approximate Duration (between previous item and following item)	*1 week*
Begin Schematic Design Phase (Pre-Design Meeting)	02-15-2016
Approximate Duration (between previous item and following item)	*30 days*
Schematic Design Delivery (Sub-Consultants to Architect)	06-30-2016
Approximate Duration (between previous item and following item)	*1 week*
Schematic Design Delivery (to State Public Works Division)	06-30-2015
Approximate Duration (between previous item and following item)	*3 days*
Schematic Design Presentation Meeting	TBD
Approximate Duration (between previous item and following item)	*2 weeks*
Schematic Design Review Comments Issued	xx-xx-xx
Approximate Duration (between previous item and following item)	*0 days*
Begin Design Development Phase	xx-xx-xx
Approximate Duration (between previous item and following item)	*30 days*
Design Development Delivery (Sub-Consultants to Architect)	xx-xx-xx
Approximate Duration (between previous item and following item)	*1 week*
Design Development Delivery (to State Public Works Division)	xx-xx-xx
Approximate Duration (between previous item and following item)	*3 days*
Design Development Presentation Meeting	TBD
Approximate Duration (between previous item and following item)	*2 weeks*
Design Development Review Comments Issued	xx-xx-xx
Approximate Duration (between previous item and following item)	*0 days*
Begin 50% Construction Documents Phase	xx-xx-xx
Approximate Duration (between previous item and following item)	*30 days*
50% Construction Documents Delivery (Sub-Consultants to Architect)	xx-xx-xx
Approximate Duration (between previous item and following item)	*1 week*
50% Construction Documents Delivery (to State Public Works Division)	xx-xx-xx
Approximate Duration (between previous item and following item)	*3 days*
50% Construction Documents Presentation Meeting	TBD
Approximate Duration (between previous item and following item)	*2 weeks*
50% Construction Documents Review Comments Issued	xx-xx-xx
Approximate Duration (between previous item and following item)	*0 days*
Begin 100% Construction Documents Phase	xx-xx-xx
Approximate Duration (between previous item and following item)	*45 days*
100% Construction Documents Delivery (Sub-Consultants to Architect)	xx-xx-xx
Approximate Duration (between previous item and following item)	*1 week*
100% Construction Documents Delivery (to State Public Works Division)	xx-xx-xx
Approximate Duration (between previous item and following item)	*3 days*
100% Construction Documents Presentation Meeting	TBD
Approximate Duration (between previous item and following item)	*0 days*
100% Construction Documents Delivery (to Plan Checking Firms/Agencies)	xx-xx-xx
Approximate Duration (between previous item and following item)	*4 weeks*
CMAR GMP Proposal Due	xx-xx-xx
Approximate Duration (between previous item and following item)	*2 weeks*
Owner-CMAR Construction Agreement Signed/Ready for Board of Examiners	xx-xx-xx
Approximate Duration (between previous item and following item)	*4 weeks*
Review Comments Received from all Plan Checking Firms/Agencies (and CMAR)	xx-xx-xx
Approximate Duration (between previous item and following item)	*0 weeks*
Responses to Review Comments Incorporated and Documents Re-Issued	xx-xx-xx
Approximate Duration (between previous item and following item)	*2 weeks*
Owner-CMAR Construction Agreement Executed	xx-xx-xx
Approximate Duration (between previous item and following item)	*0 weeks*
Notice to Proceed / Begin Construction	xx-xx-xx
Approximate Duration (between previous item and following item)	*365 days*
Substantial Completion / Certificate of Occupancy	xx-xx-xx
Approximate Duration (between previous item and following item)	*1 week*
Agency Move-In	xx-xx-xx
Approximate Duration (between previous item and following item)	*2 weeks*
Building Open for Intended Use	xx-xx-xx

CMAR FEE PROPOSAL

ARTICLE 1 INCORPORATED DOCUMENTS

The following documents are hereby incorporated and form the basis for the CMAR's Fee Proposal:

1. CMAR Request for Proposals
2. CMAR's Proposal (responding to the Request for Proposals)
3. Owner-CMAR Pre-Construction Agreement
4. CMAR GMP Proposal
5. CMAR GMP Proposal Instructions
6. Owner-CMAR Construction Agreement
7. CMAR General Conditions of the Contract Dated: 9-1-13

ARTICLE 2 CMAR PRE-CONSTRUCTION SERVICES PERSONNEL

Provide a listing of the CMAR personnel, the anticipated hours of involvement (for the duration of the services required under the Owner-CMAR Pre-Construction Agreement), and the billable hourly pay rate for each person that will be involved in the CMAR's pre-construction services scope of work. See Article 4 of the Owner-CMAR Pre-Construction Agreement for the associated scope of work.

Name	Job Title	Burdened Pay Rate	Hours	Rate x Hours
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
			Total	$_____

ARTICLE 3 CMAR CONSTRUCTION PERSONNEL

Provide a listing of the CMAR personnel, the anticipated hours of involvement (for the duration of the services required under the Owner-CMAR Construction Agreement), and the billable hourly pay rate for each person that will be involved in the CMAR's construction period scope of work. The listed CMAR personnel shall be as identified in CMAR General Conditions Section 7.5.2.

Name	Job Title	Burdened Pay Rate	Hours	Rate x Hours
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
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_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
_____	_____	$/Hr_____	_____	$_____
			Total	$_____

ARTICLE 4 COST OF TRAVEL AND PER DIEM

Provide the estimated cost of travel and per diem (if any) for all personnel. The cost of travel and per diem shall not be included in the burdened pay rates furnished under Article 2 and Article 3.

1. During Pre-Construction $_____
2. During Construction $_____
3. Total of Items No. 1 and 2 above $_____

ARTICLE 5 INSURANCE INFORMATION

1. General Liability Insurance Rate _____%
2. Bonding Rate _____%
3. General Liability Insurance Rate x Established Construction Budget (from RFP) $_____
4. Bonding Rate x Established Construction Budget (from RFP) $_____
5. Course of Construction Insurance Amount (attach quote from insurance provider) $_____
6. Total of Items No. 3 thru 5 above $_____

ARTICLE 6 PROPOSED FEES

1. CMAR's Proposed Fee for Pre-Construction Services $_____
2. CMAR's Proposed Construction Phase Fee (Percentage) _____%
3. Proposed Fee % (from above) x Established Construction Budget (from RFP) $_____
4. Total of Items No. 1 and 3 above $_____

The CMAR's Proposed Construction Phase Fee percentage listed above is to be utilized in determining the CMAR's Fee listed under Article 1 (Item No. 3) in the CMAR GMP Proposal, and is defined in the CMAR General Conditions of the Contract (Section 7.5.3).

ARTICLE 7 CMAR PRE-CONSTRUCTION SERVICES MEETING INTERVAL

The CMAR will be expected to attend and participate in ongoing regularly scheduled design progress review meetings with the Architect and the Owner for the duration of the design process. The duration and scope of these services shall be as listed in the Request for Proposals and in Article 4 (CMAR Pre-Construction Services) of the Owner-CMAR Pre-Construction Agreement.

The design progress review meetings are anticipated to occur at the following approximate interval:

Every four weeks.

ARTICLE 8 CMAR FEE PROPOSAL EVALUATION

The CMAR Fee Proposal will be evaluated and scored based on the costs and fees listed in Articles No. 2 thru 6.

Scores will be calculated by dividing the lowest Proposed Fee Arrangement by the applicant's Proposed Fee Arrangement multiplied by the total possible 20 points.

CMAR SIGNATURE

Construction Manager at Risk

Firm Name: _____

By: _____

Print: _____

Title: _____

Date: _____

AFFIDAVIT OF COMPLIANCE

Affiant, _____ being first duly sworn, deposes and states upon personal
(Name)

knowledge and under penalty of perjury as follows:

1. I am the _____ of the _____ and have held
(Title) (Company Name)

that position since _____. I have the authority to make the representations contained herein on
(Year)

behalf of _____.
(Company Name)

2. I have personal knowledge of the matters set forth herein and if called upon to testify could and would competently testify consistent with the matters set forth in this Affidavit.

3. In connection with the bid for _____ (Public Work)
(Project Name/Project Number)

I certify on behalf of _____ that for the duration of this Public Work:
(Company Name)

a. At least 50% of all workers, collectively and not on any specific day, employed on this Public Work by _____, including any workers employed by any subcontractor
(Company Name)

engaged on this Public Work, will hold a valid driver's license or identification card issued by the Nevada Department of Motor Vehicles; and

b. All vehicles used primarily for this Public Work will be registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to Nevada Revised Statutes Section 706.826; or will be registered in the State of Nevada; and

c. _____ , as well as any subcontractor engaged on this Public Work,
(Company Name)

will maintain and make available for inspection within this State our records concerning payroll relating to this Public Work.

Further Affiant Saith Naught.

Dated this _____ day of _____, 20_____

Signature

_____

Title (Print)

_____

ACKNOWLEDGMENT

State of _____

County of _____

Subscribed and sworn to before me this

_____day of _____, 20_____

_____

My Commission Expires _____

(Notary Seal)

OWNER-CMAR PRE-CONSTRUCTION AGREEMENT

This Owner-CMAR Pre-Construction Agreement, between the State of Nevada, represented by the listed Owner, hereinafter referred to as ”Owner”, and the Construction Manager at Risk, hereinafter referred to as "CMAR", is entered into as of the following date:

Execution Date: _____

Project Identification

Project Name:

Project Address:

SPWD Project No.:

SPWD Contract No:

Owner

State Public Works Division

515 E. Musser Street, Suite 102

Carson City, Nevada 89701-4263

(775) 684-4141

CMAR

Firm Name

Address

City, State, Zip Code

Phone

ARTICLE 1 CMAR FEE

For furnishing all labor, materials, equipment, tools and services, and for doing everything required by this Agreement including, but not limited to, providing the required Guaranteed Maximum Price Proposal, the Owner will pay and the CMAR shall receive as full compensation therefore, a total sum not to exceed:

CMAR Pre-Construction Services Fee Amount: $

ARTICLE 2 INCORPORATED DOCUMENTS

The Owner and the CMAR mutually agree that the following documents are incorporated into and made a part of this Agreement by reference:

1. CMAR’s Proposal (Responding to the Request For Proposals)
2. CMAR’s Interview Submittal (Accompanied by CMAR Fee Proposal)
3. CMAR General Conditions of the Contract Dated: 1-1-14
4. State Public Works Division Adopted Standards Dated: 1-1-14

ARTICLE 3 AGREEMENT MODIFICATIONS

This Agreement constitutes the entire agreement between the parties and may be modified only by a written endorsement executed by the parties.

ARTICLE 4 CMAR PRE-CONSTRUCTION SERVICES

In consideration of the mutual covenants and conditions provided herein, the Owner does hereby employ the CMAR to perform Pre-Construction Services, and the CMAR agrees to expeditiously perform such services for the referenced project. The scope of the CMAR's Pre-Construction Services includes, but is not limited to the following:

1. Participation in regularly scheduled design progress review meetings with the Architect and the Owner. The CMAR shall provide ongoing input with respect to constructability, construction cost, construction duration, sequence of construction, and construction means and methods.
2. Development of review comments, suggestions, and cost estimates at each of the stipulated phases of design (see Baseline Project Schedule in Request for Proposals).
3. Assistance with identifying and reconciling differences between the Architect's cost estimates and the CMAR's cost estimates.
4. Development of constructability and value engineering suggestions at each phase of design.
5. Development of potential bidders lists and coordination of input from subcontractors with regard to each of the items described in this section/article.
6. Distribution of documents to potential bidders, coordination of pre-bid conferences and bid openings, and assistance with selection of the best bids in each category.
7. Development of a GMP Proposal based on bids obtained from all necessary subcontractors after reviewing and coordinating the bid results with the Owner.
8. Development of final CMAR constructability and value engineering suggestions (based on 100% Construction Documents).
9. Qualify subcontractors and coordinate their involvement as described in Request for Proposals Article 5 'Project Implementation'.

ARTICLE 5 TIME

Time shall be of the essence of this Agreement and the CMAR agrees to satisfactorily complete all professional services and work within the time limits established in the incorporated documents. Failure to comply with the time schedule set forth in this Agreement shall be deemed adequate cause for termination of this Agreement.

ARTICLE 6 STATUTORY REQUIREMENTS

The CMAR agrees to all terms and conditions of the Nevada Revised Statutes (NRS) and the Nevada Administrative Code (NAC) as may apply to this Agreement and to the work performed under this Agreement and agrees to comply with all such applicable portions of the NRS and the NAC.

ARTICLE 7 OBLIGATION LIMITATION

The Owner and the CMAR mutually agree that the fee described herein is for Pre-Construction services only and in no manner obligates the Owner to enter into a construction contract with the CMAR.

ARTICLE 8 EXAMINATION OF DOCUMENTS

Execution of this Agreement by each party shall constitute the representation by each party that he has examined the contents of all contract documents, including the CMAR General Conditions of the Contract, that he has read and understands the same, and specifically agrees to be bound thereby.

ARTICLE 9 LEGAL ACTIONS

This Agreement shall be construed and interpreted according to the laws of the State of Nevada. Any action brought by either party arising out of or related to this Agreement shall be brought in a court located in Clark County, Washoe County, or Carson City, whichever is closest to the location of the Project, and not elsewhere.

ARTICLE 10 DISPUTE RESOLUTION

In the event of a dispute between the Owner and the CMAR that cannot be resolved satisfactorily between the parties, third party mediation shall be commenced and concluded utilizing a mediator acceptable to the Owner and the CMAR prior to pursuing either arbitration or legal action. Fees for mediation shall be shared equally between the Owner and the CMAR. Any legal action brought by the CMAR or his representatives shall be made in Clark County, Washoe County, or Carson City, whichever is closest to the location of the Project. In the event of either arbitration or litigation the prevailing party shall be entitled to an award of attorney's fees and costs. See CMAR General Conditions Section 3.9 for additional requirements regarding dispute resolution.

ARTICLE 11 INDEMNIFICATION

The CMAR shall indemnify, hold harmless and, not excluding the Owner's right to participate, defend the Owner, the Owner's officers, agents and employees, from all suits and claims, including attorney's fees and cost of litigation, actions, loss, damage, expense, cost or claims of any character or any nature arising out of or resulting in any way from the CMAR's performance of the services required in this Agreement, or arising as a result of the CMAR's errors or omissions, or arising out of the failure of the CMAR to conform to any statutes, ordinances, regulations, laws, or court decrees.

In consideration of the award of this Contract, the CMAR agrees to waive all rights of subrogation against the Owner, the Owner's officers, officials, agents and employees, for losses arising from the work performed by the CMAR for the Owner.

ARTICLE 12 ASSIGNMENT RIGHTS

The CMAR shall neither assign, transfer, nor delegate any rights, obligations, monies or duties under this Agreement without the prior written consent of the Owner.

ARTICLE 13 TERMINATION

This Agreement may be amended or terminated by mutual written consent of the parties hereto. The Owner, however, specifically reserves the right at any time to terminate this Agreement for convenience seven calendar days after having served the CMAR with a written notice of termination.

Upon termination, for other than a breach of this Agreement by the CMAR, the Owner shall make payments to the CMAR of all fees due but unpaid for services or work completed to the satisfaction of the Owner as of the time of the notice of termination. The making of such payments by the Owner shall constitute a complete release of all the responsibilities of the Owner under the terms of this Agreement. The CMAR waives any claim for overhead and profit on the services or work remaining at the time of termination.

ARTICLE 14 OWNERSHIP AND USE OF DOCUMENTS

Any drawings, reports, studies, photographs, negatives, or other documents prepared by the CMAR in the performance of his obligations under this Agreement shall be the exclusive property of the Owner and all such materials shall be remitted to the Owner by the CMAR upon completion, termination, or cancellation of this Agreement. The CMAR shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of the CMAR's obligations under this Agreement, without the prior written consent of the Owner.

ARTICLE 15 INDEPENDENT CONTRACTOR

The parties agree that the CMAR is an independent contractor and that this Agreement is entered into in accordance with Nevada Revised Statutes Section 284.173, which in pertinent part provides that the CMAR is not a State employee and that the CMAR will not be entitled to any State insurance or benefits.

ARTICLE 16 FAIR EMPLOYMENT PRACTICES

In connection with the performance of work under this Agreement, the CMAR agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex or age. Such agreement shall include, but not be limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

The CMAR further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

Any violation of such provision by the CMAR shall constitute a material breach of this Agreement.

ARTICLE 17 WORKERS COMPENSATION/EMPLOYERS LIABILITY INSURANCE

The Owner is not liable for the payment of any premiums, deductibles, or any assessments on any insurance policies purchased by the CMAR. A certificate of insurance evidencing the required coverage shall be filed with the Owner prior to the CMAR commencing any work under this Agreement.

Workers Compensation/Employers Liability Insurance

Provide Workers Compensation/Employers Liability insurance in the amounts listed. Provide additional coverage as may be required by applicable federal or state laws.

Part One	Statutory Limits	Nevada Revised Statutes Chapters 616A thru 618
Part Two	Each Accident	$1,000,000
Disease	Policy Limit	$1,000,000
Disease	Each Employee	$1,000,000

ARTICLE 18 PAYMENT SCHEDULE

Payment for pre-construction services will be made in accordance with the following schedule:

Schematic Design Phase	10% of Total
Design Development Phase	20% of Total
50% Construction Documents	20% of Total
100% Construction Documents	20% of Total
Submittal of GMP Proposal	20% of Total
Submittal of Final CMAR Review Comments	10% of Total

Construction Manager at Risk

Firm Name

By: _____

Print: _____

Title: _____

Date: _____

State Attorney General

(Approved as to Form Only)

Adam Paul Laxalt

By: _____

Title: Deputy Attorney General

Date: _____

Owner

State Public Works Division

By: _____

Print: Gustavo Nunez, PE

Title: Administrator

Date: _____

Board of Examiners

(Required for Execution)

By: _____

Date: _____

SPWD Project Manager

(Signed as to Review Only)

By:_____ Date: _____

Deputy Administrator, Professional Services

(Signed as to Review Only)

By:_____ Date: _____

SPWD Accounting

(Account Codes & Funds Availability Verified)

By:_____ Date: _____

GL No.: _____

Authorization

SPWD Project No.:

Fund Code No:

Assigned Amount:

Distribution

Original, SPWD

SPWD Project Manager

CMAR

Using Agency

Architect/Engineer

CMAR GMP PROPOSAL

(for projects with an estimated construction cost of $25,000,000 or greater)

Project Identification

Project Name:
Project Address:
SPWD Project No.:

The CMAR GMP Proposal shall be submitted at the following location, date, and time:

State Public Works Division
515 E. Musser Street, Suite 102
Carson City, Nevada 89701-4263
(775) 684-4141

Date:
Time: AM - PM (local time)

ARTICLE 1 GUARANTEED MAXIMUM PRICE

CMAR's Guaranteed Maximum Price (GMP) for the entire Work on the referenced Project:

1) Cost of the Work (excluding General Conditions)	_____
2) CMAR's General Conditions	_____
3) CMAR's Fee	_____
4) CMAR's Contingency	_____
5) Owner's Contingency	(*Value by Owner*)
6) Total Guaranteed Maximum Price	_____

ARTICLE 2 SPLIT OF POTENTIAL SAVINGS	Owner	CMAR
Percentage Split of Cost of Work Savings	70%	30%
Percentage Split of CMAR's Contingency Savings	70%	30%
Percentage Split of unused Owner's Contingency	100%	0%
Percentage Split of unused Allowance (when applicable)	100%	0%

ARTICLE 3 CONTRACT TIME

Contract Time: Calendar Days

ARTICLE 4 LIQUIDATED DAMAGES

Liquidated Damages: $

ARTICLE 5 ADDENDA ACKNOWLEDGEMENT

Receipt of the following addenda acknowledged:

Addenda Numbered: _____

ARTICLE 6 GMP PROPOSAL AFFIRMATION

In accordance with the CMAR GMP Proposal Instructions, the Contract Documents, and the drawings and specifications for the Project, the undersigned CMAR, being duly licensed to perform such work by the Nevada State Contractor's Board, and being thoroughly familiar with all local conditions affecting the cost of the Project, having carefully examined the site, the Contract Documents, drawings, specifications, and any addenda thereto, the CMAR proposes to provide, and to furnish for the costs set forth in Article 1 (Guaranteed Maximum Price), all labor and material, tools, utilities, transportation, equipment, and services required to perform and to complete in a workmanlike manner all of the Work from the date of the Notice to Proceed, within the established Contract Time, subject to liquidated damages for any excess calendar days as established under Article 3 (Contract Time).

By affixing his signature, the CMAR certifies that this GMP Proposal is submitted in accordance with all of the provisions contained in the CMAR GMP Proposal Instructions which shall be deemed applicable to the guaranteed maximum price proposed herein.

CMAR SIGNATURE

Construction Manager at Risk

Firm Name: _____

By: _____

Print: _____

Title: _____

Date: _____

ARTICLE 7 SUBCONTRACTOR LIST

In accordance with the CMAR GMP Proposal Instructions, the CMAR must submit a list including the name of each subcontractor who will provide labor or a portion of the work for which he will be paid an amount exceeding 1% of the GMP or $250,000, whichever is greater, and the number of the license issued to the subcontractor, pursuant to Nevada Revised Statutes Chapter 624.

The CMAR shall also list any portion of the work exceeding 1% of the GMP or $250,000, whichever is greater, that the CMAR intends to self-perform.

SUBCONTRACTOR LIST

Description of Work	Subcontractor	License No.

SUBCONTRACTOR LIST (CONTINUED)

Description of Work	Subcontractor	License No.

CMAR GMP PROPOSAL INSTRUCTIONS

SECTION 1 DEFINITIONS

1.1 CMAR: The firm or organization submitting a GMP Proposal to the Nevada State Public Works Division in response to a GMP Request for Proposals. The term CMAR means the Construction Manager at Risk or his authorized representatives.

1.2 Work: The term Work includes all labor, materials, services, equipment, tools, transportation, power, water, permanent and temporary utilities, utility connections, provisions for safety, and all incidental and other things necessary to produce the finished construction as described by the 100% Construction Documents.

1.3 GMP Delivery Date: The day established in the CMAR GMP Proposal Form for the submission of the proposal to the Nevada State Public Works Division.

1.4 GMP Delivery Time: The time established in the CMAR GMP Proposal Form for the submission of the proposal to the Nevada State Public Works Division.

1.5 CMAR Documents: The documents that the CMAR is to base the Guaranteed Maximum Price upon consist of the CMAR Interview Submittal, the CMAR Fee Proposal, the CMAR GMP Proposal, the Owner-CMAR Construction Agreement, the Performance and Payment Bonds, the CMAR General Conditions of the Contract, the Supplemental General Conditions, the 100% Construction Documents (Drawings and Specifications), the Wage Scales, the Addenda, and these CMAR GMP Proposal Instructions.

1.6 Owner: The Owner is the State Agency or Department listed in the CMAR Request for Proposals, and shall include his authorized representatives.

1.7 Architect: The Architect is the person or organization identified as such in the CMAR Request for Proposals, and shall include his authorized representatives.

1.8 Joint Venture GMP: A GMP submitted by two or more contractors who propose to perform the work jointly.

1.9 CMAR Acknowledgement: The CMAR acknowledges that the GMP Proposal is based on the Contract Documents listed in the Owner-CMAR Construction Agreement.

1.10 Owner's Contingency: The Owner's Contingency belongs solely to the Owner for the purpose of being allocated towards stipulated additional work (as itemized in an executed Change Order). Any portion of the Owner's Contingency that remains when the Work is completed belongs to the Owner.

1.11 Owner Oversight of CMAR Bidding Procedures: The CMAR acknowledges all of the requirements of Section 3.17 of the CMAR General Conditions of the Contract (Owner Oversight of CMAR Bidding Procedures), the requirements of Nevada Revised Statutes Sections 338.16991 and 338.16995, and the requirements of Nevada Administrative Code Section 338.

1.12 First Tier Subcontractor: A person or organization who has a direct contract with the prime contractor to perform any of the Work.

SECTION 2 QUALIFICATIONS OF CMAR AND SUBCONTRACTORS

2.1 The CMAR shall be properly licensed by the Nevada State Contractors Board and shall be prequalified by the State Public Works Division prior to responding to the Request for Proposals.

2.2 The CMAR shall ensure that all sub-bids utilized in preparing his GMP Proposal have been obtained from subcontractors who are properly qualified to perform their portion of the Work pursuant to Nevada Revised Statutes Sections 338.16991 thru 338.16995. A subcontractor named by the CMAR who is not properly qualified for that portion of the work shall be deemed to be unacceptable. No additional compensation shall be paid to the CMAR if the CMAR must substitute a qualified subcontractor for an unqualified subcontractor. See CMAR General Conditions Section 3.17 (CMAR Bidding Procedures).

2.3 Any CMAR proposing to submit a Joint Venture proposal shall obtain the written approval of the Nevada State Contractors Board prior to submitting such a proposal.

2.4 The CMAR shall demonstrate to the satisfaction of the Owner that he has adequate previous experience in any work that he intends to self-perform and shall also provide evidence that his proposed cost for such work is lower than the other bids received for that work.

2.5 Prior to receiving or accepting any payment, each subcontractor must have a valid Nevada business license, pursuant to NRS 338.072.

SECTION 3 PREPARATION OF GMP PROPOSAL

3.1 The CMAR is solely responsible for the proper, complete, and accurate preparation of his GMP Proposal. The failure of the CMAR to comply with these CMAR GMP Proposal Instructions, or with the requirements of the other Contract Documents may result in the rejection of the GMP Proposal by the Owner.

3.2 The GMP Proposal shall be submitted on the GMP Proposal Form provided by the Owner.

3.3 Where indicated on the GMP Proposal Form the CMAR shall:

A. Print or type his name and address.

B. List the number of each Addendum received and acknowledged.

C. Clearly and legibly print or type the amount of the Guaranteed Maximum Price.

D. Sign and date the GMP Proposal Form. Print or type the title of the authorized representative(s) signing the form. The signature(s) must be of an authorized officer of the firm. Refer to Section 5 (Joint Venture) regarding joint venture proposals.

E. The CMAR shall submit a printed or typed list naming each first tier subcontractor who will provide labor or a portion of the Work to the CMAR and a description of the portion of the Work which each subcontractor named in the GMP Proposal will complete, for which he will be paid an amount exceeding 1% of the CMAR's total GMP or $50,000, whichever is greater, and the number of the license issued to the subcontractor by the Nevada State Contractors Board. The CMAR shall also list any portion of the work exceeding 1% of the GMP or $50,000, whichever is greater, that the CMAR intends to self-perform.

F. On projects with an estimated construction cost of $25,000,000 or greater the CMAR shall submit a printed or typed list naming each first tier subcontractor who will provide labor or a portion of the Work to the CMAR and a description of the portion of the Work which each subcontractor named in the GMP Proposal will complete, for which he will be paid an amount exceeding 1% of the CMAR's total GMP or $250,000, whichever is greater, and the number of the license issued to the subcontractor by the Nevada State Contractors Board. The CMAR shall also list any portion of the work exceeding 1% of the GMP or $250,000, whichever is greater, that the CMAR intends to self-perform.

G. The CMAR shall not substitute a subcontractor who is named in the GMP Proposal, unless such substitution complies with Nevada Revised Statutes Section 338.141.

3.4 Within 48 hours after receipt of the Notice to Proceed letter, the CMAR shall submit to the State Public Works Division a final and complete listing of <u>all subcontractors and sub-subcontractors</u> who will participate in any portion of the work, along with their Nevada State Contractor's license number, and a description of the work that they will perform. The list shall also include any work that the CMAR intends to self-perform. Should the 48 hour time period elapse on a weekend day the required list may be submitted on the following Monday.

3.5 The GMP shall be based on providing the materials and equipment specified in the Contract Documents. The determination of whether material or equipment is equal to that specified is the responsibility of the Architect or Engineer, and the CMAR agrees to abide with his decision if his GMP Proposal is accepted. The CMAR shall not prepare a GMP Proposal in anticipation of substitutions to specified materials or equipment being accepted.

3.6 Materials and equipment for which there is no installation procedure noted in the Contract Documents shall be installed in conformance with the manufacturer's written instructions.

3.7 The CMAR may request interpretations or clarifications of the 100% Construction Documents at any time prior to seventy-two hours before the GMP Delivery Time by making a written request to the Architect, who may then issue a written addenda to the CMAR prior to the stipulated GMP Proposal Delivery Time. No interpretation, clarification, or change in the 100% Construction Documents will be binding on the Owner unless it is included in an Addendum. It is the sole responsibility of the CMAR to ensure that he has received all Addenda issued, and he shall acknowledge his receipt of each Addenda on the GMP Proposal Form.

3.8 The CMAR shall be solely responsible to inform himself fully of all conditions relating to the Contract Documents and the Work prior to submitting his GMP Proposal.

3.9 All applicable State laws, County ordinances, and the rules and regulations of local and State authorities having jurisdiction over the Work, shall apply to the Work as if repeated in full in the Contract Documents. The CMAR's attention is directed to those portions of the Contract Documents which govern insurance, wage rates, allowances, equal employment opportunity, inspection and testing of materials, liquidated damages, and contract time.

3.10 The prevailing wage rates as established by the Office of the Nevada Labor Commissioner shall be paid on this Project. The applicable wage rates must be posted at the site of the Project in a place generally visible to the workmen.

SECTION 4 JOINT VENTURE

4.1 In the event that a GMP Proposal is made by two or more firms as a joint venture, such proposals shall be submitted in strict accordance with Nevada Revised Statutes Section 624.290, State Contractor License Law, and the Rules and Regulations of the State Contractors Board.

4.2 All proposals submitted as a joint venture must be signed by an authorized officer of each firm to the joint venture and shall include the Nevada State Contractors license number of each party to the joint venture.

SECTION 5 SUBMISSION OF GMP PROPOSAL

5.1 The GMP Proposal shall consist of the properly completed GMP Proposal Form and the required Subcontractor list.

5.2 In submitting a GMP Proposal, the CMAR represents that:

A. He has carefully checked the GMP Proposal, and will enter into the Owner-CMAR Construction Agreement in accordance with its terms and conditions and in accordance with the terms and conditions of the other Contract Documents.

B. The GMP Proposal is genuine and not a sham or collusive bid, or made in the interest or on behalf of any person other than the CMAR.

C. He has read and understands the Contract Documents, and is thoroughly familiar with all requirements of the Work.

D. He has informed himself fully of the conditions relating to the construction of the Project. Failure to do so will not relieve the CMAR of his obligation to furnish all material and labor necessary to carry out the Work in accordance with the Contract Documents.

E. He has informed himself fully that his Nevada State Contractors License is acceptable to the Nevada State Contractors Board for the type of work covered by the GMP Proposal.

5.3 The right is reserved by the Owner to reject the GMP Proposal should it be deemed not to be best for the interest of the State of Nevada.

SECTION 6 PRINTING OF DOCUMENTS FOR CMAR'S USE

6.1 The CMAR will be responsible for all costs associated with printing and distributing sets of the documents for his use and for the use of all subcontractors and suppliers. Determining the appropriate number of sets will be the CMAR's responsibility (to ensure appropriate distribution as required for successful completion of the work). The electronic files (in pdf file format) will either be the documents originally posted on the Quest-CDN website, or in some cases may be updated or conformed documents provided by the Architect that include addendum items and/or negotiated scope items.

OWNER-CMAR CONSTRUCTION AGREEMENT

This Owner-CMAR Construction Agreement, between the State of Nevada, represented by the listed Owner, hereinafter referred to as ”Owner”, and the Construction Manager at Risk, hereinafter referred to as "CMAR", is entered into as of the following date:

Execution Date: _____

Project Identification

Project Name:

Project Address:

SPWD Project No.:

SPWD Contract No:

Labor Commission PWP No.:

Owner

State Public Works Division

515 E. Musser Street, Suite 102

Carson City, Nevada 89701-4263

(775) 684-4141

CMAR

Firm Name

Address

City, State, Zip Code

Phone

ARTICLE 1 GUARANTEED MAXIMUM PRICE

For furnishing all labor, materials, equipment, tools and services and for doing everything required by this Agreement and the other Contract Documents, the Owner will pay and the CMAR shall accept a total sum (Guaranteed Maximum Price) not to exceed:

The CMAR’s Guaranteed Maximum Price (GMP) for the entire Work on the referenced Project:

1) Cost of the Work (excluding General Conditions) $_____
2) CMAR’s General Conditions $_____
3) CMAR’s Fee $_____
4) CMAR’s Contingency $_____
5) Owner’s Contingency $_____
6) Total Guaranteed Maximum Price $_____

Savings Split	Owner	CMAR
Percentage Split of Cost of Work Savings	70%	30%
Percentage Split of CMAR's Contingency Savings	70%	30%
Percentage Split of Owner's Contingency	100%	0%
Percentage Split of Unused Allowances	100%	0%

ARTICLE 2 INCORPORATED DOCUMENTS

The Owner and the CMAR mutually agree that the following documents are incorporated into and made a part of this Agreement by reference:

1. CMAR Interview Submittal
2. CMAR Fee Proposal
3. CMAR General Conditions of the Contract Dated: 9-1-13
4. Supplemental CMAR General Conditions (when applicable)
5. Wage Rates County Dated:
6. Performance and Payment Bonds
7. Drawings Dated:
8. Specifications Dated:
9. Addenda
10. Change Orders

ARTICLE 3 CONTRACT TIME

The CMAR shall commence the work on the Project as directed by the Owner in a written Notice to Proceed. After the referenced date of commencement, all work shall be substantially completed and accepted by the State within the number of calendar days stipulated below and as set forth in the Notice to Proceed, after which time, the stipulated liquidated damages provisions shall apply.

Calendar Days:

ARTICLE 4 LIQUIDATED DAMAGES

The CMAR agrees that time is of the essence of this Agreement and further agrees to satisfactorily complete the Work in accordance with the Contract Documents within the specified contract time plus any adjustments to the Contract Time resulting from approved Change Orders, and failing to do so, agrees to pay, not as a penalty but as liquidated damages, the sum stipulated below for each calendar day in excess of the Contract Time stipulated in this Agreement. Liquidated damages shall cease to be assessed on the date of Substantial Completion provided the CMAR completes all punch-list work within the time limit stipulated in the Certificate of Substantial Completion. Liquidated damages shall resume if the CMAR does not complete all punch-list work within the time limit stipulated in the Certificate of Substantial Completion.

Liquidated Damages: $

ARTICLE 5 AGREEMENT MODIFICATIONS

This Agreement constitutes the entire agreement between the parties and may be modified only by a written Change Order executed by the parties.

ARTICLE 6 AGREEMENT TERMS AND CONDITIONS

The term Work includes all labor, materials, services, equipment, tools, transportation, power, water, permanent and temporary utilities, connections, provisions for safety, and all incidental and other things necessary to produce the finished construction as described by the Contract Documents.

The CMAR agrees to provide all labor materials, equipment, tools and services necessary, and to do everything required by this Agreement and by the Contract Documents, as necessary to complete all Work required for the Project.

ARTICLE 7 CONTRACT DOCUMENTS

The Contract Documents form the agreement between the Owner and the CMAR. The Contract Documents are complementary and what is required by any one shall be as binding as if required by all.

ARTICLE 8 EXAMINATION OF CONTRACT DOCUMENTS

Execution of this Agreement by each party shall constitute the representation by each party that he has examined the contents of the Contract Documents, including, but not limited to, the CMAR General Conditions of the Contract, that he has read and understands the same, and specifically agrees to be bound thereby.

ARTICLE 9 FINAL PAYMENT

When the Work and all requirements of the Contract Documents are fully and satisfactorily completed, the Owner will pay to the CMAR a final payment consisting of the remaining unpaid balance of the Contract Sum due the CMAR. The acceptance of the final payment by the CMAR shall constitute a full and final release and waiver of all CMAR claims and rights of claim against the Owner relating or pertaining to the Work.

Acceptance of the final payment by the CMAR shall terminate the Owner-CMAR Construction Agreement after which time the applicable terms and conditions for Warranties and Insurance shall continue to apply.

ARTICLE 10 STATUTORY REQUIREMENTS

This Agreement shall be construed and interpreted according to the laws of the State of Nevada.

ARTICLE 11 INFORMATION ACCESS

The books, records, documents, and accounting procedures and practices of the CMAR relevant to this Agreement shall be subject to inspection, examination and audit by the State Public Works Division, the State of Nevada, the State Attorney General, and/or the State Legislative Auditor.

ARTICLE 12 ASSIGNMENT

The CMAR shall neither assign, transfer, nor delegate any rights, obligations, monies or duties under this Agreement without the prior written consent of the Owner.

ARTICLE 13 USE OF DOCUMENTS

Any drawings, reports, studies, photographs, negatives, or other documents prepared by the CMAR in the performance of his obligations under this Agreement shall be the exclusive property of the Owner and all such materials shall be remitted to the Owner by the CMAR upon completion, termination, or cancellation of this Agreement. The CMAR shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of the CMAR's obligations under this Agreement, without the prior written consent of the Owner.

ARTICLE 14 DISPUTE RESOLUTION

In the event of a dispute between the Owner and the CMAR that cannot be resolved satisfactorily between the parties, third party mediation shall be commenced and concluded utilizing a mediator acceptable to the Owner and the CMAR prior to pursuing either arbitration or legal action. Fees for mediation shall be shared equally between the Owner and the CMAR. Any legal action brought by the CMAR or his representatives shall be made in Clark County, Washoe County, or Carson City, whichever is closest to the location of the Project. In the event of either arbitration or litigation the prevailing party shall be entitled to an award of attorney's fees and costs. See CMAR General Conditions Section 3.9 for additional requirements regarding dispute resolution.

ARTICLE 15 INDEMNIFICATION

The CMAR agrees to indemnify and save and hold the Owner, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this Agreement by the CMAR or the CMAR's agents or employees.

The Owner and the CMAR shall each indemnify the other for any losses principally caused by the indemnifying party.

ARTICLE 16 INDEPENDENT CONTRACTOR

The parties agree that the CMAR is an independent contractor and that this contract is entered into in accordance with Nevada Revised Statutes Section 284.173, which in pertinent part provides that the CMAR is not a State employee, and that there shall be no:

1. Withholding of income taxes by the State,
2. Industrial insurance coverage provided by the State,
3. Participation in group insurance plans which may be available to employees of the State,
4. Participation or contribution by either the independent contractor or the State to the Public Employees Retirement System,
5. Accumulation of vacation leave or sick leave,
6. Unemployment compensation coverage provided by the State if the requirements of Nevada Revised Statutes Section 612.085 for independent contractors are met.

ARTICLE 17 FAIR EMPLOYMENT PRACTICES

In connection with the performance of the Work, the CMAR agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex or age. Such agreement shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Any violation of such provision by the CMAR shall constitute a material breach of contract.

The CMAR further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

ARTICLE 18 INSURANCE PROVISIONS

A certificate of insurance evidencing the required coverage, as stipulated in the General Conditions of the Contract, shall be filed with the Owner prior to the CMAR mobilizing onto the project site and prior to commencement of any work on the Project.

Construction Manager at Risk

Firm Name

By: _____

Print: _____

Title: _____

Date: _____

State Attorney General

(Approved as to Form Only)

Adam Paul Laxalt

By: _____

Title: Deputy Attorney General

Date: _____

Owner

State Public Works Division

By: _____

Print: Gustavo Nunez, PE

Title: Administrator

Date: _____

Board of Examiners

(Required for Execution)

By: _____

Date: _____

SPWD Project Manager

(Signed as to Review Only)

By:_____ Date: _____

Deputy Administrator, Professional Services

(Signed as to Review Only)

By:_____ Date: _____

SPWD Accounting

(Account Codes & Funds Availability Verified)

By:_____ Date: _____

GL No.: _____

Authorization

SPWD Project No.:

Fund Code No:

Assigned Amount:

Distribution

Original, SPWD

SPWD Project Manager

CMAR

Using Agency

Architect/Engineer

SPWD Inspector

CMAR ENDORSEMENT TO AGREEMENT

ENDORSEMENT NO._____

This Endorsement, between the State of Nevada, represented by the listed Owner, hereinafter referred to as ”Owner”, and the Construction Manager at Risk, hereinafter referred to as "CMAR", is entered into as of the following date:

Execution Date: _____

Project Identification

Project Name:

Project Address:

SPWD Project No.:

SPWD Contract No.:

Owner

State Public Works Division

515 E. Musser Street, Suite 102

Carson City, Nevada 89701-4263

(775) 684-4141

Construction Manager at Risk

Firm Name

Address

City, State, Zip Code

Phone

Execution Date of Original Agreement:

ARTICLE 1 FEE SUMMARY

The Owner and the CMAR mutually agree to amend the associated Agreement as follows:

1. Original Agreement Amount $
2. Total Cost of Prior Endorsements $
3. Total Cost of This Endorsement $
4. Revised Agreement Total $

ARTICLE 2 INCORPORATED DOCUMENTS

1. Change Order No.

ARTICLE 3 ENDORSEMENT ITEMS

Item #1
Description:
Increases the agreement fee by:

Item #2
Description:
Increases the agreement fee by:

Item #3
Description:
Increases the agreement fee by:

Item #4
Description:
Increases the agreement fee by:

Item #5
Description:
Increases the agreement fee by:

Construction Manager at Risk

Firm Name

By: _____

Print: _____

Title: _____

Date: _____

State Attorney General

(Approved as to Form Only)

Adam Paul Laxalt

By: _____

Title: Deputy Attorney General

Date: _____

Owner

State Public Works Divison

By: _____

Print: Gustavo Nunez, PE

Title: Administrator

Date: _____

Board of Examiners

(Required for Execution)

By: _____

Date: _____

SPWD Project Manager

(Signed as to Review Only)

By:_____ Date: _____

Deputy Administrator, Professional Services

(Signed as to Review Only)

By:_____ Date: _____

SPWD Accounting

(Account Codes & Funds Availability Verified)

By:_____ Date: _____

GL No.: _____

Authorization

SPWD Project No.:

Fund Code No:

Assigned Amount:

Distribution

Original, SPWD

SPWD Project Manager

CMAR

Using Agency

CHANGE ORDER

(CMAR PROJECT FORMAT)

CHANGE ORDER NO. _____ Date: _____

Project Identification

Project Name: _____

Project Address, City, State: _____

SPWD Project No.: _____

SPWD Contract No.: _____

Owner

State Public Works Division

515 E. Musser Street, Suite 102

Carson City, Nevada 89701-4263

(775) 684-4141

Construction Manager at Risk

Firm Name: _____

Address: _____

City, State, Zip Code: _____

Phone: _____

The CMAR is hereby authorized to make the following changes to the scope of work for the referenced Project, subject to the provisions of the Contract Documents. Execution of this Change Order shall be considered complete and final adjustment of the Contract Sum and the Contract Time, and represents complete and final resolution of all matters related to, or arising out of, the Change Order. The CMAR may not reserve the right to make further claims with regard to any executed Change Order. Any attempt by the CMAR to reserve such a right shall be considered invalid and unenforceable. See General Conditions Section 2.7 for other stipulations pertaining to change orders.

Item No. 1

Description: _____

Justification: ☐ Owner-Requested Change ☐ Agency-Requested Change ☐ Consultant-Requested Change ☐ Contractor-Requested Change ☐ Unforeseen Condition

Increases the Contract Time by: _____ Calendar Days Increases the Contract Sum by: $ _____

Owner's Contingency Authorization: $ _____

Item No. 2

Description: _____

Justification: ☐ Owner-Requested Change ☐ Agency-Requested Change ☐ Consultant-Requested Change ☐ Contractor-Requested Change ☐ Unforeseen Condition

Increases the Contract Time by: _____ Calendar Days Increases the Contract Sum by: $ _____

Owner's Contingency Authorization: $ _____

Item No. 3

Description: _____

Justification: ☐ Owner-Requested Change ☐ Agency-Requested Change ☐ Consultant-Requested Change ☐ Contractor-Requested Change ☐ Unforeseen Condition

Increases the Contract Time by: _____ Calendar Days Increases the Contract Sum by: $ _____

Owner's Contingency Authorization: $ _____

Item No. 4

Description: _____

Justification: ☐ Owner-Requested Change ☐ Agency-Requested Change ☐ Consultant-Requested Change
☐ Contractor-Requested Change ☐ Unforeseen Condition

Increases the Contract Time by: _____ Calendar Days Increases the Contract Sum by: $ _____

Owner's Contingency Authorization: $ _____

Item No. 5

Description: _____

Justification: ☐ Owner-Requested Change ☐ Agency-Requested Change ☐ Consultant-Requested Change
☐ Contractor-Requested Change ☐ Unforeseen Condition

Increases the Contract Time by: _____ Calendar Days Increases the Contract Sum by: $ _____

Owner's Contingency Authorization: $ _____

Item No. 6

Description: _____

Justification: ☐ Owner-Requested Change ☐ Agency-Requested Change ☐ Consultant-Requested Change
☐ Contractor-Requested Change ☐ Unforeseen Condition

Increases the Contract Time by: _____ Calendar Days Increases the Contract Sum by: $ _____

Owner's Contingency Authorization: $ _____

Item No. 7

Description: _____

Justification: ☐ Owner-Requested Change ☐ Agency-Requested Change ☐ Consultant-Requested Change
☐ Contractor-Requested Change ☐ Unforeseen Condition

Increases the Contract Time by: _____ Calendar Days Increases the Contract Sum by: $ _____

Owner's Contingency Authorization: $ _____

Item No. 8

Description: _____

Justification: ☐ Owner-Requested Change ☐ Agency-Requested Change ☐ Consultant-Requested Change
☐ Contractor-Requested Change ☐ Unforeseen Condition

Increases the Contract Time by: _____ Calendar Days Increases the Contract Sum by: $ _____

Owner's Contingency Authorization: $ _____

Item No. 9

Description: _____

Justification: ☐ Owner-Requested Change ☐ Agency-Requested Change ☐ Consultant-Requested Change
☐ Contractor-Requested Change ☐ Unforeseen Condition

Increases the Contract Time by: _____ Calendar Days Increases the Contract Sum by: $ _____

Owner's Contingency Authorization: $ _____

Item No. 10

Description: _____

Justification: ☐ Owner-Requested Change ☐ Agency-Requested Change ☐ Consultant-Requested Change
☐ Contractor-Requested Change ☐ Unforeseen Condition

Increases the Contract Time by: _____ Calendar Days Increases the Contract Sum by: $ _____

Owner's Contingency Authorization: $ _____

CHANGE ORDER SUMMARY

1.	Original Contract Amount (Original Guaranteed Maximum Price)	$ _____	
2.	Total Cost of Prior Change Orders (Affecting the GMP)	$ _____	
3.	Total Cost of This Change Order (Affecting the GMP)	$ _____	
4.	Revised Contract Total (Revised Guaranteed Maximum Price)	$ _____	
5.	Original Number of Calendar Days to Complete the Contract	_____	days
6.	Original Completion Date for the Contract	_____	
7.	Calendar Days Added (or Subtracted) by Prior Change Orders	_____	days
8.	Calendar Days Added (or Subtracted) by This Change Order	_____	days
9.	Revised Number of Calendar Days to Complete the Contract	_____	days
10.	Revised Completion Date for the Contract	_____	

Owner's Contingency Summary

1.	Original Owner's Contingency Amount	$ _____
2.	Total of Prior Owner's Contingency Authorizations	$ _____
3.	Total of This Owner's Contingency Authorization	$ _____
4.	Total of All Owner's Contingency Authorizations to Date	$ _____
5.	Remaining Owner's Contingency Amount	$ _____

MULTIPLE AUTHORIZATIONS

If funding is from multiple sources (a combination of Federal and State funds; or a combination of CIP project funds) indicate assigned amounts. List amounts attributable to this Change Order only.

SPWD Project No.	Assigned Dollar Value
_____	_____
_____	_____

Construction Manager at Risk

Firm Name

By: _____

Print: _____

Title: _____

Date: _____

Architect/Engineer

Firm Name

By: _____

Print: _____

Title: _____

Date: _____

Owner

State Public Works Division

By: _____

Print: Gustavo Nunez, PE

Title: Administrator

Date: _____

State Attorney General

(Approved as to Form Only)

Adam Paul Laxalt

By: _____

Title: Deputy Attorney General

Date: _____

SPWD Project Manager

(Signed as to Review Only)

By: _____ Date: _____

Deputy Administrator, Professional Services

(Signed as to Review Only)

By: _____ Date: _____

Accounting

(Account Codes & Funds Availability Verified)

By: _____ Date: _____

GL No.: _____

Authorization

SPWD Project No.: _____

Fund Code No.: _____

Assigned Amount: $ _____

Distribution

SPWD Project Manager

CMAR

Architect/Engineer

Using Agency

SPWD Inspector

PROGRESS PAYMENT APPLICATION

(CMAR PROJECT FORMAT)

Invoice No: x Date: xxx

Project Name: xxx
SPWD Project No.: xxx SPWD Contract No.: xxx

Contractor: xxx
Address: xxx
City, State, Zip: xxx
Telephone No.: (xxx) xxx-xxxx

CONTRACT TIME SUMMARY:

Notice to Proceed Date:
xxx

Project Completion Date:
xxx

Original Contract Time:	0	Days
Approved Time Extensions:	0	Days
Total Contract Time:	0	Days
Contract Time Used to Date:	0	Days
Contract Time Remaining:	0	Days
Percent Contract Time Used to Date:		0%

PAYMENT APPLICATION SUMMARY:

Totals carried forward from attached worksheets or from Contractor's detailed worksheets.

Contractor's Waste Recycling Documentation Received ☐
(When applicable per General Conditions Section 5.25)

Contractor's AB 144 Compliance Documentation Received ☐
(When applicable per General Conditions Section 3.16)

Original Guaranteed Maximum Price:		$0.00
Change Orders (Executed):		$0.00
Current Guaranteed Maximum Price:		$0.00
Total Completed to Date:		$0.00
Less Retention:	0%	$0.00
Total Due Less Retention:		$0.00
Less Previous Applications:		$0.00
Total Amount Due This Application:		$0.00

Overall Project Completion Percentage on Date of This Application: 0%

Note: The listed retention is typically 5% of the *total completed to date* until the overall project completion percentage exceeds 50%. Once the overall project completion percentage exceeds 50%, the listed retention is typically 2-1/2% of the *current contract amount* . See General Conditions of the Contract Section 7.2 (Progress Payment Applications) for additional details regarding retention.

Certification: The Contractor hereby certifies that this is a true and correct statement of the Work status.

CMAR Signature: _____ Date: _____

Application Approvals (To Be Signed as Required Only)

Architect/Engineer: _____ Date: _____

SPWD Inspector: _____ Date: _____

SPWD Project Manager: _____ Date: _____

Approved For Payment, State Public Works Division (Required For Payment)

SPWD Deputy Administrator: _____ Date: _____

Accounting:

Funds Availability Verified: _____ Date: _____

Fund Code No.: _____

PROGRESS PAYMENT APPLICATION

Invoice No: x Date: xxx

Project Name: xxx
SPWD Project No.: xxx SPWD Contract No.: xxx

Contractor: xxx
Address: xxx
City, State, Zip: xxx
Telephone No.: (xxx) xxx-xxxx

SCHEDULE OF VALUES

ORIGINAL CONTRACT WORK

Description of Work or Subcontractor Category	Contract Amount (A)	Previous Applications (B)	This Application (C)	Material Purchases (D)	Total Completed (B+C+D)	Percent Completed (%)
Original Contract Work Subtotals	$0.00	$0.00	$0.00	$0.00	$0.00	0%
Change Order Subtotals	$0.00	$0.00	$0.00	$0.00	$0.00	0%
Column Totals	$0.00	$0.00	$0.00	$0.00	$0.00	0%

PROGRESS PAYMENT APPLICATION

Invoice No: x Date: xxx

Project Name: xxx
SPWD Project No.: xxx SPWD Contract No.: xxx

Contractor: xxx
Address: xxx
City, State, Zip: xxx
Telephone No.: (xxx) xxx-xxxx

SCHEDULE OF VALUES

CHANGE ORDERS

Work Description	Work Completed					
Change Order Number *(invoice only if executed)*	Contract Amount (A)	Previous Applications (B)	This Application (C)	Material Purchases (D)	Total Completed (B+C+D)	Percent Completed (%)
Change Order No. 1						
Change Order No. 2						
Change Order No. 3						
Change Order No. 4						
Change Order No. 5						
Change Order No. 6						
Change Order No. 7						
Change Order No. 8						
Change Order No. 9						
Change Order No. 10						
Change Order No. 11						
Change Order No. 12						
Change Order No. 13						
Change Order No. 14						
Change Order No. 15						
Change Order No. 16						
Change Order No. 17						
Change Order No. 18						
Change Order No. 19						
Change Order No. 20						
Column Totals	$0.00	$0.00	$0.00	$0.00	$0.00	0%

CMAR GMP CONTINGENCY SUMMARY

Project Identification

Project Name:
Project Address:
SPWD Project No.:

	Original Values	Values to Date
Cost of the Work (excluding General Conditions)	_____	_____
CMAR's General Conditions	_____	_____
CMAR's Fee	_____	_____
CMAR's Contingency	_____	_____
Owner's Contingency	_____	_____
Change Orders No. x thru x	_____	_____
Total Guaranteed Maximum Price	_____	_____

CMAR SIGNATURE

Construction Manager at Risk

Firm Name: _____

By: _____

Print: _____

Title: _____

Date: _____

NEVADA STATE PUBLIC WORKS DIVISION

CMAR GENERAL CONDITIONS OF THE CONTRACT

Revised 1-1-14

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SECTION 1 DEFINITIONS, RULES, AND REGULATIONS

1.1 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part. The Project is identified by name, location, and project number in the Owner-CMAR Construction Agreement.

1.2 THE WORK

The term Work includes all labor, materials, services, equipment, tools, transportation, power, water, permanent and temporary utilities, connections, provisions for safety, and all incidental and other things necessary to produce the finished construction as described by the Contract Documents.

1.3 THE OWNER

The Owner is the person or organization identified as such in the Owner-CMAR Construction Agreement. The term Owner means the Owner or his authorized representatives.

1.4 THE ARCHITECT

The Architect is the person or organization responsible for the design of the Project and the preparation of the Drawings and Specifications on behalf of the Owner. The term Architect means the Architect or his authorized representatives.

1.5 THE CONSTRUCTION MANAGER AT RISK (CMAR)

The CMAR is the person or organization identified as such in the Owner-CMAR Construction Agreement. The term CMAR means the CMAR or his authorized representatives.

1.6 SUBCONTRACTOR

A Subcontractor is a person or organization who has a direct contract with the CMAR to perform any of the Work. The term Subcontractor means a Subcontractor or his authorized representatives.

1.7 SUB-SUBCONTRACTOR

A Sub-subcontractor is a person or an organization who has a direct or indirect contract with a Subcontractor to perform any of the Work. The term Sub-subcontractor means a Sub-subcontractor or his authorized representatives.

1.8 WRITTEN NOTICE

Written notice shall be deemed to have been duly served when delivered in person to the individual or member of the firm or to an officer of the organization for whom it was intended, or when sent by mail to the last known business address, or when sent by e-mail or facsimile. Minutes of construction progress meetings and/or Requests for Information do not constitute written notice.

1.9 CALENDAR DAYS

All references to a ‘day’ or to ‘days’ in the Contract Documents shall be understood to mean calendar days unless specifically indicated otherwise. A Calendar Day shall be understood to be any day of the year, including weekends and holidays.

1.10 BUILDING OFFICIAL

The Building Official is the State Public Works Division Building Official. Any changes to the Work that could be construed to have a potential code impact shall be reviewed and approved by the State Public Works Division Building Official.

1.11 GUARANTEED MAXIMUM PRICE

The Guaranteed Maximum Price is the maximum cost for the Work as delineated in the Owner-CMAR Construction Agreement and is also referred to as the Contract Sum in various Contract Documents including the CMAR General Conditions of the Contract.

1.12 CMAR'S CONTINGENCY

The CMAR's Contingency is an itemized amount that may be utilized by the CMAR, at his discretion, to cover the Cost of the Work described in the Contract Documents (Cost of the Work as defined in Section 7.5.1) and/or to cover the cost of the CMAR's General Conditions.

1.13 OWNER'S CONTINGENCY

The Owner's Contingency belongs solely to the Owner for the purpose of being allocated towards stipulated additional work (as itemized in an executed Change Order). Any portion of the Owner's Contingency that remains when the Work is completed belongs to the Owner.

1.14 THE CONTRACT

All of the Contract Documents form the Contract. The Contract Documents consist of all of the following, when applicable:

A. Owner-CMAR Construction Agreement
B. Supplemental CMAR General Conditions
C. CMAR General Conditions of the Contract
D. Change Orders
E. Addenda to Specifications
F. Addenda to Drawings
G. Specifications
H. Drawings

1.15 SUBMITTALS AND SHOP DRAWINGS

1.15.1 Submittals and shop drawings are drawings, diagrams, illustrations, performance charts, brochures, samples, and other data which are prepared by the CMAR or any Subcontractor, manufacturer, supplier, or distributor, which illustrate some portion of the Work.

1.15.2 Samples are physical examples furnished by the CMAR to illustrate materials, equipment, finishes, or workmanship, and to establish standards by which the Work will be judged.

1.16 RULES AND REGULATIONS

1.16.1 The CMAR shall comply with all applicable portions of the Nevada Revised Statutes (including, but not limited to, Nevada Revised Statutes Chapter 341).

1.16.2 The CMAR shall comply with Nevada Revised Statutes (NRS) Section 338.125 (which pertains primarily to discrimination against employees and applicants because of race, creed, color, national origin, sex, or age). A violation of any provision contained in NRS Section 338.125 shall constitute a material breach of the Contract.

1.16.3 The CMAR shall comply with Nevada Revised Statutes (NRS) Section 338.130 (which requires the preferential employment of honorably discharged veterans and citizens of the State of Nevada in the construction of public works). A violation of any provision contained in NRS Section 338.130 or any failure or refusal to comply with any of the provisions of Nevada Revised Statutes 338.130 shall render the Contract void.

1.17 ALLOWANCES

An allowance is a specific value designated by the Owner for use to accommodate work that could not be identified adequately for bidding purposes in the original construction documents. Any portion of an allowance that remains when the Work is completed belongs to the Owner.

SECTION 2 THE CONTRACT DOCUMENTS

2.1 INTENT AND INTERPRETATION

2.1.1 The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. In the event that the terms, provisions, conditions, specifications, or requirements contained in one contract document should conflict with those contained in another contract document, then such conflict shall be resolved in accordance with the following order of precedence:

A. Owner-CMAR Construction Agreement
B. Supplemental CMAR General Conditions
C. CMAR General Conditions of the Contract
D. Change Orders
E. Addenda to Specifications
F. Addenda to Drawings
G. Specifications
H. Drawings

In the event of an inconsistency between or within any of the Contract Documents or between any of the applicable codes, the better quality or greater quantity of work shall be provided, at no additional cost to the Owner.

2.1.2 Specifications shall take precedence over notes on drawings. Large scale drawings shall take precedence over smaller scale drawings.

2.1.3 The Contract Documents are intended to include and require all items which are necessary for the proper execution and completion of the Work.

2.1.4 Interpretations of the Drawings and Specifications and their intent, which are necessary to the proper execution and completion of the Work will be made by the Architect. Words which have well known technical or trade meanings are to be interpreted in accordance with such recognized meanings.

2.1.5 The organization of the Specifications into divisions and sections, and the arrangement of the Drawings, shall not be construed to establish controls or limitations on the CMAR with regard to dividing the Work among Subcontractors, or in establishing the extent of work to be performed by any specific trade.

2.2 EXISTING CONDITIONS

2.2.1 It is the CMAR's responsibility to ascertain any existing conditions that may affect the cost of the proposed Work which could have been discovered by reasonable examination of the site.

2.2.2 No additional costs shall be allowed to the CMAR for existing conditions which could have been discovered by reasonable examination of the site.

2.2.3 Existing improvements visible at the job site, for which no specific disposition is made in the Contract Documents, but which could reasonably be assumed to interfere with the satisfactory completion of the Work, shall be removed and disposed of by the CMAR at no additional cost to the Owner, after written notification is given to the Owner.

2.2.4 The geotechnical report issued with the Contract Documents is provided for the CMAR’s information and is not a Contract Document. The Owner does not guarantee the accuracy or completeness of the report and shall not be liable for any additional work or cost arising out of conclusions reached by the CMAR based upon the geotechnical report. The CMAR assumes all responsibility for any conclusions reached by the CMAR based on the geotechnical report.

2.3 REQUESTS FOR INFORMATION

2.3.1 The CMAR shall, upon discovering any discrepancy, conflict, or inconsistency in the Contract Documents, immediately submit a Request for Information (RFI) to the Architect. The Architect, upon receipt of any such request, will promptly investigate the circumstances and give appropriate instructions to the CMAR, but will take such action only after consultation with the Owner. Until such written instructions are given, any work done by the CMAR, either directly or indirectly relating to such discrepancy, conflict, or inconsistency will be at his own risk, and he shall bear all costs arising therefrom. The CMAR shall maintain a sequential log of all RFI's.

2.3.2 No work shall be performed by the CMAR without adequate drawings or specifications, or that is in conflict with or contrary to the Contract Documents. The CMAR shall immediately report to the Owner and the Architect any discrepancy, conflict, or inconsistency that he may discover, or should have discovered, in the Contract Documents. If the CMAR performs any work contrary to the Contract Documents, he shall be solely responsible and shall bear all costs attributable thereto.

2.3.3 Requests for Information shall be limited to one specific issue or group of related issues and shall not address multiple issues. The Architect will review and respond to RFI's within 10 days from the date that the RFI is received by the Architect. RFI's shall be issued by the CMAR to the Architect in a reasonable and orderly sequence such that they are not unreasonably grouped together and then delivered to the Architect.

2.4 SUBMITTALS AND SHOP DRAWINGS

2.4.1 The CMAR shall review, stamp with his approval, and submit to the Architect with reasonable promptness and in an orderly sequence so as to cause no delay in the Work, all submittals and/or shop drawings required by the Contract Documents or subsequently required by the Architect.

2.4.2 The CMAR's submittals shall provide specific written notice of any deviation from the requirements of the Contract Documents. Failure to specifically identify such deviations shall be adequate grounds for withdrawing or voiding approval of the submittal. The CMAR shall be responsible for all costs or delays associated with purchase and installation of any work that deviates from the requirements of the Contract Documents.

2.4.3 The CMAR shall issue all major submittals to the Architect in a reasonable and orderly sequence.

2.4.4 Submittals shall be properly identified as specified, or as the Architect may require. By approving and issuing submittals, the CMAR thereby represents that he has determined and has verified all field measurements, field construction criteria, materials, catalog numbers and similar data, and that he has checked and coordinated each submittal with the requirements of the Contract Documents.

2.4.5 The Architect will review submittals within 14 days from the date that they are received for conformance with the Contract Documents. The review of a separate item shall not indicate approval of an assembly in which the item functions.

2.4.6 When a specific manufacturer and model of equipment is scheduled on the drawings and/or in the specifications, and a second or third acceptable manufacturer is also listed in the specifications, it shall be the responsibility of the CMAR to confirm with the equipment supplier and equipment manufacturer, prior to bidding, that the alternative manufacturer is providing pricing for equipment that is equipped with features and capabilities that are equal to the scheduled and specified item of equipment. The acceptability of an equipment submittal shall be subject to the equipment supplier and manufacturer providing evidence satisfactory to the Owner and the Architect that the submitted equipment is, in fact, equal to the scheduled and specified equipment.

2.4.7 The review and approval of submittals by the Architect shall not relieve the CMAR of responsibility for any deviation from the requirements of the Contract Documents, nor shall review by the Architect relieve the CMAR from responsibility for errors or omissions in the submittals.

2.4.8 The CMAR shall correct submittals as required by the Architect and shall resubmit the required number of corrected copies of submittals until the Architect indicates that no further re-submittals are required. The CMAR shall identify in writing all revisions made, in addition to identifying the corrections requested by the Architect on previous submittals.

2.4.9 The number of submittals provided, reviewed, and approved shall include 7 sets for use by the Owner and the Using Agency.

2.4.10 None of the Work requiring submittals or shop drawings shall commence until the associated submittals have been reviewed and approved by the Architect.

2.5 SUBSTITUTIONS

2.5.1 The GMP and the Work shall be based on the products specified in the drawings and specifications. The characteristics of the specified products have been utilized in the design of the Project and in the preparation of the Drawings and Specifications, and as such establish minimum standards of function, dimension, appearance, and quality necessary for the Project. Equivalent products of other manufacturers may be acceptable, if, in the judgment of the Owner and the Architect, they meet the standards of the Contract Documents.

2.5.2 The CMAR shall submit any requests for substitutions in writing to the Owner and the Architect within the time specified in Section 2.5.2. Submittals and shop drawings do not constitute a request for substitution. Products not specified or accepted in writing as equivalent to those specified shall not be installed. The CMAR shall be responsible for all costs associated with removal and replacement should the CMAR proceed with installation of any substituted product without specifically identifying the substitution and obtaining written approval of the substituted product.

2.5.3 Requests for substitutions must be submitted to the Owner and the Architect within 30 days after the Notice to Proceed date. Thereafter, substitutions will be considered only in cases of documented product unavailability or other conditions beyond the control and without the fault of the CMAR, or in special circumstances when allowed by the Owner and the Architect.

2.5.4 The burden of proof of substituted product equality rests with the CMAR. Final approval of all substituted products shall be contingent on acceptance of the associated submittals and/or shop drawings, compliance with the Contract Documents, and acceptable installation. Approval to utilize a substituted product does not relieve the CMAR of his responsibility to meet the requirements of the Contract Documents.

2.6 AS-BUILT DRAWINGS

2.6.1 The CMAR shall provide and maintain at the Project site one copy of all Contract Documents, in good order and marked to show clearly all changes and as-built conditions. The CMAR and his Subcontractors shall indicate daily on these documents all as-built conditions and revisions due to substitutions, field changes, and Change Orders. The location of all concealed piping, conduit, fixtures, pull-boxes, and other similar installations, shall be clearly identified on these documents. Upon completion or termination of the Project, this set of documents shall be delivered to the Architect for utilization in preparation of the record drawings.

2.6.2 Progress payments may be reduced or withheld by the Owner in the event that as-built drawings are not kept current.

2.7

2.8 CHANGES IN THE WORK

2.8.1 A Change Order is an amendment to the Owner-CMAR Construction Agreement and is a written order to the CMAR signed by the Owner and the CMAR, issued after the execution of the Contract, authorizing a change in the Work and/or an adjustment in the Contract Sum or the Contract Time.

2.8.2 The Owner and the Architect have the authority to order minor changes in the Work which do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be binding on the CMAR.

2.8.3 The CMAR shall not proceed with changes to the Work without a Change Order or a Construction Change Directive. If the CMAR proceeds with changes to the Work without proper written approval, he does so at his own risk.

2.8.4 Should any event or circumstance occur that the CMAR believes may constitute a change in the Work entitling the CMAR to an adjustment to the Contract Sum or the Contract Time, the CMAR shall issue written notice and a request for a Change Order to the Owner within 7 days of the occurrence of such event or circumstance. Such written notice shall be issued by the CMAR for any event or circumstance that the CMAR knows, or should have known, to have a potential impact on the Work. The request shall describe in detail the related causes and any potential impact to the Work. The CMAR shall also identify any anticipated adjustment to the Contract Sum and/or to the Contract Time as a result of such impact. Failure to submit such written notice and a request within the time stipulated and with the information required by this Section (Section 2.7) shall constitute a waiver by the CMAR of the right to a Change Order.

2.8.5 The cost or credit to the Owner resulting from a change in the Work shall be determined in one or more of the following ways:

A. By unit prices stated in the Contract Documents or as subsequently agreed upon.

B. By a lump sum proposal, which is mutually accepted, is properly itemized, and includes the following:

1. Labor, including benefits, payroll taxes, and workers compensation insurance.
2. Materials entering permanently into the Work, including sales tax.
3. Costs for equipment utilized to perform the Change Order work.

C. By a not-to-exceed maximum cost, which is based on the actual cost of time and materials, properly itemized and verified, and includes the following:

1. Labor, including benefits, payroll taxes, and workers compensation insurance.
2. Materials entering permanently into the Work, including sales tax.
3. Costs for equipment utilized to perform the Change Order work.

2.8.6 The costs for changes in the Work may be increased to include a fixed mark-up for Subcontractor profit and overhead, CMAR profit and overhead on Subcontractor work, and profit and overhead on work done by the CMAR's own forces. This fixed mark-up shall not exceed the amounts stipulated below for a single Change Order item, or for any group of related items, and shall be full compensation for the cost of supervision (to include the Project Manager, Project Coordinator, Superintendent, and all other field and office personnel), field office and home office overhead, profit, tools, insurance and bonding, and all other costs or expenses associated with completing the change in the Work. No other costs or expenses, including, but not limited to, direct daily job costs, general conditions, and/or extended overhead will be paid for time extensions incorporated into a Change Order unless otherwise agreed to in writing by the Owner.

Change Order Item Amount (Prior to Mark-Up)	Mark-Up
Portion from $0 to $50,000	15%
Portion over $50,000	10%

2.8.7 Execution of a Change Order shall be considered complete and final adjustment of the Contract Sum and the Contract Time and represents complete and final resolution of all matters related to, or arising out of, the Change Order. The CMAR may not reserve the right to make further claims with regard to any executed Change Order. Any attempt by the CMAR to reserve such a right shall be considered invalid and unenforceable.

2.8.8 All requests for changes in the Work shall be submitted to the Owner and the Architect in sufficient detail to allow a complete analysis of all proposed costs. The CMAR shall, upon request by the Owner or the Architect, submit invoices for materials and equipment utilized in Change Order work. Labor rates, including fringe benefits, shall be in conformance with the applicable prevailing wage rates for this Project.

2.8.9 The CMAR shall, upon request by the Owner or the Architect, submit detailed rationale and justification for labor rates utilized in Change Order work.

2.8.10 The CMAR will not be entitled to a Change Order for any work that reasonably could have or should have been identified as necessary during the CMAR's participation in the design review process as defined in the Owner-CMAR Pre-Construction Agreement.

2.8.11 The CMAR and the Owner mutually agree that the Owner shall have the right to issue one or more Change Orders at or near the end of the Project, requiring work to be performed after the expiration of the Contract Time, without negating or affecting the Owner's right to assess any liquidated damages that the Owner may be entitled to. The scope of such Change Orders shall be limited to work that is deemed by the Owner to be incidental in nature and necessary to allow for proper completion of the Project.

2.9 CONSTRUCTION CHANGE DIRECTIVES

2.9.1 A Construction Change Directive is a written directive to the CMAR, signed by the Owner and the Architect, which shall serve as formal and binding direction for the CMAR to proceed with a defined change in the Work. The directive may be implemented when deemed necessary as an interim action until a Change Order can be formally assessed and executed. Upon receipt of a Construction Change Directive, the CMAR shall promptly proceed with the directed changes.

2.9.2 The Owner, without invalidating the Contract, may order changes in the Work utilizing a Construction Change Directive with the Contract Sum and/or the Contract Time being adjusted as deemed appropriate. The CMAR shall comply with the provisions of Paragraph 2.7.4 in the event that the CMAR believes that a Construction Change Directive has a potential impact on the Contract Time or the Contract Sum.

2.10 CMAR'S USE OF CONTRACT DOCUMENTS

2.10.1 Copies of the Contract Documents which are reasonably necessary for the proper execution, progress, and satisfactory completion of the Work shall be provided to the CMAR by the Owner. Copies so furnished are not to be used by the CMAR on any other project, and with the exception of one set for the CMAR's records, are to be returned to the Owner at the completion or termination of the Work.

SECTION 3 THE CONTRACT

3.1 GENERAL

3.1.1 The Contract Documents form the Contract for construction. The Contract represents the entire and integrated agreement between the Owner and the CMAR and supersedes all prior negotiations, representations or agreements, either written or oral.

3.1.2 The Contract shall not be binding on either the Owner or the CMAR until the Owner-CMAR Construction Agreement and the Performance and Payment Bonds have been properly executed and submitted, and the Owner-CMAR Construction Agreement has been approved and signed by the Attorney General of the State of Nevada, or by the Attorney General's designated representative.

3.1.3 Execution of the Owner-CMAR Construction Agreement shall constitute the CMAR's representation that he has carefully examined the contents of all Contract Documents, that he has read and understands the same, and specifically agrees to be bound thereby. Additionally, execution of the Owner-CMAR Construction Agreement by the CMAR shall represent that he has inspected the site, familiarized himself with all local conditions, laws, and regulations under which the Work is to be performed and has correlated this knowledge with the requirements of the Contract Documents.

3.1.4 The Contract Documents shall not be construed to create a contractual relationship of any kind between the Architect and the CMAR; between the Owner and a Subcontractor; or, between any persons or entities other than the Owner and the CMAR. The Architect shall, however, have authority to act on behalf of the Owner, to the extent provided in the Contract Documents.

3.1.5 The laws of the State of Nevada and the applicable rules and regulations of its departments, agencies, and institutions shall govern the Project and the Work. Each and every provision of law and clause required by law to be inserted in the Contract shall be deemed to be inserted therein, and the Contract shall be read and enforced as though such provision were included therein, and if through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall be physically amended to make such insertion or correction.

3.1.6 The Contract Sum is the sum stated in the Owner-CMAR Construction Agreement and is the total dollar amount payable by the Owner to the CMAR for the complete and approved performance of the Work in strict conformance with the Contract Documents. The Owner's Contingency belongs solely to the Owner for the purpose of being allocated towards stipulated additional work.

3.2 CONTRACT TIME

3.2.1 The Contract Time is the period of time, in calendar days, allotted in the Contract Documents for the completion of the Work. A Calendar Day shall be understood to be any day of the year, including weekends and holidays.

3.2.2 The date of commencement of the Work is the date established in the Notice to Proceed letter issued by the Owner.

3.2.3 The CMAR shall begin the Work on the starting date established in the Notice to Proceed letter. He shall perform the Work expeditiously with adequate forces and shall complete the Work within the Contract Time.

3.2.4 Unless otherwise agreed upon, normal working days are considered to be Monday through Friday, excluding State holidays, between the hours of 6:00 a.m. and 4:00 p.m. If the CMAR desires to work on any weekend day, State holiday, or during any other hours of the day he shall request and obtain the Owner's written approval at least 5 days in advance of the requested deviation.

3.2.5 It is expressly understood and agreed that the Contract Time is a reasonable and acceptable time for completion of the Work considering the requirements of the Contract Documents, the type and scope of the Project, and the usual industrial and labor conditions prevailing in the locality of the Project.

3.2.6 It is expressly understood and agreed that the Contract Time includes adequate time to allow for usual weather delays considering the climatic conditions in the area of the Project. No adjustments to the Contract Time will be allowed on the account of usual weather. The CMAR shall include adequate float or other allowance in his construction schedule to accommodate weather conditions that may be associated with weather dependent work. An extension to the Contract Time will be considered only in a case where an abnormal or unusual weather delay has directly affected the critical path identified in the approved construction schedule.

3.2.7 The Contract Sum is based on the Contract Time specified in the Owner-CMAR Construction Agreement and shall not be based on an early completion schedule. No additional compensation shall be granted to the CMAR for delays to an early completion schedule and any such claim is hereby waived.

3.3 CONTRACT TIME EXTENSIONS

3.3.1 An extension in the Contract Time for a delay will be allowed only in the case that a full normal working day is lost. Delays will not be allowed for lost partial days or for lost non-working days.

3.3.2 All requests by the CMAR for extensions of the Contract Time due to delays to the Work shall be made in writing to the Owner and the Architect within 7 calendar days after the start of the delay. Each request shall describe in detail the event or events causing the delay, any related causes, and any impact to the Work. Failure to submit such requests within the stipulated time and with the information required by this paragraph shall constitute a waiver by the CMAR of his right to an extension of the Contract Time based upon this event or issue.

3.3.3 If the CMAR is delayed at any time in the progress of the Work by any act or neglect of the Owner or the Architect, or by any employee of either, by any separate contractor employed by the Owner, or by circumstances that are agreed to be beyond the control and without the fault of the CMAR and his Subcontractors and suppliers, the Contract Time may be extended by Change Order for such reasonable time as the Owner may determine.

3.3.4 The CMAR shall not claim or be entitled to any compensation or damages from the Owner because of delay caused by persons other than the Owner, or the Owner's agents and employees, and any entitlement thereto is hereby waived. The CMAR agrees that his sole remedy in the event of a delay caused directly by the Owner, or by the Owner's agents and employees, shall be an extension of Contract Time, except where the delay unreasonably interferes with the CMAR's ability to complete the Work within the Contract Time, and:

A. Is so unreasonable in length as to amount to an abandonment of the Work, or
B. Is caused by fraud, misrepresentation, concealment, or other bad faith by the Owner, or
C. Is caused by active interference by the Owner, or
D. Is caused by a decision made by the Owner to add significant scope or duration to the Work.

The CMAR must submit any request for an extension of Contract Time in strict conformance with Subsection 3.3.2.

3.3.5 Should the CMAR request and be allowed cumulative time extensions which cause the Contract Time to end on a non-working day (on a weekend day or a holiday), the non-working day(s) may, at the Owner's discretion, be added to the Contract Time such that the Contract Time ends on a working day.

3.3.6 Extensions to the Contract Time will only be allowed for delays that affect the critical path for completion of the entire Work as identified in the approved construction schedule.

3.3.7 Extensions to the Contract Time will not be allowed for delays which could have been avoided by the exercise of care, prudence, foresight, and/or diligence by the CMAR, or for delays resulting from correction of work rejected as defective or as failing to conform to the Contract Documents.

3.4 SUBSTANTIAL COMPLETION

3.4.1 Substantial Completion is the stage in the progress of the Work, or a designated portion thereof, when construction is sufficiently complete in accordance with the Contract Documents, so that the Owner can occupy and/or utilize the Work (or portion thereof) for its intended use. The Work will not be considered substantially complete if any of the following conditions exist:

A. Any of the Work is incomplete or defective (including work identified in the final punch list) which, in the opinion of the Owner, would prevent or interfere with occupancy and/or full use of the facility.

B. The Project's mechanical systems have not been tested, balanced, and accepted as being fully complete (including commissioning when applicable).

C. The Project's electrical and life safety systems have not been tested and accepted as being fully complete (including commissioning when applicable).

D. A Certificate of Occupancy has not been issued by the Building Official (either a Temporary/Conditional or a Final/Unconditional Certificate of Occupancy).

E. Final clean-up is not complete.

3.4.2 The following procedure shall be used in establishing Substantial Completion of the Work, unless otherwise agreed to in writing:

A. When the CMAR determines that the Work, or a portion thereof, which the Owner agrees to accept separately, is substantially complete, the CMAR shall submit written notice thereof to the Owner and the Architect, and shall include a punch list of all items which remain to be completed or corrected. Failure to include any items on the list does not alter the CMAR's responsibility to complete all of the Work in accordance with the Contract Documents.

B. Inspections for Substantial Completion may be requested by the CMAR only after the status of completion has been reviewed and assessed by the Owner and the Architect. Upon such review the Owner and/or the Architect will issue a list of any observed deficiencies that affect the issuance of a Certificate of Substantial Completion.

C. If the Owner and the Architect, on the basis of an on-site inspection, agree that the Work is substantially complete, the Architect may provide the CMAR with a list of additional corrective items which shall be added to the CMAR's and the State Inspector's punch lists.

D. If the Owner and the Architect, on the basis of an on-site inspection, determine that the Work is not substantially complete, the Architect will notify the CMAR in writing, and will provide a list of observed deficiencies. The CMAR shall remedy the deficiencies and submit another written request for Substantial Completion.

E. When the Owner and the Architect determine that the Work is substantially complete, the Owner will prepare a Certificate of Substantial Completion, which shall establish the date of Substantial Completion, state the responsibilities of the Owner and the CMAR for maintenance, heat, utilities, and insurance, and fix the time within which the CMAR shall complete the punch list items that are attached to the Certificate of Substantial Completion.

F. The Certificate of Substantial Completion, when signed by the Owner and the CMAR, shall serve to document the CMAR's acceptance of the responsibilities assigned to him in such Certificate.

3.4.3 No payment, nor any use or occupancy of the Project, or any portion thereof, by the Owner, shall constitute acceptance of any work that is not completed in accordance with the Contract Documents, nor shall it relieve the CMAR of full responsibility for correcting defective work or materials found at any time prior to completion of the entire Project or during the warranty period.

3.5 FINAL COMPLETION

3.5.1 When the CMAR considers the Work fully completed, he shall submit written notice to the Owner and the Architect confirming all of the following:

A. The Work has been fully completed in accordance with the Contract Documents and is ready for final inspection.

B. All punch list items have been corrected or completed.

C. All equipment and systems have been tested, adjusted, and balanced and are fully operational.

D. All training required by the Contract Documents has been provided.

E. All operation and maintenance manuals and as-built drawings have been submitted to the Architect in accordance with the Contract Documents and have been accepted as being complete.

F. All surety releases required by the Contract Documents have been submitted to the Owner.

3.5.2 The Architect and Owner will perform a final inspection of the Work. If the Work is found to be incomplete or defective, the CMAR will be notified in writing and provided with a list of observed deficiencies. The Owner may withhold such payment as deemed appropriate to ensure the correction of the deficiencies. Should the CMAR fail to promptly correct the deficiencies noted in the final punch list, the Owner may, upon 7 day written notice to the CMAR, hire another contractor to correct such deficiencies, notify the CMAR's Surety, and/or otherwise complete or correct the listed deficiencies, at the CMAR's expense.

3.5.3 When the Work and all requirements of the Contract Documents are fully and satisfactorily completed, the Owner will pay to the CMAR a final payment consisting of the remaining unpaid balance of the Contract Sum due the CMAR. The acceptance of the final payment by the CMAR shall constitute a full and final release and waiver of all CMAR claims and rights of claim against the Owner relating or pertaining to the Work.

3.6 WARRANTY REQUIREMENTS

3.6.1 The CMAR and his Surety shall unconditionally guarantee all workmanship and materials incorporated in the Work to be and remain free of defects for a period of one year from the date of the Certificate of Substantial Completion, or for such longer periods as stipulated in the Contract Documents.

3.6.2 When the Work, or a portion thereof, is accepted as being substantially complete, the warranty period will commence on the date of the Certificate of Substantial Completion for the completed portion of the Work.

3.6.3 The CMAR shall perform all service and maintenance on any equipment that is operated prior to the date of the Certificate of Substantial Completion. Such service and maintenance shall be performed in accordance with the equipment manufacturer's written instructions, and as required to maintain the equipment warranty.

3.6.4 Within the one year warranty period, and for such longer periods as specified in the Contract Documents, the CMAR and/or his Surety shall promptly remedy any defects in the Work, and pay for any damage to other work resulting therefrom. The Owner or the Using Agency shall promptly notify the CMAR in writing of any observed defects. The CMAR shall ensure that the corrective work is commenced within 7 days of such notice and completed in an expeditious and timely manner.

3.6.5 The obligations of the CMAR herein shall be in addition to and not in limitation of any obligation imposed by law.

3.6.6 Prior to the end of the one year warranty period (approximately 11 months after the date of the Certificate of Substantial Completion, on a date scheduled by the Owner) the CMAR and all requested Subcontractors shall attend a warranty inspection. The CMAR shall take immediate action to remedy, at no cost to the Owner, all warranty items identified during the warranty inspection.

3.7 LIQUIDATED DAMAGES

3.7.1 It is hereby mutually understood and agreed, by and between the CMAR and the Owner, that the Contract Time, as specified in the Contract, is an essential condition of the Contract. It is further mutually understood and agreed that both the Work and the Contract Time shall commence on the starting date established in the Notice to Proceed letter.

3.7.2 The CMAR agrees that all of the Work shall be prosecuted regularly, diligently, and without interruption at a rate of progress that will ensure completion of the Work within the Contract Time.

3.7.3 If the CMAR shall neglect, fail, or refuse to achieve Substantial Completion of the Work within the Contract Time, then the CMAR and his Surety do hereby agree, as part of the consideration for the Contract, to pay to the Owner, not as a penalty, but as liquidated damages, the amount of money specified in the Owner-CMAR Construction Agreement for each and every excess calendar day that is required to achieve Substantial Completion of the Work. The specified liquidated damages shall be the Owner's sole and exclusive remedy for excess calendar days. The CMAR agrees to and hereby waives any defense as to the validity or enforceability of any liquidated damages payable by the CMAR under the Contract on the grounds that such damages are a penalty or that such damages are disproportionate to the actual damages sustained by the Owner.

3.7.4 The CMAR and the Owner mutually agree that in the event of a delay the actual damages to be suffered by the Owner are difficult to determine and accurately quantify. Accordingly, the CMAR, his Surety, and the Owner agree that the amount specified in the Owner-CMAR Construction Agreement for liquidated damages is the appropriate and best estimate of the damages that would actually be incurred by the Owner should the Work not be completed within the Contract Time.

3.7.5 Should the remaining balance of the Contract Sum be insufficient to cover the specified liquidated damages due the Owner, then the Owner shall have the right to recover such damages from the CMAR and/or his Surety.

3.7.6 Liquidated damages shall cease to be assessed on the date that Substantial Completion is achieved provided the CMAR completes all punch list work within the time limit stipulated in the Certificate of Substantial Completion. If the CMAR does not complete all of the punch list work within the time limit stipulated in the Certificate of Substantial Completion, the assessment of liquidated damages shall resume on the date that the stipulated time limit expires and shall continue until all such punch list work is completed.

3.8 CLAIMS FOR DAMAGES

3.8.1 Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the other party or of any of his employees, agents, or others for whose acts he is legally liable, claim shall be made in writing to such other party within 7 days after the first knowledge of such injury or damage.

3.8.2 Any costs to the Owner caused by defective or ill-timed work performed by the CMAR shall be paid by the CMAR.

3.8.3 Except for damages mutually agreed upon by the Owner and the CMAR as liquidated damages in accordance with Section 3.7 and excluding losses covered by insurance that is required by the Contract; the Owner and the CMAR agree to mutually waive all claims against each other for any consequential damages suffered or incurred by the other party that arise from or relate to the Contract, including, without limitation, rental expenses or other damages resulting from a loss of use or availability of the Work, lost income, lost profit, lost financing or opportunity, lost business or reputation, principle office expenses, and loss of management or employee availability, productivity, opportunity, or services.

3.8.4 The provisions of this Section (3.8) shall also apply to termination of the Contract and shall survive such termination. The CMAR shall require similar waivers in all contracts with his Subcontractors and others retained on the Project.

3.9 DISPUTE RESOLUTION

3.9.1 Except as provided in Subsection 3.9.1(A) any controversy or claim arising out of or related to the Contract Documents or the Work shall be subject to all provisions of this Section 3.9 (Dispute Resolution) as a condition precedent to the institution of legal or equitable proceedings by either party.

A. The provisions of Subsections 3.9.1 through 3.9.7 do not apply if the Owner has given notice to the Surety under Section 3(A) of the Performance Bond. If the Owner discovers construction defects after the warranty period has expired, the Owner has the right to file an immediate judicial action pursuant to Subsection 3.9.8. When the CMAR accepts final payment pursuant to Section 7.3 he waives all rights under this Section (3.9), including the filing of judicial action.

3.9.2 Unless otherwise agreed to in writing, the CMAR shall continue the Work and maintain the construction schedule of the Work during any dispute resolution proceedings. If the CMAR continues to perform in accordance with the Contract Documents, the Owner shall continue to make payments in accordance with the Contract Documents.

3.9.3 In the event that a claim, dispute, or controversy arises between the parties which is related to the Contract Documents or the Work, the party asserting the claim, dispute, or controversy must provide written notice (Notice of Dispute) to the other party within 30 days of its occurrence. The written notice shall set forth with specificity the nature of the claim or controversy, the relief sought, any other pertinent matters relating thereto, and shall comply with Section 1.8 (Written Notice) of these General Conditions. Notice from the CMAR to the Owner shall be addressed to the State Public Works Division Administrator ("Administrator"). Failure of either party to provide proper notice as required herein shall forever bar that party from any remedy thereon, including seeking any dispute resolution and/or judicial action. The notice and time requirements set forth herein shall not apply to warranty claims or construction defect claims that the Owner may have against the CMAR.

3.9.4 Upon receipt of a Notice of Dispute, the Administrator shall within 5 business days direct the State Public Works Project Manager and the State Public Works Division Deputy Administrator of Professional Services to engage in good faith direct negotiations with the CMAR's principal field personnel, including but not limited to the CMAR's Superintendant and Project Manager. If the Owner initiates the Notice of Dispute, the direct discussions must take place within 5 days of the date of the Notice of Dispute. If the Owner and CMAR representatives are not able to reach a resolution, the Administrator shall immediately inform the CMAR's Principal in writing that resolution was not achieved and arrange for a meeting with the CMAR's Principal. Upon receipt of such notice, the CMAR's Principal must meet with the Administrator within 5 business days, or as otherwise agreed to, and engage in good faith negotiations in an effort to reach a resolution.

3.9.5 If the dispute remains unresolved after 30 days from the date of the initial meeting between the CMAR's Principal and the Administrator, the dispute must be submitted to the Board of Appeals for review (submitted by either the CMAR or the Administrator as described in Subsection 3.9.6).

3.9.6 Within 35 days of the initial meeting with the Administrator pursuant to Subsection 3.9.4, the CMAR may file a written notice with the Board requesting that the Board of Appeals review the dispute (Request for Board of Appeals Review). The Request for Board of Appeals Review must set forth the basis for the request and may be accompanied by copies of supporting documents. A Request for Board of Appeals Review submitted by the CMAR must be addressed to the Administrator who shall immediately forward the request to the State Public Works Board Chairman ("Chairman"). In the event that the CMAR does not file the request, the Administrator must do so within 40 days of the initial meeting (should the dispute remain unresolved at that time). A Request for Board of Appeals Review from the Administrator must be addressed to the Chairman with a copy to the CMAR. The hearing before the Board of Appeals shall be conducted in accordance with Subsection 3.9.10. If the CMAR refuses to participate or follow the procedures stipulated in Subsection 3.9.10, he waives his rights to pursue dispute resolution and/or judicial action.

3.9.7 The CMAR must, within 30 days from the date of the Board of Appeals' written decision, demand formal mediation if he has not previously assented to be bound by the Board of Appeals' decision. The parties shall endeavor to resolve the matter by formal mediation through the current Construction Industry Mediation Rules of the American Arbitration Association, or the parties may mutually agree to select another set of mediation rules. The administration of formal mediation shall be as mutually agreed by the parties. The formal mediation shall be convened within 30 business days of the demand for formal mediation. Agreements reached in formal mediation shall be enforceable as settlement agreements in any court of competent jurisdiction. In the event that the CMAR does not make a timely demand for formal mediation the Board of Appeals' decision becomes binding and enforceable as a settlement agreement in any court of competent jurisdiction. The fees and expenses of the formal mediation shall be shared equally by all parties. Each party shall be responsible for their own costs, expenses, consultant fees, and attorney fees incurred in the presentation or defense of any claim, dispute, or controversy that is brought before the mediator.

3.9.8 If the matter is unresolved after submission of the matter to formal mediation, the parties may file a lawsuit in a court of competent jurisdiction. Nothing in these Contract Documents is intended to prevent the parties to a judicial action from agreeing to a form of alternative dispute resolution pursuant to Nevada Revised Statutes Section 38.250, or as otherwise agreed between the parties and the Judge.

A. Any judgment shall include an award of reasonable attorney fees and costs to the prevailing party.

B. The venue shall be either the location of the Project or Carson City.

C. These Contract Documents shall be governed by the laws of the State of Nevada.

3.9.9 All parties necessary to resolve a matter shall be parties to the same dispute resolution procedure. Appropriate provisions shall be included in all subcontracts relating to the Work to provide for the joinder or consolidation of all dispute resolution procedures.

3.9.10 Any Request for Board of Appeals Review shall adhere to the following procedures:

A. The Board must appoint a subcommittee ("Board of Appeals") consisting of three members to review any dispute that has not been resolved pursuant to Subsection 3.9.5.

B. A Request for Board of Appeals Review shall comply with all provisions stipulated in Subsections 3.9.5 and 3.9.6. A Request for Board of Appeals Review issued by the CMAR shall clearly indicate whether the CMAR agrees that the Board of Appeals' decision shall be binding. The Chairman may at his discretion determine whether the matter is appropriate for review before the subcommittee or before the full State Public Works Board.

C. The Board of Appeals shall:

1. Conduct a public hearing within 45 days after the Request for Board of Appeals Review is received by the Board, unless the parties by written stipulation agree to extend the time;
2. Provide notice of the time and place of the public hearing to the person that requested the review; and
3. Select from among its members a Chairman. In the event that the full Board hears the review, the Chairman of the Board shall act as the Board of Appeals Chairman.

D. The Board of Appeals Chairman may:

1. Compel the parties to the dispute to enter into negotiations for a settlement;
2. Mediate between the parties to the dispute; and/or
3. Order the parties to the dispute to provide discovery.

E. Each party shall, within 5 business days before the hearing, provide to the Board of Appeals and each opposing party a pre-hearing statement. The statement must:

1. Set forth the facts and legal issues concerning the dispute, including the requested relief.
2. Include a list of any witnesses the party intends to call during the hearing. The list must include the name, address, and telephone number of each witness, if known, and a brief statement concerning the proposed testimony of the witness.
3. Except as otherwise provided in this paragraph, include a copy of any documents intended to be introduced into evidence at the hearing. The statement provided to the Board of Appeals must include at least five copies of any submitted documents.

F. Upon commencement of the public hearing, the person who filed the Request for Board of Appeals Review must be the first to present evidence.

G. In conducting the hearing, the Board of Appeals is not bound by any technical rules of evidence.

H. The parties may agree to stipulate to the facts presented to the Board of Appeals.

I. If the CMAR fails to appear at a hearing conducted pursuant to this Subsection 3.9.10 and was not granted a continuance, or did not enter into a stipulation for a continuance, the Board of Appeals may hear evidence from those parties present at the hearing and may make a decision based upon the available record. The failure of the CMAR to attend the hearing shall constitute non-compliance with Section 3.9 of the General Conditions and shall constitute a waiver of the CMAR's right to pursue any further remedies; including but not limited to, binding arbitration, formal mediation, and/or judicial action.

J. The Board of Appeals shall, by majority vote, determine whether evidence is admissible during a hearing conducted pursuant to this Subsection 3.9.10.

K. The Board of Appeals must issue its written decision within 30 days after the hearing. The written decision must be sent by certified mail. The Board of Appeals must also announce its decision at its next regularly scheduled public meeting. The decision need not be issued at the Request for Board of Appeals review hearing.

L. In the event that the CMAR indicated his assent at the outset that the decision of the Board of Appeals would be binding, the Board of Appeals' decision shall be deemed a final settlement agreement enforceable in any court of competent jurisdiction.

M. In the event that the CMAR indicated that the Board of Appeals' decision was non-binding the parties shall within 30 days:

1. Enter into a final settlement agreement based upon the terms of the Board of Appeals decision, or as otherwise agreed; or
2. The CMAR may:
   a. Pursue formal mediation pursuant to Subsection 3.9.7.
   b. For disputes involving $50,000 or less initiate binding arbitration.

N. In the event that the CMAR does not initiate binding arbitration or formal mediation within 30 days of the Board of Appeals' written decision; the Board of Appeals' decision becomes a binding agreement enforceable in any court of competent jurisdiction. Further, by failing to give timely notice, the CMAR waives all applicable rights to pursue formal mediation, binding arbitration, and/or judicial action.

O. Each party shall bear their own costs associated with the Request for Board of Appeals Review.

P. Construction Law Counsel shall assist the Administrator and staff in their presentation before the Board of Appeals. A Deputy Attorney General shall act as counsel for the Board of Appeals, advise them throughout the hearing, and if requested during their deliberations. The CMAR may represent himself or be represented by counsel.

3.10 TERMINATION BY THE CMAR

3.10.1 The CMAR may, upon 7 days written notice, terminate the Contract after the Work is stopped for a period of 60 consecutive days through no act or fault of the CMAR, of a Subcontractor, or their employees or agents; or due to issuance of a court order or other order from a public authority having jurisdiction.

3.10.2 If the CMAR terminates the Contract under the terms of the previous paragraph, he may recover from the Owner payment for work completed and approved, including reasonable overhead, profit, and termination costs. The CMAR will not be entitled to overhead and profit on any unperformed work.

3.11 TERMINATION BY THE OWNER

3.11.1 If any one of the following occurs, then the Owner may, without prejudice to any other right or remedy, and after giving the CMAR and his Surety 7 days written notice, terminate the employment of the CMAR.

A. The CMAR is adjudged bankrupt.

B. The CMAR makes a general assignment for the benefit of his creditors.

C. A receiver is appointed on account of the CMAR's insolvency.

D. The CMAR persistently or repeatedly refuses or fails to supply an adequate number of properly skilled workmen, proper supervision, or proper materials.

E. The CMAR fails to make prompt payment to Subcontractors or to materials suppliers for materials or labor.

F. The CMAR disregards any law, ordinance, rule, regulation, or order of any public authority having jurisdiction.

G. The CMAR otherwise breaches the Contract.

3.11.2 Upon termination by the Owner, the Owner may take possession of the site and of all materials, equipment, tools, and machinery thereon owned by the CMAR and may finish the Work utilizing whatever means and methods the Owner deems appropriate.

A. Should the Owner terminate the Contract for any of the aforementioned reasons, the CMAR shall not be entitled to receive any further payment until the entire Work is fully complete and the actual amount due the CMAR can be properly determined.

B. If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including compensation for any additional professional services, such excess shall be paid to the CMAR. If such costs exceed the unpaid balance, the CMAR or his Surety shall promptly pay the difference to the Owner.

3.11.3 The Owner expressly reserves the right to terminate the Contract at any time due to a national emergency, court injunction, or for any reason determined to be in the best interest of the State of Nevada, by giving the CMAR and his Surety 7 days written notice. The CMAR shall be paid for work completed and approved, including reasonable overhead, profit, and termination costs. The CMAR will not be entitled to overhead and profit on any unperformed work.

3.12 SEPARATE CONTRACTS

3.12.1 The Owner reserves the right to award other separate contracts in connection with other portions of the Project.

3.12.2 The CMAR shall afford the Owner’s separate contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall properly interface and coordinate his work with theirs.

3.12.3 If any part of the CMAR's work depends on the proper execution of the work of any separate contractor, the CMAR shall inspect and promptly report to the Owner and the Architect in writing any discrepancies or defects in such other work. Failure of the CMAR to so inspect and report shall constitute an acceptance of the separate contractor's work as fit and proper to receive his work, except as to defects which may develop in the other separate contractor's work after the execution of the CMAR's work.

3.12.4 The CMAR shall do all cutting, fitting, and patching of the Work that may be required to accommodate and incorporate the work of any separate contractor, as shown upon or as reasonably implied by the Contract Documents. The CMAR shall not endanger or alter the work of any separate contractor.

3.12.5 Should the CMAR cause damage to the work or property of any separate contractor on the Project, the CMAR shall, upon written notice, settle with the separate contractor. If any separate contractor asserts any claim against the Owner on account of any damage alleged to have been sustained, the Owner shall notify the CMAR, who shall indemnify, hold harmless, and defend the Owner against any such claim.

3.12.6 If a dispute arises between the CMAR and a separate contractor as to their responsibility for any costs or damages to the Project, the Owner may assign and charge such costs or damages to the CMAR and/or the separate contractor as the Owner, in his sole discretion, determines to be appropriate.

3.13 ASSIGNMENT

3.13.1 The CMAR binds himself and each of his partners, successors, assigns and legal representatives to the Owner and to the Owner's partners, successors, assigns and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents. He shall not assign or sublet the Contract, in whole or in part, without the written consent of the Owner, nor shall the CMAR assign any monies due or to become due to him hereunder, without the prior written consent of the Owner.

3.14 SEVERABILITY

3.14.1 The Contract and the various provisions thereof are severable. Should any part, clause, provisions or terms be declared invalid, ineffective, or unenforceable, the remaining provisions of the Contract shall remain in full legal force and effect.

3.15 INDEMNIFICATION

3.15.1 To the fullest extent permitted by law, the CMAR shall defend, indemnify, and hold harmless the Owner, the Architect, the Architect's consultants, and the agents and employees of any of them from and against all claims, damages, losses, and expenses, including, but not limited to attorneys' fees arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) caused by the negligent acts or omissions of the CMAR, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.

3.15.2 The Owner and the CMAR shall each indemnify the other for any losses principally caused by the indemnifying party.

3.15.3 In any and all claims against the Owner or the Architect or any of their officers, agents, or employees by any employee of the CMAR, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CMAR or any Subcontractor under workers compensation acts, disability benefit acts, or other employee benefit acts.

3.15.4 Obligations of the CMAR hereunder shall not extend to the liability of the Architect, his agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or the giving of or the failure to give directions or instructions by the Architect, his agents or employees, provided such giving or failure to give is the primary cause of the injury or damage.

3.15.5 Obligations of the CMAR hereunder shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist pertaining to a party or person described herein. This indemnification obligation shall not be diminished or limited in any way by the limits of insurance required in this Contract or otherwise available to the CMAR or Subcontractors.

3.15.6 All indemnification obligations of the CMAR shall survive final payment.

3.16 COMPLIANCE WITH NRS SECTION 338.0117

3.16.1 The CMAR shall comply with all of the requirements listed herein for the duration of the Project as attested to by the CMAR in his ‘Affidavit of Compliance’. The CMAR shall submit a report substantiating his successful compliance with each listed requirement prior to submitting his final progress payment application.

A. At least 50% of all workers collectively employed by the CMAR, including any of those workers employed by his Subcontractors, will hold a valid driver’s license or identification card issued by the Nevada Department of Motor Vehicles; and

B. All vehicles used primarily for the Project will be registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to Nevada Revised Statutes Section 706.826; or will be registered in the State of Nevada; and

C. The CMAR and all of his subcontractors will maintain and make available for inspection within this State all payroll records relating to this Project.

3.16.2 In the event that the CMAR cannot meet the requirements of Subsection 3.16.2(D); the CMAR must provide Written Notice to the Owner within 7 days of the CMAR's discovery of that fact and include a detailed explanation of why the requirements of Subsection 3.16.2(D) cannot be met.

3.16.3 If the CMAR causes a material breach of the Contract as a result of a failure to comply with the requirements of Subsection 3.16.2 the CMAR is liable to the Owner for a penalty in the amount of 1% of the Contract Sum.

3.16.4 All contracts between the CMAR and a subcontractor or supplier and each contract between a subcontractor and a sub-subcontractor or supplier must provide that:

A. If a party to a contract causes a material breach of the Contract between the CMAR and the Owner as a result of a failure to comply with the requirements of Subsection 3.16.2, the party is liable to the Owner for a penalty in the amount of 1% of the cost of the largest contract to which he or she is a party; and

B. The right to recover the amount determined pursuant to Subsection 3.16.5(A) by the Owner may be enforced by the Owner directly against the party that causes the material breach; and

C. No other party is liable to the Owner for a penalty as set forth in this Section (Section 3.16).

3.17 <u>CMAR BIDDING PROCEDURES</u>

3.17.1 <u>Owner Oversight of CMAR Bidding Procedures</u>

A. The CMAR shall coordinate with, document, and disclose to the Owner all qualification, bidding, and contracting procedures utilized in assessing, negotiating with, and contracting with subcontractors as required by Nevada Revised Statutes Sections 338.16991 and 338.16995, by Nevada Administrative Code Chapter 338, and by the Contract Documents.

B. The CMAR shall coordinate all bid openings with the Owner and the Owner shall attend all bid openings.

C. The CMAR shall obtain a minimum of 3 bids on all items of work unless a lesser number of bids is deemed acceptable and is pre-approved by the Owner in writing.

D. If the CMAR has pre-qualified at least 3 subcontractors for a particular trade and then receives less than 3 bids, the CMAR shall not open the associated bids until the CMAR obtains written direction from the Owner regarding how to proceed.

E. Immediately following opening subcontractor bids the CMAR shall provide the Owner with copies of all subcontractor bids along with a list of all subcontractors that submitted bids. This list shall include at minimum the contact information for the subcontractor, the associated trade, any exclusions, any stipulations, and the bid amount.

F. The CMAR shall demonstrate to the satisfaction of the Owner that he has adequate previous experience on any work that he intends to self-perform and shall also provide evidence that his proposed cost for such work is lower than the other bids received for that work.

3.17.2 CMAR Pre-Qualification of Subcontractors

A. The CMAR shall pre-qualify all subcontractors whose scope of work is more than 1% of the total estimated cost of construction in compliance with all requirements of Nevada Revised Statutes Sections 338.16991 and 338.16995, Nevada Administrative Code Chapter 338, and with all provisions of General Conditions Section 3.17. When pre-qualifying a subcontractor the CMAR shall consider and utilize only the criteria listed in Nevada Revised Statutes Section 338.16991 and Nevada Administrative Code Chapter 338.

B. All subcontractors, regardless of the value of their portion of the work, shall have and maintain a State of Nevada Contractor's license in good standing for the entire duration of the Work, and must not be disqualified by the State Public Works Division pursuant to Nevada Revised Statutes Section 338.1376.

C. Prior to advertisement for subcontractor qualifications the CMAR shall provide the Owner with a copy of the subcontractor pre-qualification application for review and approval.

D. The CMAR shall maintain a record of all documents generated and received in connection with the pre-qualification of subcontractors.

E. The CMAR shall pre-qualify at least 3 subcontractors for each category of work unless the Owner issues written authorization to pre-qualify less than 3 subcontractors for a specific scope of work.

3.17.3 CMAR Requests for Subcontractor Proposals

A. The CMAR's requests for proposals from subcontractors whose scope of work is more than 1% of the total estimated cost of construction shall comply with all requirements of Nevada Revised Statutes Sections 338.16991 and 338.16995, Nevada Administrative Code Chapter 338, and with all provisions of General Conditions Section 3.17.

B. The CMAR shall provide the Owner with a copy of the CMAR's request for subcontractor proposals along with all associated instructions for review prior to issuing the request to subcontractors.

C. Prior to opening any subcontractor bid, the CMAR shall confirm the following:

1. The subcontractor is pre-qualified for the trade and/or scope of work that the proposal applies to, and
2. The subcontractor attended the pre-proposal meeting.

SECTION 4 THE OWNER

4.1 OWNER'S RESPONSIBILITIES

4.1.1 The Owner will provide general administration of the Contract, including performance of the functions described in this Section (Section 4). Such general administration shall not relieve the CMAR of complete responsibility for the means and methods of construction and performance of the Work in accordance with the Contract Documents.

4.1.2 The Owner shall furnish site surveys describing the topography and physical characteristics, legal limits, and utility locations for the Project site.

4.1.3 Except for permits and fees which are the responsibility of the CMAR under the Contract Documents, the Owner shall secure and pay for easements and utility connection fees for permanent structures or for permanent changes in existing facilities.

4.1.4 Information or services under the Owner's control shall be furnished by the Owner within a reasonable time to avoid delays in the orderly progress of the Work.

4.1.5 Prior to the start of construction, the Owner shall obtain all land and rights-of-way necessary for the carrying out and completion of the Work.

4.1.6 In case of termination of the employment of the Architect, the Owner shall appoint a replacement whose status under the Contract Documents shall be that of the former Architect.

4.1.7 The Owner will issue the Notice to Proceed and Certificate of Substantial Completion.

4.1.8 The foregoing are in addition to other duties, responsibilities, and rights of the Owner enumerated throughout the Contract Documents.

4.2 OWNER'S AUTHORITY

4.2.1 The Owner and his representatives shall have access to the Work at all times. The CMAR shall provide proper equipment and facilities for such access and inspection. If any work is required to be tested or approved, the CMAR shall give the Owner timely notice of its readiness for inspection. Neither the observations of the Owner or the Architect in the general administration of the Contract, nor any inspections, tests, or approvals shall relieve the CMAR from his obligation to perform the Work in accordance with the Contract Documents.

4.2.2 Should the Owner or the Architect determine that the CMAR has proceeded with work that does not comply with the Contract Documents, the CMAR shall be required to correct such work at the CMAR’s own expense.

4.2.3 The Owner will not be responsible for the acts or omissions of the CMAR or any Subcontractor, or any of their agents or employees, or any other persons performing any of the Work.

4.2.4 If the CMAR defaults or neglects to carry out the Work in accordance with the Contract Documents or fails to perform any provision of the Contract, the Owner may, after 7 days written notice to the CMAR, and without prejudice to any other remedy he may have, make good such deficiencies. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due the CMAR the cost of correcting such deficiencies, including the cost of the additional professional services made necessary by such default, neglect, or failure. If the payments then or thereafter due the CMAR are not sufficient to cover such amount, the CMAR shall immediately pay the difference to the Owner.

4.2.5 If the CMAR fails to carry out the Work in accordance with the Contract Documents or fails to correct work which is not in accordance with the Contract Documents, the Owner, by written notice, may order the CMAR to stop the Work, or any portion thereof, until the cause for such order has been eliminated. The CMAR shall not be entitled to any compensation or to any additional time for such work stoppage.

4.3 INSPECTION BY THE OWNER

4.3.1 The State Public Works Division's Inspector has authority to enforce compliance with the Contract Documents and to direct the CMAR to correct non-complying work. The Architect will render interpretations of the Drawings and Specifications as may be necessary to assist the Inspector with proper assessment of non-complying work.

4.3.2 The State Public Works Division's Inspector may direct the CMAR to stop any unsafe work, any non-complying work, and/or any work that presents a life-safety concern. The CMAR shall not be entitled to any compensation or to any additional time for such work stoppage.

4.3.3 Once the CMAR is advised of non-complying work, proceeding with that work or with any related work shall be at the CMAR's risk and at the CMAR's expense.

4.3.4 The CMAR shall provide the State Public Works Division Inspector with a minimum 24 hour written notice of all desired inspections.

4.3.5 The CMAR will be charged for extra inspection services when any work requiring inspection is performed during time periods other than the normal workday (i.e., during nights, weekends, and holidays). The charges shall be based on the current rate of pay for State Inspection Personnel, including any applicable travel and per diem expenses. Charges for extra inspection services outside of normal working hours will be processed as deductive changes to the Contract Sum. The necessity for extra inspection services outside of normal working hours will be determined by the Owner.

4.3.6 The Owner and his authorized representatives shall be permitted to inspect the Work, materials, payroll records, personnel records, invoices for materials, and other relevant data of the CMAR and Subcontractors. Such inspection by the Owner or his authorized representatives shall not be considered a warranty as to the fitness or acceptability of the Work, materials, payrolls, records of personnel, invoices for materials and other relevant data and work, and shall not relieve the CMAR or his Subcontractors of their obligations or duties required by the Contract Documents.

SECTION 5 THE CONSTRUCTION MANAGER AT RISK (CMAR)

5.1 GENERAL

5.1.1 The CMAR shall carefully study and compare all parts of the Contract Documents with each other and with all information furnished by the Owner and shall immediately report any discrepancies, conflicts, or inconsistencies that he discovers in writing to the Owner and the Architect. The CMAR shall not be liable to the Owner and/or the Architect for any damages resulting from discrepancies, conflicts, or inconsistencies in the Contract Documents unless the CMAR recognized, or should have recognized, such discrepancies, conflicts, or inconsistencies and failed to report them to the Owner and the Architect.

5.1.2 No mobilization shall commence and no work shall be performed until all required insurance certificates have been provided to the Owner.

5.1.3 If the CMAR performs any work knowing that it involves a recognized discrepancy, conflict, or inconsistency in the Contract Documents, without specific notice to the Owner and the Architect, the CMAR shall assume all responsibility for such performance, including but not limited to, any and all costs for correction.

5.1.4 The CMAR shall submit cost proposals, progress schedules, payrolls, reports, estimates, records, and other data as the Owner or Architect may request concerning work performed, or to be performed under the Contract.

5.2 CMAR'S RESPONSIBILITIES

5.2.1 The CMAR shall perform and complete the Work in a timely and workmanlike manner and in strict conformance with the Contract Documents.

5.2.2 The CMAR shall prepare and submit daily reports to the Owner and the Architect within two days of the reported day. Reports shall include workers on site, work performed, weather conditions, material and equipment deliveries, outstanding issues, and pending RFI's.

5.2.3 The CMAR shall supervise and direct all portions of the Work. He shall be solely responsible for all construction procedures, methods, techniques, sequences, and safety, and for coordinating all portions of the Work to comply with the Contract Documents. He shall be responsible for the acts and omissions of his employees and Subcontractors, their agents and employees, and all other persons performing any of the Work.

5.2.4 The CMAR and each Subcontractor shall have and maintain a State of Nevada Contractor's license in good standing for the entire duration of the Work.

5.2.5 The CMAR shall at all times enforce good discipline and order among his employees and Subcontractors and shall, at his own cost, provide the security necessary to adequately protect the Work.

5.2.6 The CMAR shall at all times, and at his own cost, safely guard and protect the Owner's property, the Work, and all property adjacent to the Project, from damage, injury, or loss in connection with the Project and shall replace or make good any such damage, injury, or loss. The CMAR shall be responsible for the protection of adjacent property and the maintenance of passageways, guard fences, and other protective facilities.

5.2.7 The CMAR shall give all notices and shall comply with all laws, ordinances, rules, orders, and regulations of all public authorities, relating to the performance of the Work.

5.2.8 In the event of a temporary suspension of the Work, and/or during inclement weather, the CMAR shall protect, and shall cause his Subcontractors to protect the Work and materials against damage, injury, or loss. If any work or materials become damaged, injured, or lost due to any cause, such work and materials shall be removed and replaced at the expense of the CMAR.

5.2.9 It shall be the CMAR's responsibility to ensure that all construction loading of the structural decks complies with the metal deck manufacturer's allowable loading criteria. The storage of materials and the use of mechanical lifts or other heavy moveable or stationary equipment utilized on elevated concrete slabs to perform work shall be conducted in a safe manner so as to not cause any damage or deformation to steel decks or other portions of the structure. The CMAR shall take all necessary precautions, including hiring a structural engineer when necessary to evaluate the imposed loadings on elevated slabs from materials, manpower, lifts, and equipment, in order to comply with the deck manufacturer's safe loading criteria and deflection limitations. The CMAR shall be fully responsible for any damage caused to elevated slabs or other portions of the Work as a result of construction-imposed loads utilized in performing the Work. The CMAR shall include adequate provisions in his bid to accommodate any limitations, restrictions, or additional costs that are necessary to meet the deck manufacturer's requirements for the metal deck type, spans, and materials specified in the bid documents. The CMAR shall not be entitled to an increase in the Contract Sum or an extension to the Contract Time for complying with any of the requirements of this Section (Section 5.2).

5.2.10 The CMAR shall ensure that all ductwork either stored on site or installed in the building is thoroughly sealed to protect against dirt and moisture until such time that the building is deemed by the Owner to be adequately clean to allow for start-up of the associated air handling equipment. Should ductwork not be sealed as specified, then the CMAR shall have such ductwork professionally cleaned to an as-new condition at no cost to the Owner.

5.3 SUPERINTENDENT

5.3.1 The CMAR shall employ a competent full-time superintendent and necessary assistants who shall be in attendance at the Project site throughout the progress of the Work. The superintendent and assistants shall be satisfactory to the Owner, and shall not be changed except with the written consent of the Owner. The superintendent shall represent the CMAR and have full authority to act on his behalf.

5.4 LABOR AND MATERIALS

5.4.1 Unless otherwise specifically stated in the Contract Documents, the CMAR shall provide and pay for all labor, materials, tools, equipment, water, light, power, heat, transportation, supervision, temporary construction services, procedures, and facilities of every nature required to properly execute and complete the Work in accordance with the Contract Documents. All materials shall be installed in strict compliance with the Contract Documents and the recommendations of the manufacturer.

5.4.2 In any case where the manufacturer's installation instructions conflict with the contract documents the CMAR shall bring such conflict to the attention of the Owner and the Architect prior to installing the associated materials or equipment, such that the Owner and the Architect may provide direction for an appropriate resolution to the identified conflict. Should the CMAR proceed with installing any materials or equipment in a manner contrary to the manufacturer's instructions without first notifying the Owner and the Architect, the CMAR shall remove and reinstall the materials or equipment in accordance with the manufacturer's instructions at no cost to the Owner.

5.4.3 The CMAR shall not employ or contract with any firm or organization that is unfit or unskilled in the work to be performed. The CMAR shall not discriminate or allow discrimination against any employee or applicant for employment because of sex, race, color, creed, or national origin. The CMAR shall comply with and shall require his Subcontractors to comply with all applicable provisions of Nevada Revised Statutes Title 28 (Public Works and Planning) and Nevada Revised Statutes Title 53 (Labor and Industrial Relations).

5.4.4 When required by the Contract Documents, the CMAR shall ensure that all employees on the Project are paid in accordance with the Prevailing Wage Rates as published in the Contract Documents and as issued by the State Labor Commissioner for the area or place of the Work. The CMAR shall forfeit, by deductive Change Order, the amounts stipulated in Nevada Revised Statutes Section 338.060, should the CMAR fail to comply with any of the applicable prevailing wage rate requirements.

5.4.5 The CMAR shall ensure that he and all of his Subcontractors comply with the reporting requirements of Nevada Revised Statutes Section 338.070.

5.4.6 All work performed after regular working hours, on weekends or legal holidays, shall be performed without additional expense to the Owner.

5.4.7 Unless otherwise specifically required, all materials and equipment incorporated in the Work shall be new, free of faults and defects, and shall conform to the Contract Documents. If required, the CMAR shall furnish evidence, satisfactory to the Owner, as to the type and quality of all materials and equipment.

5.4.8 No materials or equipment for the Work shall be purchased by the CMAR, nor shall the CMAR permit any Subcontractor to purchase materials or equipment, that are subject to any chattel mortgage, or are under a conditional sale contract or other security agreement by which any right, title, or interest is retained by the seller.

5.4.9 All materials and equipment used in the Work shall be subject to inspection and testing in accordance with accepted standards to ensure conformity with the requirements of the Contract Documents, laws, ordinances, rules and regulations, or orders of any public authority having jurisdiction. Where specific certificates concerning materials and/or equipment are required, securing payment for the prompt delivery of such certificates shall be the responsibility of the CMAR. Such certificates shall be executed by qualified firms acceptable to the Owner, shall include all information required by the Contract Documents, and shall clearly refer specifically to the relevant materials and/or equipment.

5.5 TEMPORARY UTILITIES, HEATING, AND COOLING

5.5.1 The CMAR shall be solely responsible for providing all necessary temporary utilities. The CMAR shall pay all costs related thereto, including, but not limited to, applications, fees, permits, engineering, and any other costs as may be required to acquire temporary utilities. The Owner will not be responsible for any delays or costs related to obtaining temporary utilities.

5.5.2 Temporary utilities may be connected to the Owner's existing metered utilities only with the Owner's and utility company's written authorization. Any connection to the Owner's existing utilities shall be separately metered to allow for proper allocation of utility costs, unless another arrangement is specifically agreed to and authorized by the Owner in writing. Temporary meters shall be removed upon completion of the Work.

5.5.3 The CMAR shall be solely responsible for providing temporary heating, cooling, and/or ventilation as required to prevent degradation or damage to the Work. The permanent heating, cooling, and air handling systems shall not be utilized for the purpose of temporary heating, cooling, or ventilation until the Owner approves of such use in writing. In no case shall the permanent heating, cooling, or air handling systems be operated until they are complete, including formal start-up, check-out, and testing and balancing. Utilization of any of the permanent heating, cooling, or air handling systems prior to Substantial Completion shall not impact the specified warranty for such equipment which shall begin on the date of Substantial Completion in accordance with Section 3.4 of these General Conditions.

5.6 EMERGENCIES

5.6.1 In case of an emergency which threatens loss or damage to property, personal injury, or life safety, the CMAR shall immediately take all feasible actions to prevent or mitigate such loss, damage, injury or death, without awaiting instructions from the Owner or the Architect. The CMAR shall notify the Owner and the Architect in writing of such emergency at the first feasible opportunity.

5.6.2 The amount of reimbursement claimed by the CMAR on account of any emergency action shall be determined in the manner provided herein for claims.

5.6.3 The CMAR shall maintain a current emergency telephone number list at the job site. The list shall include telephone numbers for the CMAR's superintendent and for other responsible CMAR representatives that can be contacted after normal working hours in the event of an emergency. This list shall be prominently posted both inside and outside of the CMAR's field office.

5.7 CONSTRUCTION SCHEDULE

5.7.1 Within 30 days after issuance of the Notice to Proceed and prior to issuing any progress payment application, the CMAR shall submit a construction schedule to the Owner and the Architect for review. The schedule shall not exceed the Contract Time, shall be revised at appropriate intervals as required by the progress and conditions of the Work, and shall provide for performance and completion of the Project in accordance with the Contract Documents.

5.7.2 The construction schedule shall be organized to show progress for each trade and operation. As a minimum, the schedule shall show the order in which the CMAR proposes to perform the Work, with the proposed starting and completion dates, and with available float for each activity of the Work. Activities which constitute critical path portions of the Work shall be clearly identified as such. The schedule shall include line items for submittal preparation, submittal review, re-submittal preparation, re-submittal review, and procurement, fabrication, and delivery of materials and equipment. The schedule shall allow for reasonable and orderly issuance of all required submittals to the Architect. The schedule shall be promptly updated as necessary to reflect the work required to implement each change order and/or change in the Work.

5.7.3 The construction schedule shall include each of the scheduling line items listed in the Mechanical Systems Commissioning specification.

5.7.4 For projects with a Contract Sum of $10,000,000 or greater, the CMAR shall utilize Primavera Software (P6 Version 7.0 or later) to create and manage the construction schedule. Submitted schedules and associated data shall be provided in both hard copy and electronic file format. Upon written request by the Owner, the CMAR shall provide prompt responses to any questions regarding reasons or causes for changes to the construction schedule.

5.7.5 For projects with a Contract Sum of $10,000,000 or greater, the CMAR shall coordinate and attend a Schedule Coordination Meeting. The meeting shall include appropriate representatives from the CMAR and the Owner and shall include review and discussion of all scheduling requirements and/or concerns. The Schedule Coordination Meeting shall take place as soon as possible after the Notice to Proceed is issued.

5.7.6 The CMAR shall submit a current/updated construction schedule with each Progress Payment Application. Failure by the CMAR to provide a current construction schedule shall be justification for the Owner to withhold approval or reduce the amount of the payment due the CMAR.

5.7.7 In the event of any failure to adhere to the construction schedule the CMAR shall, within 7 days of written notice from the Owner, provide a recovery schedule for review by the Owner and the Architect. The recovery schedule shall identify how the CMAR proposes, at his sole expense, to overcome the associated delays and complete the Work within the Contract Time. Such notice from the Owner shall not constitute either actual or implied direction for the CMAR to accelerate the Work.

5.8 CONSTRUCTION PROGRESS MEETINGS

5.8.1 The CMAR shall attend a weekly coordination meeting at the Project site, to be attended by the CMAR's Project Manager and Superintendent, the Architect, the Owner's designated representatives, and appropriate Subcontractors. Such meetings may be scheduled at less frequent intervals, if agreed upon in writing by the Owner and the CMAR.

5.8.2 The Architect will conduct the job-site construction progress meetings and will prepare and distribute typed meeting minutes for each such meeting.

5.9 PROGRESS PHOTOGRAPHS

5.9.1 The CMAR shall take not less than twelve progress photographs of the Work each month at a minimum resolution of 640 by 480 pixels. The photographs shall be taken with the intent of providing a clear and complete depiction of overall Project progress. Each photograph is to be clearly marked with the time, date, location/view and other details sufficient to identify the subject. Camera view/locations shall be coordinated with and approved by the Owner or the Architect. Progress photos shall be stored on a digital video disk (DVD disk) and issued to the Owner along with each progress payment application.

5.10 TAXES, PERMITS, FEES, AND NOTICES

5.10.1 The CMAR shall pay all sales, consumer, use, and other taxes required by law.

5.10.2 The CMAR shall secure and pay for all construction-related permits, fees, and licenses necessary for the proper execution and completion of the Work, including, but not limited to, dust control permits, storm water mitigation permits, and utility tap fees and permits. The CMAR shall not be required to pay for a municipal or county building permit, or permanent utility usage fees.

5.10.3 The CMAR shall give all notices and comply with all laws, ordinances, rules, regulations, and orders of any public authority bearing on the Work and of the Using Agency. If the CMAR discovers that any of the Contract Documents are at variance therewith, he shall immediately notify the Owner and the Architect in writing. If the CMAR performs any work which he knows or should have known to be contrary to such laws, ordinances, rules, and regulations, or orders, without such written notice and written instruction from the Owner or Architect, he shall assume full responsibility therefore and shall bear all costs attributable thereto.

5.11 PROJECT SIGN

5.11.1 Upon commencing the Work the CMAR shall erect one painted project sign, 4 feet by 8 feet, in the format directed by the Owner. This sign shall be the only CMAR sign displayed on the Project site.

5.12 ACCESS ROADS

5.12.1 The CMAR shall use designated access roads as directed by the Owner, and the CMAR shall keep these roads passable at all times. The CMAR shall be entirely responsible for any damage to roads, trees, shrubs, gates, fences, grass, curbs, gutters, and driveways due to construction usage. All damaged portions shall be restored by the CMAR, at his own cost, to the same condition as existed before the commencement of the Work.

5.12.2 Dirt roads shall be periodically sprinkled with water when dust conditions create an on site or off site hazard or nuisance to workmen, neighboring properties, or the public in general. The CMAR shall secure and pay for any dust control permits required by State or local jurisdictions.

5.13 CMAR'S FIELD OFFICE

5.13.1 Upon commencement of the Work, the CMAR shall provide on the site a temporary field office for his own use (and for use by the Owner and others as required or appropriate). The CMAR's field office shall contain as a minimum:

A. A minimum of 120 square feet of floor area and as appropriate to facilitate the required job site meetings.
B. Outside door with security lock.
C. Minimum of four duplex electrical receptacles.
D. Adequate light fixtures and lamps (as necessary to provide a minimum of 50 foot-candles at the desktop and plan table).
E. Telephone line and a separate fax line.
F. Heating, ventilation, and air conditioning provisions as necessary to maintain an indoor temperature of 72°F.
G. Plan rack.
H. Plan table (3 feet x 6 feet minimum size).
I. Four-drawer file cabinet.
J. First aid kit.
K. Computer data/network connection (with high speed Internet access).
L. Conference table and chairs as necessary to accommodate the required construction progress meetings.
M. Multi-function printer (with print, copy, and scan capabilities).
N. Bottled water dispenser (with refill service for the duration of the project).
O. Additional hard hats for use by the Owner, Architect, and Using Agency.

5.13.2 The CMAR shall pay the cost of all utilities, including telephone and janitorial service, as required for the maintenance of the temporary field office until the completion of the Project.

5.13.3 The temporary field office shall remain the property of the CMAR, and shall be completely removed at the completion of the Project.

5.14 OWNER'S FIELD OFFICE

5.14.1 Upon commencement of the Work, the CMAR shall provide on the site a temporary field office for the sole use of the Owner. The Owner's field office shall contain as a minimum:

A. A minimum of 120 square feet of floor area.
B. Outside door with security lock.
C. Minimum of four duplex electrical receptacles.
D. Adequate light fixtures and lamps (as necessary to provide a minimum of 50 foot-candles at the desktop and plan table).
E. Telephone line (in areas with poor cell phone coverage).
F. Heating, ventilation, and air conditioning provisions as necessary to maintain an indoor temperature of 72°F.
G. Plan rack.
H. Plan table (3 feet x 6 feet minimum size).
I. Four-drawer file cabinet.
J. First aid kit.
K. Computer data/network connection (with Internet access).
L. Flat top double pedestal desk with drawers and cushioned chair.
M. Multi-function printer (with print, copy, and scan capabilities).
N. Bottled water dispenser (with refill service for the duration of the project).

5.14.2 The CMAR shall pay the cost of all utilities, including telephone and janitorial service, as required for the maintenance of the Owner's field office until the completion of the Project.

5.14.3 The Owner's field office shall remain the property of the CMAR, and shall be completely removed at the completion of the Project.

5.15 TOILET FACILITIES

5.15.1 The CMAR shall provide and maintain in a clean and sanitary condition in a weatherproof building satisfactory toilet accommodations for all workmen and for use by the Owner's representatives. Minimum toilet accommodations shall consist of a frost-proof chemical toilet or water closet with urinal. Temporary or portable toilet accommodations shall be completely removed upon completion of the Project.

5.16 CONSTRUCTION SURVEYS

5.16.1 Unless otherwise expressly provided for in the Contract Documents, the CMAR shall furnish and pay for all construction surveys necessary for execution of the Work or required by the Contract Documents.

5.17 ARCHAEOLOGICAL FINDINGS

5.17.1 Any historic, prehistoric, archeological evidence, or artifacts discovered on the site shall remain undisturbed and shall be reported immediately to the Owner in writing. Any such findings are the property of the Owner.

5.18 SUBSURFACE CONDITIONS

5.18.1 Should the CMAR encounter subsurface or hidden conditions at the site materially differing from those indicated in the Contract Documents, he shall immediately give written notice to the Owner and the Architect of such conditions before they are disturbed. The Architect will investigate the conditions, and if he finds that they materially differ, he will, after consultation with the Owner, make such changes in the Contract Documents as he may deem necessary. Any increase or decrease in cost resulting from such changes will be adjusted by Change Order.

5.18.2 The CMAR shall perform all work in strict conformance with the current 'Call Before You Dig' program applicable at the location of the Project.

5.19 PATENTS AND ROYALTIES

5.19.1 To the fullest extent permitted by law, the CMAR shall defend and hold harmless the Owner and his officers, agents, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of claimed infringement of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Work, including its use by the Owner, unless otherwise specifically stipulated in the Contract Documents. If the CMAR uses any design, device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the owner of such patented or copyrighted design, device or material. It is mutually agreed and understood, that without exception, the Contract Sum includes all royalties or costs arising from the use of any such design, device, or materials in the Work.

5.20 MATERIALS TESTING

5.20.1 Testing of construction materials delivered to the job site shall be carried out by the Owner unless otherwise required in the Contract Documents. The Owner shall select the testing laboratory or inspection agency to carry out this work. The purpose of such testing is to verify conformity of materials and/or equipment with the Contract Documents. Where tests indicate conformity, costs of testing will be paid by the Owner; where tests indicate non-conformance, costs of re-testing will be paid by the CMAR by deductive Change Order.

5.20.2 If special inspection or testing requirements are established by any of the Contract Documents, performance of and payment for such inspection or testing shall be as specifically stated therein. If the manner of payment is not specified or if there is no mention of such inspection or testing in the Contract Documents, but such inspection is judged necessary by the Owner, then the Owner shall pay the cost thereof. The CMAR shall cooperate toward minimizing the cost of such inspection and testing.

5.20.3 All testing and inspection carried out by the Owner is for the benefit of the Owner and not the CMAR. Lack of performance or failure on the part of any testing laboratory or inspection agency retained by the Owner shall not relieve the CMAR of his responsibility to complete the Work in accordance with the Contract Documents.

5.21 OPERATION AND MAINTENANCE MANUALS

5.21.1 Prior to substantial completion of the Project, the CMAR shall submit to the Architect, a sample of each Operation and Maintenance Manual for equipment and/or materials incorporated into the Work. Upon approval by the Architect, the CMAR shall furnish to the Owner, three bound and indexed copies of the approved Operation and Maintenance Manuals. Operation and Maintenance Manuals shall be incorporated into three-ring binders with a typed index and tabbing as necessary for identification of all appropriate sections.

5.21.2 In addition to the printed manuals the CMAR shall also provide electronic/scanned copies of all operation and maintenance manuals in pdf file format on a dvd disc.

5.21.3 The CMAR shall provide dvd video disks of operating and maintenance instructions for all major equipment whenever they are available from the equipment manufacturer.

5.22 CORRECTION OF WORK

5.22.1 If any work is covered prior to either a specified or a requested inspection, the CMAR shall uncover the work for observation and if found to be defective or non-conforming shall replace the work at no cost to the Owner.

5.22.2 If any work has been covered which the Owner or the Architect has not specifically requested to observe prior to being covered, the Owner may request to see such work and it shall be uncovered by the CMAR. If the uncovered work is found to be in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If the uncovered work is not in accordance with the Contract Documents, the CMAR shall pay such costs.

5.22.3 The CMAR shall promptly correct all work rejected as defective or as failing to conform to the Contract Documents, whether observed before or after the Certificate of Substantial Completion is issued, and whether or not fabricated, installed, or completed. The CMAR shall bear all costs of correcting such rejected work, including, but not limited to, the cost for additional professional services.

5.22.4 The CMAR shall bear all costs associated with making good all work of separate contractors destroyed or damaged by removal or correction.

5.22.5 If the CMAR does not remove defective or non-conforming work immediately upon written notice, the Owner may remove it and may store the materials or equipment at the expense of the CMAR. If the CMAR does not pay the cost of such removal and storage immediately upon written notice, the Owner may sell such work at auction or at private sale to recover the related costs. If such proceeds do not cover all related costs incurred by the Owner the difference shall be charged to the CMAR and an appropriate Change Order shall be issued.

5.22.6 If the CMAR fails to correct defective or non-conforming work, the Owner may correct it at the CMAR's expense.

5.22.7 If the Owner prefers to accept non-conforming work, he may do so instead of requiring its removal or correction, in which case an appropriate reduction will be made to the Contract Sum, or, if the amount is determined after final payment, such amount shall be paid to the Owner by the CMAR immediately upon written notice.

5.22.8 All damage or loss to any property caused in whole or in part by the CMAR, any Subcontractor, Sub-subcontractor, anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the CMAR, except damage or loss attributable to errors and/or omissions in the Contract Documents.

5.23 SUBCONTRACTORS

5.23.1 After submitting the required Subcontractor information to the Owner, the CMAR shall not contract with any other Subcontractor nor change Subcontractors without proper justification and without the prior written approval of the Owner.

5.23.2 Should the CMAR decide for any reason to substitute a subcontractor for work that he listed to be self-performed, the CMAR shall provide a written explanation of why the subcontractor was not utilized in the original list and why the substitution is in the best interest of the State. The Owner reserves the right to either approve or deny such requests.

5.23.3 If the Owner has a reasonable objection to any Subcontractor, and requests in writing a change in Subcontractors, the CMAR shall submit an acceptable substitute, and the Contract Sum may be increased or decreased by any reasonable costs directly caused by such substitution.

5.23.4 The CMAR shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the CMAR by the terms of the General Conditions and the other Contract Documents. These provisions shall include, but shall not be limited to, the following:

A. Require that the Subcontractor's work be performed in accordance with the requirements of the Contract Documents and be guaranteed for a period of one year after the date of Substantial Completion, or as may be required in the Contract Documents.

B. Require that the Subcontractor's work be performed in accordance with the CMAR's construction schedule to ensure completion within the Contract Time.

C. Require that all claims by the Subcontractor for additional costs or extensions of time with respect to subcontracted portions of the Work shall be submitted to the CMAR in the time and manner provided in the Contract Documents for like claims by the CMAR upon the Owner.

5.23.5 The CMAR shall pay each Subcontractor, within 10 calendar days after receipt of payment from the Owner, an amount equal to the percentage of completion allowed to the CMAR on account of each Subcontractor's work. The CMAR shall also require that each Subcontractor make similar payments to each Sub-subcontractor.

5.23.6 The CMAR shall be as fully responsible to the Owner for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of the persons directly employed by him. If, through acts or neglect on the part of the CMAR, any Subcontractor suffers loss or damage, the CMAR agrees to settle with such Subcontractor. If such Subcontractor asserts any claim against the Owner on account of any damage alleged to have been sustained, the Owner shall notify the CMAR, who shall indemnify, hold harmless, and defend the Owner against any such claim.

5.23.7 If the CMAR fails to make appropriate payments to any Subcontractor, workman, or supplier, then the Owner may pay unpaid bills and/or withhold from the CMAR's unpaid compensation a sum of money deemed reasonably sufficient to reimburse the Owner or pay any and all such claims until satisfactory evidence is furnished that all such liabilities have been fully discharged by the CMAR, but in no event shall the provisions of this paragraph be construed to impose any obligations upon the Owner to the CMAR, his Surety, Subcontractors, workmen, or suppliers. In paying any unpaid bills of the CMAR, the Owner shall be deemed the agent of the CMAR, and any payment so made by the Owner, shall be considered as a payment made under the Contract by the Owner to the CMAR, and the Owner shall not be liable to the CMAR for any such payment made in good faith.

5.23.8 The CMAR shall be responsible for the proper distribution of all insurance recoveries resulting from an insured loss under the Contract.

5.23.9 The Owner may furnish to a subcontractor or supplier, information regarding payments to the CMAR on account of work done by such subcontractor or supplier, if requested.

5.23.10 Neither the Owner nor the Architect shall have any obligation to pay or to see to the payment of any monies to any Subcontractor, workman, or supplier, except as may otherwise be required by law.

5.23.11 Prior to receiving or accepting any payment, each subcontractor must have a valid Nevada business license, pursuant to 2013 Legislative Session Senate Bill 404.

5.24 <u>JOB SAFETY</u>

5.24.1 The CMAR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work.

5.24.2 All work shall be performed in strict accordance with the most current edition of the State of Nevada Occupational Safety and Health Standards.

5.24.3 The CMAR shall take all necessary precautions for the safety of, and shall provide all necessary protection to prevent damage, injury or loss to:

A. All employees on the Project and all other persons who may be affected thereby;

B. All of the Work, whether in storage on or off the site; and,

C. All property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities.

5.24.4 The CMAR shall comply with all applicable laws, ordinances, rules, and regulations of any public authority having jurisdiction for the safety of persons or property, or to protect them from damage, injury, or loss. The CMAR shall erect and maintain, as required by existing conditions and by the progress of the Work, all necessary safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent properties.

5.24.5 The CMAR shall designate a responsible member of his organization at the site whose duty shall be supervision of a safety program and the prevention of accidents. This person shall be the CMAR's superintendent unless otherwise designated in writing by the CMAR to the Owner.

5.24.6 In any emergency affecting the safety of persons or property, the CMAR shall act, at his discretion, to prevent threatened damage, injury, or loss.

5.24.7 The CMAR shall be responsible for the safe operation of all equipment, for utilizing safe construction methods, and for any damage which may result from failure or from improper construction, maintenance, or operation.

5.24.8 The CMAR shall securely fence, barricade, cover, or otherwise adequately protect all excavations, holes, shafts, or other hazards to guard against danger to persons or animals and shall properly maintain such protection until the completion of the Project.

5.24.9 The CMAR shall immediately notify the Owner, and shall take immediate action to prevent damage, injury or loss, should any suspected hazardous materials be encountered during the course of work on the Project.

5.24.10 Prior to conducting any hot work (welding, brazing, soldering, cutting, grinding, etc.) in an existing building the CMAR shall complete and submit to the Owner a Hot Work Permit (utilizing the associated form as issued by Factory Mutual or Global Risk Consultants).

5.25 SITE MANAGEMENT AND CLEANUP PROCEDURES

5.25.1 The CMAR shall confine operations at the site to areas permitted by law, ordinances, permits, and the Contract Documents, and shall not unreasonably encumber the site. The CMAR shall at all times keep the site and the Work free from accumulation of waste materials and rubbish resulting from his operations.

5.25.2 The CMAR shall obtain any required dust control permit and shall implement a dust control program prior to beginning any activity at the project site. The CMAR's dust control program shall comply with all applicable state and local requirements. As a minimum, the CMAR shall periodically sprinkle the entire construction site with water as required to prevent blowing dust from becoming a hazard or nuisance to workmen, neighboring properties, or the public.

5.25.3 The CMAR shall develop and implement a stormwater pollution prevention plan complying with the most current version of the federal Environmental Protection Agency Construction General Permit, or with applicable state or local stormwater pollution prevention requirements, whichever is more stringent.

5.25.4 The CMAR shall develop, document, and implement a waste management plan that ensures recycling of at least 50% of all construction waste material.

5.25.5 Upon completion of the Work the CMAR shall remove all waste materials, rubbish, tools, construction equipment and machinery, and surplus materials from the Project site. The CMAR shall clean all surfaces and leave the Work in a finished, cleaned, washed, waxed, and polished condition. The aforementioned cleanup requirements are also specifically applicable to all mechanical equipment and to all mechanical equipment rooms.

5.26 ROOFING INSTALLATION AND PROTECTION

5.26.1 No work including staging or access to other portions of the Work shall be permitted on the finished membrane.

5.26.2 All roofing work shall commence at the furthest point from the workers' access and progress back towards the access point.

5.26.3 If staging, access, or work is required on the finished membrane, the CMAR shall provide protection along the access path and under the work extending 48" beyond the required work area. Protection shall consist of 3/4" plywood over a heavy canvas tarp with sand bag ballasts as required to prevent the plywood from becoming airborne during strong winds.

5.27 QUALITY ASSURANCE/QUALITY CONTROL

5.27.1 The CMAR shall develop and implement an appropriate quality assurance/quality control program for the Project. A detailed description of the program shall be furnished to the Owner and the Architect for review prior to submitting the first progress payment application.

SECTION 6 THE ARCHITECT

6.1 ARCHITECT'S RESPONSIBILITIES

6.1.1 The Architect will provide construction administration services for the duration of the Project. The Architect is the Owner's representative and will advise and consult with the Owner for the duration of the Project.

6.1.2 The Architect will be the interpreter of the Drawings and Specifications and will render interpretations as may be necessary for proper execution of the Work.

6.1.3 The Architect will review and respond to all Requests for Information issued by the CMAR within the time period stipulated in Section 2.3.

6.1.4 The Architect shall have complete access to the Work at all times.

6.1.5 The Architect will make periodic visits to the site to observe the progress and quality of the Work and to determine if the Work is proceeding in accordance with the Contract Documents.

6.1.6 The Architect will review all shop drawings, samples, and submittals required by the Contract Documents.

6.1.7 The Architect will not be responsible for the acts or omissions of the CMAR or any Subcontractor, or any of his or their agents or employees, or any other persons performing any of the Work.

6.1.8 Based upon site observations and the CMAR's progress payment applications, the Architect will review and make recommendations to the Owner, regarding the amounts claimed by the CMAR in each progress payment application.

6.1.9 The Architect will have authority to reject work which does not conform to the Contract Documents.

6.1.10 The Architect will prepare Change Orders and Construction Change Directives for review and approval by the Owner.

6.1.11 The Architect will have authority to order minor changes in the Work which do not involve a change in the Contract Sum or the Contract Time.

6.1.12 The Architect shall attend and conduct all scheduled construction progress meetings at the Project site.

6.1.13 The Architect's decisions on matters relating to aesthetics will be final if consistent with the intent expressed in the Contract Documents.

SECTION 7 PAYMENT

7.1 SCHEDULE OF VALUES

7.1.1 Within 14 calendar days after the issuance of the Notice to Proceed, the CMAR shall submit to the Owner and the Architect a schedule of values of the various portions of the Work, aggregating to the total Contract Sum, divided to facilitate payments to Subcontractors, prepared in a form acceptable to the Owner, and supported by such data to substantiate its correctness as the Owner may require. This schedule, when approved by the Owner and the Architect, shall be the basis for each Progress Payment Application. The scheduled costs shall be itemized in accordance with the breakdown listed in the CMAR GMP Proposal and according to the list of defined components included in Section 7.5 (Payment Terms and Conditions).

7.2 PROGRESS PAYMENT APPLICATIONS

7.2.1 The CMAR shall submit a Progress Payment Application not more than once each month in the form required by the Owner. Each Progress Payment Application shall be accompanied by a current construction schedule, updated to reflect all change orders and/or changes in the Work, and by a copy of the documentation for construction waste recycling (as required by Section 5.25 'Site Management and Cleanup Procedures').

7.2.2 Each Progress Payment Application shall correctly set forth the value of all Work satisfactorily performed to date, less 5% of that amount as a retained percentage. The Owner may also pay the invoiced value, less retention, of materials properly stored on site or in approved, bonded, and insured facilities. Once the satisfactorily completed Work is more than 50% complete, the Owner may discontinue withholding any additional retention beyond the 5% already withheld on the initial 50% of the completed Project.

7.2.3 If payment is requested for materials or equipment not yet incorporated in the Work, but delivered and properly stored at the site or at a bonded and insured facility previously approved by the Owner in writing, such payment shall be conditioned upon submission by the CMAR of documentation, satisfactory to the Owner as deemed necessary to protect the Owner's interest, including photographs and evidence of applicable insurance. The risk of loss for such materials or equipment shall remain with the CMAR until final completion and acceptance of the Work.

7.2.4 The CMAR guarantees that title to all work, materials, and equipment covered by a Progress Payment Application, whether incorporated into the Project or not, has passed to the Owner prior to issuing the Progress Payment Application, free and clear of all liens, claims, security interests, or encumbrances, and that no work, materials, or equipment covered by a Progress Payment Application has been acquired by the CMAR, or by any other person, subject to an agreement under which an interest therein, or an encumbrance thereon is retained by the seller or otherwise imposed by the CMAR or such other person. This provision shall not be construed to relieve the CMAR of his sole responsibility for the care and protection of the Work, and to restore all damages thereto, nor shall serve as a waiver of the right of the Owner to require the fulfillment of all terms of the Contract Documents.

7.2.5 Within 30 days of receipt of each Progress Payment Application, the Owner and the Architect will either approve the Progress Payment Application, modify the Progress Payment Application for such amount as is determined to be properly due, or reject the Progress Payment Application.

7.2.6 The Owner or the Architect may decline to approve any Progress Payment Application, or, because of subsequently discovered evidence or subsequent inspections, may nullify any part of a Progress Payment Application previously paid to such extent as may be necessary to protect the Owner from loss based on any of the following grounds:

A. Defective work not remedied.

B. Claims filed or reasonable evidence indicating the probable filing of claims.

C. Failure of the CMAR to make proper payments to Subcontractors or Suppliers.

D. Reasonable doubt that the Work can be completed for the unpaid balance of the Contract Sum.

E. Damage to a separate contractor.

F. Reasonable indication that the Work will not be completed within the Contract Time.

G. Unsatisfactory execution of the Work by the CMAR.

H. Failure to maintain any insurance required by the Contract Documents.

I. Any other breach of the Contract.

When the grounds for declining or revising any part of a Progress Payment Application are removed payment shall be approved for the associated amount withheld.

7.2.7 If the Owner should fail to pay the CMAR within 30 calendar days after the date that a Progress Payment Application is signed and approved for payment by the Owner, then the CMAR may, after 7 additional calendar days, give written notice to the Owner and stop the Work until payment is received.

7.2.8 No payment by the Owner shall constitute an acceptance of any work not in accordance with the Contract Documents, nor shall it relieve the CMAR of full responsibility for correcting defective work or materials found at any time prior to completion of the entire Work or during the warranty period.

7.3 FINAL PAYMENT

7.3.1 When the Owner has received satisfactory evidence that all claims and obligations of the CMAR have been paid, discharged, or waived, the Owner will make final payment to the CMAR of all monies retained on all properly completed and accepted work.

7.3.2 As a condition of requesting or receiving final payment, the CMAR shall submit all operation and maintenance manuals, as-built drawings, surety release, and all other close-out documents as may be applicable under the Contract Documents.

7.3.3 Issuance of final payment shall constitute a waiver of all claims by the Owner except those arising from any of the following:

A. Unsettled claims.

B. Warranty issues.

C. Faulty or defective work.

D. Failure of the Work to comply with the requirements of the Contract Documents.

E. Latent defects in the Work.

If any such claims remain unsatisfied after final payment is made, the CMAR shall refund to the Owner all monies the Owner may be compelled to pay in discharging such claims and any costs related thereto.

7.3.4 The acceptance by the CMAR of final payment shall constitute a full and complete release to the Owner of all claims by, and all liability to, the CMAR for all things done or furnished in connection with the Work and for every act and neglect of the Owner and any others for whom the Owner is or may be responsible relating to or arising out of performance of the Work by the CMAR. No payment, final or otherwise, shall operate to release the CMAR or his Surety from any obligations under the Contract, or under the Performance and Payment Bonds.

7.4 INTEREST PAYMENTS

7.4.1 Interest will be paid to the CMAR for monies that are retained on satisfactorily completed work, in accordance with Nevada Revised Statutes Section 338.515. When applicable, interest payments will be issued to the CMAR by the State Treasurer's Office on a quarterly basis.

7.5 PAYMENT TERMS AND DEFINITIONS

7.5.1 The 'Cost of the Work' includes the following:

A. The cost of all materials, supplies, and equipment incorporated into the Work.

B. All costs directly incurred in performance of the Work, including costs which are reasonably inferable from the Contract Documents as being necessary to produce the finished construction as described in the Contract Documents, excluding costs covered under the CMAR's General Conditions and the CMAR's Fee.

C. Wages paid for labor in the direct employ of the CMAR in the performance of the Work. Labor rates, including fringe benefits, shall be in conformance with the applicable Prevailing Wage Rates as published by the Nevada State Labor Commission for this project.

D. All payments made by the CMAR to Subcontractors and suppliers for Work performed under the Contract.

E. The cost of insurance and bonding as stipulated in CMAR General Conditions Section 8 (Insurance and Bonding).

F. The cost of all required inspections, permits, fees, licenses, testing, transportation, storage, and handling as pertains to performance of the Work.

G. The cost of sales, use, gross receipts, or other taxes, tariffs, or duties as pertains to performance of the Work.

H. Rental charges for all necessary machinery and equipment used in performance of the Work, whether rented from the CMAR or others, including installation, repair and replacement, dismantling, removal, maintenance, transportation, and delivery costs, at rates consistent with those prevailing in the area.

7.5.2 The ‘CMAR’s General Conditions’ includes the following:

A. The CMAR’s General Conditions shall be thoroughly itemized and documented. A current detailed itemization shall be submitted to the Owner along with each Progress Payment Application. The lump sum amount for the CMAR’s General Conditions shall be billed in equal monthly payments based on the total contract time.

B. Salaries for the CMAR’s superintendent, foreman, project manager, project engineer, project coordinator, project estimator, and project scheduler.

C. Salaries for employees that are stationed at the field office, in whatever capacity employed, and employees engaged on the road expediting the production or transportation of materials and/or equipment.

D. Salaries for the CMAR’s employees stationed in the CMAR’s principal or branch offices, while those employees are performing functions related to the Work.

E. The cost of all employee benefits and taxes including, but not limited to, unemployment compensation, workers compensation insurance, social security, health, welfare, retirement, and other fringe benefits as required by law, labor agreements, or paid under the CMAR’s standard personnel policy, insofar as such costs are actually paid to employees of the CMAR who are engaged in the Work.

F. Reasonable transportation, travel, meals, and hotel expenses for the CMAR’s personnel incurred in connection with the Work.

G. The cost (including transportation and maintenance) of all materials, supplies, equipment, and temporary facilities that are used or consumed in performance of the Work.

H. The cost of all small tools not owned by workers.

I. All costs associated with establishing, equipping, operating, maintaining, and demobilizing the specified field office(s).

J. All costs for reproduction, photographs, fax transmissions, long distance telephone calls, data processing services, postage, express delivery charges, on-site telephone service, and reasonable petty cash expenses at the CMAR’s field office.

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

L. All costs for removal of any generated non-hazardous substances, debris, and waste materials.

M. All costs related to the CMAR’s safety program.

7.5.3 The ‘CMAR’s Fee’ includes the following:

A. Salaries for incidental employees that are performing work pertaining to the Project at the CMAR’s principal and branch offices, except any employees that are included in the CMAR’s General Conditions.

B. General and administrative expenses for the CMAR’s principal and branch offices pertaining to performance of the Work. Specifically excluded are general and administrative expenses for the CMAR’s field office.

C. The CMAR’s capital expenses, including interest on any of the CMAR’s capital that is employed for the Work.

D. The CMAR’s profit.

7.5.4 The CMAR's Contingency:

A. The CMAR's Contingency is an itemized amount that may be utilized by the CMAR, at his discretion, to cover the Cost of the Work described in the Contract Documents (Cost of the Work as defined in Section 7.5.1) and/or to cover the cost of the CMAR's General Conditions.

B. Costs that are determined to be either over or under the Cost of the Work and/or the CMAR's General Conditions as identified in the CMAR's Guaranteed Maximum Price shall be accounted for in the CMAR's Contingency.

C. Expenditures from the CMAR's Contingency shall be thoroughly itemized and documented. A current detailed itemization shall be submitted to the Owner along with each Progress Payment Application.

D. Any portion of the CMAR's Contingency that remains when the Work is completed shall be split between the Owner and the CMAR in accordance with the percentage values listed in the CMAR GMP Proposal.

7.5.5 The Owner's Contingency:

The Owner's Contingency belongs solely to the Owner for the purpose of being allocated towards stipulated additional work (as itemized in an executed Change Order). Any portion of the Owner's Contingency that remains when the Work is completed belongs to the Owner.

7.5.6 Allowances:

An Allowance is a specific value designated by the Owner for use to accommodate work that could not be identified adequately for bidding purposes in the original construction documents. Any portion of an Allowance that remains when the Work is completed belongs to the Owner.

SECTION 8 INSURANCE AND BONDING

8.1 GENERAL REQUIREMENTS

8.1.1 Without limiting any of the other obligations or liabilities of the CMAR, the CMAR shall, at his sole expense, procure, maintain, and keep in force the amounts and types of insurance conforming to the minimum requirements set forth in this Section, unless otherwise agreed to by the Owner in writing. The required insurance coverage shall be procured before any work commences on the Project and shall be maintained continuously in force at all times. If the CMAR fails to comply with this Section, the CMAR shall be considered in default of the Contract. The Owner shall be named as additional insured on all liability policies required in this Section.

8.1.2 Without limiting any of the other obligations or liabilities of the CMAR, the CMAR shall, at the CMAR's sole expense, cause each Subcontractor and each Sub-subcontractor involved with the work of construction under the direction and control of the CMAR for this contract, to procure, maintain, and keep continuously in force, the amounts and types of insurance conforming to the minimum requirements set forth in this section, unless otherwise agreed to beforehand by the Owner in writing. The required insurance coverage shall be procured before any work commences on the Project and shall be maintained continuously in force at all times. The required limits of insurance for Subcontractors shall be based on the value of their portion of the work as listed in the Subcontractor's contract with the CMAR. If the CMAR fails to comply with this Section, the CMAR shall be considered to be in default of Contract.

8.1.3 Unless specified herein or otherwise agreed to by the Owner, the required insurance shall be in effect prior to the commencement of work by the CMAR and shall continue in force until the latter of the following two conditions:

A. Final acceptance by the Owner of the completed Work and acceptance of final payment by the CMAR.

B. At such time that the insurance is no longer required by the Owner under the terms of the Contract Documents.

8.1.4 As evidence of compliance with the insurance required by Section 8 (Insurance and Bonding), the CMAR shall furnish the Owner with all certificates of insurance (ACORD form 25-S or equivalent form approved by the Owner) prior to the award of the contract. The CMAR shall maintain original copies of Subcontractor insurance certificates for the duration of the Project and throughout the warranty period. Such records shall be furnished to the Owner upon request. The certificates for each insurance policy shall be signed by a person authorized by the insurer to bind coverage on the insurer's behalf. All certificates along with the required endorsements shall be received and approved by the Owner before any work commences. The Owner's project number and project description shall be noted on each certificate of insurance. Upon renewal of any of the listed policies the Owner shall be furnished with replacement certificates immediately.

8.1.5 The Owner reserves the right to require and obtain complete, certified copies of any insurance policies required by the Contract Documents at any time. Complete copies of policies shall be furnished by the CMAR and by any Subcontractor or Sub-subcontractor within 10 days after a written request is issued by the Owner. In lieu of a required certificate of insurance the CMAR may furnish an original binder signed by an authorized representative of the insurer(s) for a maximum of 60 days from the date of inception of the associated policy(ies).

8.1.6 With respect only to the bonds required by Section 8.6 (Performance and Payment Bonds), the CMAR shall furnish the Owner with properly executed bonds on forms acceptable to the Owner and shall have affixed to each bond a certified copy of a current power of attorney of the attorney-in-fact who executed the bond on behalf of the surety.

8.1.7 All insurance policies must be specifically endorsed to provide the Owner with 45 days written notice of cancellation, non-renewal or restriction of coverage. Until such time as the insurance is no longer required by the Owner, the CMAR shall provide the Owner with renewal or replacement evidence of insurance in the manner described herein no less than 30 days before the expiration or replacement of the required insurance.

8.1.8 All insurance policies shall contain a waiver of subrogation against the Owner, the Owner's officers, agents and employees, and the Architect, the Architect's officers, agents and employees, for losses arising from the Work.

8.1.9 Insurers or sureties shall have and maintain throughout the period for which coverage is required, an A.M. Best Company Rating of "A-" or better and an A.M. Best Company Financial Size Category of "VII" or better, unless specifically waived by the Owner.

8.1.10 Insurers or sureties providing the insurance or providing the bonds required by this Contract must be either:

A. Authorized by certificates of authority issued by the Department of Insurance of the State of Nevada; or

B. With respect only to the coverage required by Section 8.2 (Workers Compensation), be authorized as a self-insurer under Nevada Revised Statutes Section 616.291.

8.1.11 The insurance provided by the CMAR and his Subcontractors pursuant to this Contract shall apply on a primary basis and any other insurance or self-insurance maintained by the Owner or an Owner's official, officer, agent or employee shall be in excess of and not contributing to the insurance provided by or on behalf of the CMAR. Coverage maintained by the CMAR or his Subcontractors shall apply first, before any other insurance, on a primary basis, and without application of a deductible or self-insured retention unless otherwise specifically agreed to by the Owner. Such approval shall not relieve the CMAR from payment of any deductible or self-insured retention.

8.1.12 If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with any of the foregoing minimum requirements, as soon as the CMAR has knowledge of any such failure, the CMAR shall immediately notify the Owner and immediately replace such insurance or bond with an insurer or surety meeting the requirements.

8.1.13 Neither approval by the Owner nor failure to disapprove the insurance furnished by the CMAR or his Subcontractors shall relieve the CMAR of the CMAR's full responsibility to provide the insurance and bonds required by the Contract. Further, compliance with the insurance and bond requirements of this Contract shall not limit the liability of the CMAR or his Subcontractors, employees or agents to the Owner or others, and shall be in addition to and not in lieu of any other remedy available to the Owner under this Contract or otherwise, including, but not limited to, the indemnity provisions stipulated in Subsection 3.15.

8.2 <u>WORKERS COMPENSATION</u>

8.2.1 The CMAR's Workers Compensation insurance shall comply with all statutory requirements of the State of Nevada. The CMAR's insurance or authorized self-insurance shall cover the CMAR, and to the extent not otherwise insured, his Subcontractors of every tier for those sources of liability which would be covered by the standard Workers Compensation Policy as prescribed in Nevada Revised Statutes Chapter 616 and Employers Liability coverage without restrictive endorsements. Where appropriate, coverage shall be included for any other applicable federal or state law, including but not limited to, the Longshore and Harbor Workers Compensation Act, Maritime including Jones Act, and Federal Employers Liability Act.

8.2.2 Subject to the restrictions of coverage found in the Nevada Industrial Insurance Act (Nevada Revised Statutes Chapter 616), there shall be no maximum limit on the amount of coverage for liability imposed by this Act, the Longshore and Harbor Workers Compensation Act, or any other coverage customarily insured under Part One of a standard Workers Compensation Policy. The minimum amount of coverage for those coverages insured under Part Two of the Standard Workers Compensation Policy (inclusive of any amounts provided by an umbrella or excess policy) shall be those amounts stated under Subsection 8.7 (Required Limits of Insurance).

8.3 COMMERCIAL GENERAL LIABILITY

8.3.1 The CMAR's insurance shall cover the CMAR for those sources of liability which would be covered by Commercial General Liability Coverage Form CG-00-01 or a substitute form providing equivalent coverage at least as broad as filed for use in the State of Nevada by the Insurance Services Office, without the attachment of restrictive endorsements except that coverage for Medical Payments and Fire Damage Legal Liability may be eliminated. The policy shall cover all liability arising from premises-operations; broad form contractual liability; products and completed operations; use of CMARs and Subcontractors, personal injury; broad form property damage, and explosion, collapse, and underground work (XCU) if the Project involves such hazards.

8.3.2 The CMAR shall maintain per project coverage with separate limits of coverage applicable only to the work performed under the Contract. The minimum limits to be maintained by the CMAR (inclusive of any amounts provided by an umbrella or excess policy) shall be those that would be provided with the attachment of ISO endorsement - Amendment of Limits of Insurance (Designated Project or Premises) - to a Commercial General Liability Policy with the minimum amounts stated under Section 8.7 (Required Limits of Insurance).

8.3.3 The CMAR shall continue to maintain the required Commercial General Liability coverage along with Products/Completed Operations coverage, without restrictive endorsements, for a period of three years after the date that the Certificate of Substantial Completion is issued. The minimum limits to be maintained by the CMAR (inclusive of any amounts provided by an umbrella or excess policy) shall be the amounts stated under Section 8.7 (Required Limits of Insurance).

8.3.4 The Owner and the Owner's officials, officers, and employees shall be included as additional insured with coverage afforded to be no more restrictive than that afforded by the applicable ISO Form (Additional Insured-Owners, Lessees, or Contractors Completed Operations Forms CG-20-10-10-01 and CG-20-37-10-01). Alternative Insured-Owners, Lessees, or Contractors endorsements may be acceptable when approved beforehand in writing by the Owner.

8.4 COMMERCIAL AUTO LIABILITY

8.4.1 The CMAR's insurance shall cover the CMAR for bodily injury and property damage as afforded under a standard commercial auto liability policy, including coverage for liability contractually assumed. Coverage shall be provided for owned, non-owned, and hired autos used in connection with this Contract.

8.4.2 The minimum limits to be maintained by the CMAR (inclusive of any amounts provided by an umbrella or excess policy) shall be the amounts stated under Section 8.7 (Required Limits of Insurance).

8.5 PROPERTY INSURANCE

8.5.1 If the Contract includes construction of or additions to buildings or structures, the CMAR shall provide all risk Builders Risk insurance on a form which is no more restrictive than that afforded by the latest editions of Insurance Services Office Builders Risk Coverage Form and Causes of Loss-Special Form, and including coverage for Collapse During Construction. If the Contract includes both construction of or additions to buildings or structures and the installation of machinery or equipment, Builders Risk insurance shall include coverage during transit and during post-installation testing. If the Contract is solely for the purpose of installation of machinery or equipment in existing buildings or structures, the CMAR shall provide an all risk Installation Floater including coverage during transit and during post-installation testing.

8.5.2 For Builders Risk the amount of insurance is to be 100% of the completed value of such addition(s), building(s) or structure(s), and recovery shall be based on completed replacement value of the entire structure. In the case of a remodel or renovation project, the replacement value shall be deemed to be $500,000.

8.5.3 The amount of insurance for an Installation Floater shall be 100% of the installed replacement cost value, and recovery shall be based on the installed replacement cost.

8.5.4 The Builders Risk Policy or the Installation Floater must not be subject to any limitation or exclusion of coverage because of occupancy of the building(s), addition(s) or structure(s) in the course of construction or the putting to use of the machinery or equipment. The policy must be endorsed to provide that, subject to the notice of cancellation requirement, coverage will continue to apply until the Certificate of Substantial Completion is issued by the Owner for the building(s), building addition(s) or structure(s), or the machinery or equipment.

8.5.5 The Owner shall be named on the policy as additional insured.

8.6 PERFORMANCE AND PAYMENT BONDS

8.6.1 Performance and Payment Bonds are required for all contracts in excess of $100,000 (per Nevada Revised Statutes Section 339.025). The CMAR is responsible for furnishing the required Performance and Payment Bonds (including those required for Subcontractors) in a form acceptable to the Owner for 100% of the Contract Sum. Performance and Payment Bonds shall be furnished within the time stipulated in the CMAR GMP Proposal Instructions.

8.6.2 Each Subcontractor who will perform work in excess of $50,000 or 1% of the Contract Sum, whichever is greater, shall furnish Performance and Payment Bonds, each in the amount of 100% of the Subcontractor's bid (per Nevada Revised Statutes Section 339.025). The required bonds shall be procured and furnished to the Owner prior to the Subcontractor performing any work on the Project. Failure of a Subcontractor to furnish the required bonds shall be sufficient justification for the Owner to require that the CMAR replace the Subcontractor, with another Subcontractor that is acceptable to the Owner, at no additional cost to the Owner.

8.7 REQUIRED LIMITS OF INSURANCE

8.7.1 The minimum amounts of insurance (inclusive of any amounts provided by an umbrella or excess policy) shall be as follows:

Commercial General Liability Insurance

Minimum limits for all contract amounts are to be applicable only to work performed under this Contract and shall be those that would be provided with the attachment of the Amendment of Limits (Designated Project or Premises) endorsement.

Commercial General Liability (for contracts less than $1,000,000)

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Personal and Advertising Injury	$1,000,000
Each Occurrence	$1,000,000
Fire Damage (Any One Fire)	$NIL
Medical Expense (Any One Person)	$NIL

Commercial General Liability (for contracts between $1,000,000 and $29,999,999)

General Aggregate	$2,000,000
Products/Completed Operations Aggregate	$2,000,000
Personal and Advertising Injury	$1,000,000
Each Occurrence	$1,000,000
Fire Damage (Any One Fire)	$NIL
Medical Expense (Any One Person)	$NIL

Commercial General Liability (for contracts between $30,000,000 and $59,999,999)

General Aggregate	$3,000,000
Products/Completed Operations Aggregate	$3,000,000
Personal and Advertising Injury	$3,000,000
Each Occurrence	$3,000,000
Fire Damage (Any One Fire)	$NIL
Medical Expense (Any One Person)	$NIL

Commercial General Liability (for contracts $60,000,000 and above)

General Aggregate	$5,000,000
Products/Completed Operations Aggregate	$5,000,000
Personal and Advertising Injury	$5,000,000
Each Occurrence	$5,000,000
Fire Damage (Any One Fire)	$NIL
Medical Expense (Any One Person)	$NIL

8.7.2 Commercial Auto Liability Insurance

Combined Single Limit (CSL) $1,000,000

8.7.3 Workers Compensation/Employers Liability Insurance

Provide Workers Compensation/Employers Liability insurance in the amounts listed. Provide additional coverage as may be required by applicable federal or state laws.

Part One	Statutory Limits	Nevada Revised Statutes Chapters 616A thru 618
Part Two	Each Accident	$1,000,000
Disease	Policy Limit	$1,000,000
Disease	Each Employee	$1,000,000