

Carson City School District (CCSD)
Construction Manager at Risk
(CMAR) GENERAL CONDITIONS
OF THE CONTRACT

Revised
9/2/2022

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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 includes the Owner or its authorized Project Manager, as the context requires.

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 its 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 its 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 its 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 its 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 to a person or entity at an address provided by such person or entity in writing. 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 Carson City Building Department. Any changes to the Work that

could be construed to have a potential code impact shall be reviewed and approved by the Carson City Building Department.

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/her discretion to complete the contract work. The CMAR's Contingency may be used for missing items or "holes" within the scope of work or sub-bids or other items that are needed to complete the work, all of which must be agreed to by the Owner, Architect and the CMAR. CMAR Contingency may be used for clear intent of work shown on Drawings and in Specifications that may have been missed by CMAR during completion of work and must be approved by the Owner, Architect, and CMAR. Any portion of the CMAR's Contingency that remains when the Work is completed shall be split between the Owner and CMAR in accordance with the percentage values listed in the Owner-CMAR Construction Contract.

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 in accordance with the percentage values listed in the Owner-CMAR Construction Contract. 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.

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 Pre-Construction and/or Construction Agreement
- B. CMAR General Conditions of the Contract and Supplemental CMAR General Conditions
- C. Wage Rates, State of Nevada for prevailing wage schedule as adopted by Carson City at the time of construction bid opening.
- D. Change Orders which have been approved and fully executed by the parties and any required third parties.
- E. CMAR Interview Submittal & CMAR Request for Proposal/Solicitation
- F. CMAR Fee Proposal
- G. Addenda to Specifications
- H. Addenda to Drawings
- I. Specifications
- J. 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 (NRS) (including, but not limited to, NRS Chapter 338).
- 1.16.2 The CMAR shall comply with NRS 338.125 (which pertains primarily to discrimination against employees and applicants because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age). A violation of any provision contained in NRS 338.125 shall constitute a material breach of the Contract.
- 1.16.3 The CMAR shall comply with NRS 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 NRS 338.130 shall render the Contract void.
- 1.16.4 Work Restrictions. The CMAR shall ensure that the CMAR, its agents, employees, and Sub-Contractors:
 - A. Do not use or consume alcohol or controlled substances upon the Project Site (school grounds or adjacent area) or enter upon or perform any services on the Project Site while under their influence;
 - B. Do not use tobacco in any form on the Project Site;
 - C. Do not perform services on the Project Site on Weekend or District Holidays except as approved by the Owner or for emergency work;
 - D. Refrain from using profanity or being discourteous or uncivil to others on the Project Site or while performing services under this Contract;
 - E. Do not play obnoxious and/or loud music on the Project Site;
 - F. Do not play any music within existing facilities;
 - G. Wear shirts with sleeves, wear shoes, and refrain from wearing immodest, offensive, or obnoxious clothing, while on the Project Site;
 - H. Do not bring weapons on the Project Site;
 - I. Do not interact with students on the Project Site.Site Entry: All visitors and Contractors are required, without exception to check in, receive a badge and check out before leaving with the front office or make entries in a Daily Site Log, which information will be included in the Daily Site Log.

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,

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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 alphabetical order of precedence:

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

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. Reasonable examination shall not be construed to mean an examination that requires the physical removal of any permanent improvement or physical barrier or the excavation or testing of any existing soil.
- 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. Reasonable examination shall not be construed to mean an examination that requires the physical removal of any permanent improvement or physical barrier or the excavation or testing of any existing soil.
- 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

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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 (RFI)

- 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 its own risk, and CMAR shall bear all costs arising therefrom. The CMAR shall maintain a sequential log of all RFIs.
- 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 CMAR may discover, or should have discovered, in the Contract Documents. If the CMAR performs any work contrary to the Contract Documents, it 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 RFIs within five (5) working days from the date that the RFI is received by the Architect. RFIs 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 its 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 it has determined and has verified all field measurements, field construction criteria, materials, catalog numbers and similar data, and that it has checked and coordinated each submittal with the requirements of the Contract Documents.
- 2.4.5 The Architect will review submittals within seven (7) 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

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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 seven (7) sets for use by the Owner.
- 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 2.5.3. 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 thirty (30) days after issuance of 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 its 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 its 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. These drawings shall be available to OWNER for inspection at any time.
- 2.6.2 Changes:
CMAR shall add to the Drawings and Specifications all information contained in Answers to Questions, Contract Clarifications, Contract Changes, and approved revised or amended Technical Submittals.
- 2.6.3 Progress payments may be reduced or withheld by the Owner in the event that as-built drawings are not kept current.

2.7 CHANGES IN THE WORK

- 2.7.1 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.
- 2.7.2 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.
- 2.7.3 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, it does so at its own risk.
- 2.7.4 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 seven (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 shall constitute a waiver by the CMAR of the right to a Change Order.
- 2.7.5 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.

2.7.6 The costs for changes in the Work may be increased to include taxes (if applicable), insurance, bonding, and 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 overhead and profit related to the Change Order. CMAR shall not be entitled to additional costs for supervision or field office personnel due to a change, unless that change includes additional time. In that case, the CMAR shall be allowed to calculate costs for supervision and field office personnel who are directly attributable to the change. Administration or preparation costs shall not be allowed, and no other costs or expenses are agreed to unless otherwise agreed to in writing.

CHANGE ORDER MARK-UP SCHEDULE	
1. Additive Changes (for the entity performing the Work): Subcontractor’s allowable mark-up or the CMAR’s allowable mark-up for self-performing	
Total Cost of Change	Allowable Fee
+\$0.01 to +\$9,999.99	15% of the Total Cost
+\$10,000.00 and above	10% of the Total Cost
2. Additive Changes (CMAR/Contractor Markup) Subcontractor’s Work:	
Total Cost of Change	Allowable Fee
+\$0.01 to +\$9,999.99	15% of the Total Cost
+\$10,000.00 and above	10% of the Total Cost
3. Deductive Changes:	
<u>Total Credit Cost of Change</u>	<u>Credit Fee to be Applied</u>
Any amount	5% of the Total Credit Cost (Deductive)
<p><u>Example Deductive Change:</u> Assume <\$5000.00> to be credited. The CMAR must include a 5% credit for profit and overhead; i.e., \$5,000.00 x 0.05 = <\$5,250.00> total credit to the Contract.</p>	

2.7.7 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.

2.7.8 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.

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

2.7.10 The CMAR will not be entitled to a Change Order for any work that reasonably could have or

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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.

- 2.7.11 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 the assessment of liquidated damages to the CMAR; however, the allowance made for the completion of such incidentals will not negate or affect the Owner's right to assess any liquidated damages that the Owner may be entitled to as a result in the delays of the Project by fault of the CMAR. 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.

2.8 CONSTRUCTION CHANGE DIRECTIVES

- 2.8.1 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.
- 2.8.2 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 Section 3.3.2 in the event that the CMAR believes that a Construction Change Directive has a potential impact on the Contract Time or the Contract Sum.

2.9 CMAR'S USE OF CONTRACT DOCUMENTS

- 2.9.1 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 pre-construction and construction related services. 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 Owner or its designated representative.
- 3.1.3 Execution of the Owner-CMAR Construction Agreement shall constitute the CMAR's representation that it has carefully examined the contents of all Contract Documents, that it 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 it has inspected the site, familiarized itself 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

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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 the Carson City School District 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 to the CMAR.
- 3.2.3 The CMAR shall begin the Work on the starting date established in the Notice to Proceed letter. It 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 7:00 a.m. and 5:00 p.m., or per Carson City Ordinance. The CMAR shall submit to the Owner its proposed working schedule for approval before commencing Work. If the CMAR desires to work on any weekend day, State holiday, or during any other hours of the day it shall request and obtain the Owner's written approval at least five (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 its 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. Any extension of time for delays shall be considered by the Architect and Owner only when a request for such extension is made in writing by the Contractor and provided further that any such request shall be presented to the Architect or Owner within ten (10) days from the commencement of the period of delay. Time extensions for weather will only be considered when both the number of reasonably anticipatable days of adverse weather and the average precipitation in a given month have been exceeded in accordance with the following table, Contractor's non-work days, bank

and allowance of time:

Month	# of Reasonable Anticipated Days of Weather per Month	Average Precipitation
January	4	1.23
February	4	0.95
March	3	0.62
April	2	0.57
May	1	0.44
June	0	0.52
July	0	0.20
August	1	0.21
September	1	0.26
October	2	0.65
November	3	0.66
December	4	1.37

- Monthly precipitation shall be gauged at the Reno/Tahoe International Airport station as posted on the Reno, WFO, Nevada (266791) website located at: <http://www.wrcc.dri.edu/cgi-bin/cliMAIN.pl?nv6791>
- Total non-work days shall be calculated by overall contract time from the date of Notice to Proceed to date of Substantial Completion.

Time extension request for delays caused by additional adverse weather conditions will be evaluated individually. Inclement weather days in which no work is conducted at the project site will be considered by the Owner for full day time extensions. Inclement weather days in which any trade or workman actually work on the project will be considered by the Owner for a maximum of one-half day time extension.

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 seven (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 its 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 its 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

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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 its 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 that includes General Conditions costs and supervision costs at the same rate as agreed upon in the CMAR's GMP, 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 Carson City 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.

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- 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 Owner's 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 it 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, it 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; and
 - B. All punch list items have been corrected or completed; and
 - C. All equipment and systems have been tested, adjusted, and balanced and are fully operational; and
 - D. All training required by the Contract Documents has been provided; and
 - 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; and
 - 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 seven (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 in accordance with a proper pay request. 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 its Surety shall unconditionally guarantee all workmanship and materials incorporated in the Work to be and remain free of defects for a period of one (1) 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 (1) year warranty period, and for such longer periods as specified in the Contract Documents, the CMAR and/or its Surety shall promptly remedy any defects in the Work, and pay for any damage to other work resulting therefrom. The Owner shall promptly notify the CMAR in writing of any observed defects. The CMAR shall ensure that the corrective work is commenced within seven (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 (1) year warranty period (approximately eleven (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 its 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, its 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 its 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 its employees, agents, or others for whose acts it is legally liable, claim shall be made in writing to such other party within seven (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 its 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 in a court of competent jurisdictions. When the CMAR accepts final payment pursuant to Section 7.3 it waives all rights under this Section (3.9), including the filing of judicial action.

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- 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 notice 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 Superintendent of Schools (“Superintendent”). 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 Superintendent shall within 5 business days direct the Project Manager to engage in good faith direct negotiations with the CMAR’s principal field personnel, including but not limited to the CMAR’s Superintendent and Project Manager. If the Owner initiates the Notice of Dispute, the direct discussions must take place within five (5) days of the date of the Notice of Dispute. If the Owner and CMAR representatives are not able to reach a resolution, the Superintendent 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 Superintendent within five (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 thirty (30) days from the date of the initial meeting between the CMAR’s Principal and the Superintendent, the dispute must be submitted to the Board of Appeals for review (submitted by either the CMAR or the Superintendent for arbitration as described in Subsection 3.9.6).
- 3.9.6 Within thirty-five (35) days of the initial meeting with the Superintendent pursuant to Subsection 3.9.4, the CMAR may serve a written notice requesting arbitration. The Request for Arbitration must set forth the basis for the request and may be accompanied by copies of supporting documents. A Request for Arbitration must be addressed to the Superintendent. In the event that the CMAR does not file the request, the Superintendent must do so within forty (40) days of the initial meeting (should the dispute remain unresolved at that time). A Request for Arbitration from the Superintendent must be addressed to the CMAR. Thereupon, the parties shall meet within five (5) business days to select an arbitrator. If the parties are unable to agree upon an arbitrator, the arbitrator shall be appointed by the presiding judge of the First Judicial Court for the State of Nevada, in and for Carson City. The arbitration shall be conducted pursuant to the Nevada Arbitration Rules, NRS Chapter 38. Unless otherwise agreed by the parties in writing, the decision of the arbitrator shall be final and binding, reversible only for the fraud or manifest error of law in reaching a decision. The arbitrator shall have authority to award attorneys’ fees and costs to the prevailing party. Until and unless such award is made, the parties shall share equally the fees and costs of the arbitrator. The arbitrator shall set the matter for hearing within sixty (60) days of appointment, and a decision must be made within thirty (30) days thereafter. The decision shall be a reasoned decision, in writing.

3.10 TERMINATION BY THE CMAR

- 3.10.1 The CMAR may, upon seven (7) days written notice, terminate the Contract after the Work is stopped for a period of sixty (60) consecutive calendar 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, it 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 its Surety seven (7) days written notice, terminate the contract with the CMAR.

- A. The CMAR is adjudged bankrupt; or
- B. The CMAR makes a general assignment for the benefit of its creditors ;or
- C. A receiver is appointed on account of the CMAR's insolvency; or
- D. The CMAR persistently or repeatedly refuses or fails to supply an adequate number of properly skilled workers, proper supervision, or proper materials; or
- E. The CMAR fails to make prompt payment to Subcontractors or to materials suppliers for materials or labor ; or
- F. The CMAR disregards any law, ordinance, rule, regulation, or order of any public authority having jurisdiction; or
- 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 its 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 Owner by giving the CMAR and its Surety seven (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 its 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

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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 its work, except as to defects which are not apparent or observed by CMAR and 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 its sole discretion, determines to be appropriate.

3.13 ASSIGNMENT

- 3.13.1 The CMAR binds itself and each of its 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. CMAR 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 it 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 Intentionally Omitted.
- 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

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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, its 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, its 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 provisions of this Section (3.16) only apply if the CMAR received the five percent (5%) preference in the award of the Contract.
- 3.16.2 CMAR shall comply with all of the requirements listed herein for the duration of the Project as attested to by the CMAR in its 'Affidavit of Compliance'. The CMAR shall submit a report substantiating its successful compliance with each listed requirement prior to submitting its final progress payment application.
 - A. At least fifty percent (50%) of all workers collectively employed by the CMAR, including any of those workers employed by its Subcontractors, 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 are registered in the state of Nevada or registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; and
 - C. The CMAR and all of its Subcontractors maintain and have available for inspection within this State all payroll records relating to the Work and the related Project.
- 3.16.3 In the event that the CMAR cannot meet the requirements of Subsection 3.16.2, the CMAR must provide Written Notice to the Owner within seven (7) days of the CMAR's discovery of that fact and include a detailed explanation of why the requirements of Subsection 3.16.2 cannot be met.
- 3.16.4 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 one percent (1%) of the Contract Sum.
- 3.16.5 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 one percent (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 under Section 3.16.5.

3.17 CMAR BIDDING PROCEDURES

3.17.1 Owner Oversight of CMAR Bidding Procedures

- 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 NRS 338.16991, and 338.16995, and 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 three (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 three (3) Subcontractors for a particular trade and then receives less than three (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 the opening of 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 a minimum the contact information for each Subcontractor, the associated trade, any exclusions, any stipulations/exceptions, and the bid amount.
- F. The CMAR shall demonstrate to the satisfaction of the Owner that it has adequate previous experience on any work that it intends to self-perform and shall also provide evidence that its proposed cost for such work is lower than the other bids received for that work. **All CMAR self-performed bids shall be received by the Owner from the CMAR no less than twenty-four (24) hours prior to the scheduled subcontractor bid opening.**

3.17.2 CMAR Pre-Qualification of Subcontractors

- A. The CMAR shall pre-qualify all Subcontractors whose scope of work is more than one percent 1% of the total estimated cost of construction in compliance with all requirements of NRS 338.16991 and 338.16995 and Section 3.17. When pre-qualifying a Subcontractor, the CMAR shall consider and utilize only the criteria listed in NRS 338.16991(4), and the Owner or its authorized representative shall ensure that each Subcontractor determination has been made in accordance with the required criteria. The CMAR shall notify each applicant and the Owner in writing of its determination, and that any applicant who is not qualified may appeal pursuant to NRS Section 338.1381 to the Owner with whom the CMAR has entered into a contract for the construction of the Work.
- 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 NRS 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.

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- 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 three (3) Subcontractors for each trade/discipline of work unless the Owner issues written authorization to pre-qualify less than three (3) Subcontractors for a specific scope of work.

3.17.3 CMAR Requests for Subcontractor Proposals

- A. The CMAR's requests for proposals from Subcontractor whose scope of work is more than one percent (1%) of the total estimated cost of construction shall comply with all requirements of NRS 338.16991 and 338.16995, Nevada Administrative Code Chapter 338, and 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. If a pre-proposal meeting was held as "mandatory" that 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 securing permits, which is the responsibility of the CMAR under the Contract Documents, the Owner shall pay for all costs associated with plan checking, building permits, 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 its 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

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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 its obligation to perform the Work in accordance with the Contract Documents.

- 4.2.2 If the Owner or the Architect determine that the CMAR has proceeded with work that does not comply with the Contract Documents, then the CMAR shall be required to correct such work at the expense of the CMAR.
- 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 seven (7) days written notice to the CMAR, and without prejudice to any other remedy it 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 AND BUILDING OFFICIAL

- 4.3.1 The Owner's Construction Project Manager and the Carson City Building 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 Owner's Construction Project Manager with proper assessment of non-complying work.
- 4.3.2 The Owner's Construction Project Manager and/or Carson City Building 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 Owner's Construction Project Manager and/or the Carson City Building Division's Inspector with a minimum twenty-four (24) hour written notice of all desired inspections required by inspections that are performed by the Owner. The CMAR shall be responsible for scheduling all testing inspections with the professional consultant and/or firm doing any testing work, as well as all inspections required by the Carson City Building Division's Inspector for building permit required 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 proposed and agreed upon schedule provided to the Owner by the CMAR. The charges shall be based on the current rate of pay for the Owner's personnel, including any applicable travel and per diem expenses. Charges for extra inspection services beyond the agreed upon schedule provided to the Owner by the CMAR will be

processed as deductive changes to the Contract Sum.

- 4.3.6 The Owner and its 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 its 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 its 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 it 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 self-performed under the Contract.

5.2 AUTHORIZED REPRESENTATIVES

- 5.2.1 Before starting Work, CMAR shall designate a competent, authorized representative acceptable to Owner to represent and act for CMAR and shall inform Owner, in writing, of the name and address of such representative together with a clear definition of the scope of his or her authority to represent and act for CMAR and shall specify any and all limitations of such authority. CMAR shall keep Owner informed of any subsequent changes in the foregoing. Such representative shall be present or duly represented at the site of Work at all times when Work is actually in progress. During periods when Work is suspended, arrangements for an authorized representative acceptable to Owner shall be made for any emergency work, which may be required. All notices, determinations, instructions and other communications given to the authorized representative of CMAR shall be binding upon CMAR.
- 5.2.2 Before starting Work, Owner shall designate, in writing, a Project Manager to be the point of contact for the Owner. Owner will notify CMAR in writing of the name of such representative, the representative's limits of authority and any subsequent changes. At all times when work is being performed under the Contract, there will be available a competent Project Manager who will have authority to act for Owner within the scope of his or her authority, and to receive communications from CMAR.

5.3 CMAR'S RESPONSIBILITIES

- 5.3.1 The CMAR shall perform and complete the Work in a timely and skillful manner and in strict conformance with the Contract Documents.

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- 5.3.2 The CMAR shall prepare and submit daily construction reports to the Owner and the Architect within two (2) days of the reported day. Reports shall include: list of Subcontractors at the site, exact count of personnel at the site from each contractor or Subcontractor, time spent by each person working on site vs off the job site, work performed, weather conditions, material and equipment deliveries, outstanding issues, accidents and unusual events, stoppages, delays, shortages, and losses, Change Orders received, implemented, services connected, disconnected, equipment or system tests and startups, inspections, Substantial Completions authorized, and pending RFI's.
- 5.3.3 The CMAR shall supervise and direct all portions of the Work. It 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. It shall be responsible for the acts and omissions of its employees and Subcontractors, their agents and employees, and all other persons performing any of the Work.
- 5.3.4 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.
- 5.3.5 The CMAR shall at all times enforce good discipline and order among its employees and Subcontractors and shall, at its own cost, provide the security necessary to adequately protect the Work.
- 5.3.6 The CMAR shall at all times, and at its 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.
- 5.3.7 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.
- 5.3.8 In the event of a temporary suspension of the Work, and/or during inclement weather, the CMAR shall protect, and shall cause its 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.
- 5.3.9 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, workforce, 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 its 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 Section 5.3.
- 5.3.10 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 project site/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.

5.4 SUPERINTENDENT

5.4.1 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 its behalf. CMAR firm shall not substitute a different employee for an employee whose resume was submitted during the proposal phase of the Request for Proposal solicitation unless the employee whose resume was submitted is no longer employed by the CMAR or is unavailable for medical reasons, or if the Owner entered into a contract with the CMAR for pre-construction services pursuant to NRS 338.1693, more than ninety (90) days after the date on which the final ranking of application made pursuant to NRS 338.1696(7).

5.5 LABOR AND MATERIALS

5.5.1 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.

5.5.2 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. If the CMAR proceeds with installing any materials or equipment in a manner contrary to the manufacturer's instructions without first notifying the Owner and the Architect, then the CMAR shall remove and reinstall the materials or equipment in accordance with the manufacturer's instructions at no cost to the Owner.

5.5.3 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 its Subcontractors to comply with all applicable provisions of NRS Title 28 (Public Works and Planning) and NRS Title 53 (Labor and Industrial Relations).

5.5.4 **The Contractor shall comply strictly with the requirements of NRS Chapter 338 and the Apprentice Utilization Act of 2019.**

A contractor or subcontractor employing a worker as defined in NRS 338.040, shall use one (1) or more apprentices for at least 10% of the total hours on vertical construction and 3% of the total hours for horizontal construction of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work when more than three (3) employees of each craft are employed at the site of work.

This project is considered a VERTICAL project and is subject to ten percent (10%) apprentice utilization.

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A Public Body, upon request of a contractor or subcontractor, may submit a request for a modification or waiver of the percentage of hours of labor of one or more apprentices prior to:

- a. The bid advertisement;
- b. The bid opening; and
- c. The award of the contract.

The Labor Commissioner may also grant a waiver from the requirements of Section 1 of this act after work on the public work has commenced if the public body, contractor or subcontractor submits documentation and evidence that meets the requirements to establish “Good Cause.”

Good Cause means:

- a. There are no apprentices available from an apprenticeship program within the jurisdiction where the public work is to be completed as recognized by the State Apprenticeship Council;
- b. The contractor or subcontractor is required to perform uniquely complex or hazardous tasks on the public work that require the skill and expertise of a greater percentage of journeymen; and
- c. The contractor or subcontractor has requested apprentices from an apprenticeship program and the request has been denied or the request has not been approved within 5 business days.

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The term does not include the refusal of a contractor or subcontractor to enter into an apprenticeship agreement.

Workforce Information (to comply with Apprentice Utilization Act of 2019):

- a. Upon Request from Carson City School District, the contractor is required to submit the Comprehensive Contractor/Subcontractor List and Project Workforce Checklist.
- b. Contractor is required to submit, within ten (10) business days of request for Project Workforce Checklist, all supporting documentation for waiver(s), including, but not limited to, the Request for Apprentice Availability on A Public Work form.
- c. Submit all requested documentation to [Carson City School District](#)

Failure to submit the required documentation within the required timeframe may delay the award of the contract and/or the Notice to Proceed and will not be cause for contract time extension.

- 5.5.5 Prevailing Wages: The Contractor shall comply strictly with the requirements of NRS Chapter 338 and shall pay the prevailing wage rates for the appropriate labor positions as outlined in the “Carson City – Prevailing Wage Rates for Public Works, State of Nevada” for projects that are \$100,000 or greater. The prevailing wage rate is established and published by the Office of the Nevada Labor Commission. The applicable wage rates must be posted at the site of the Project in a place generally visible to the workers.
- 5.5.6 The CMAR shall ensure that it and all of its Subcontractors comply with the reporting requirements of NRS 338.070.

Certified Payrolls: CMAR and each of its Subcontractors shall maintain records for each worker employed by CMAR or its Subcontractors in connection with the Contract in accordance with NRS 338.070. CMAR shall furnish OWNER with one (1) copy of the State of Nevada Weekly Wage and Hour Report of Public Work Contractors no later than the 15th of the following month. CMAR shall include all reports for its Subcontractors in this monthly submittal.
- 5.5.7 All work performed after regular working hours, on weekends or legal holidays, shall be performed without additional expense to the Owner unless previously agreed to otherwise by the Owner.
- 5.5.8 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.
- 5.5.9 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.

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5.5.10 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.

5.6 TEMPORARY UTILITIES, HEATING, AND COOLING

5.6.1 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 unless otherwise previously agreed by the Owner.

5.6.2 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.

5.6.3 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 unless otherwise previously agreed by the Owner.

5.6.4 Interruption of Existing Utility Services:

If CMAR needs to interrupt any existing services, such as, but not limited to electrical power, existing security hardware signals, telephone, water main, sanitary sewer, storm sewer, etc., CMAR shall notify OWNER, in writing, not less than three (3) full business days (a business day is defined as Monday through Friday, excluding holidays) prior to the planned interruption. OWNER will review such request, coordinate same and reply to CMAR, in writing, prior to the planned interruption time. CMAR shall not proceed with any planned utility interruption without written permission to do so from OWNER.

CMAR shall use the latest technology for locating embedded utilities prior to commencing with saw cutting, drilling or coring operations. CMAR shall perform the Work for the new plumbing, HVAC, electrical and control systems tie-ins or interruptions to existing facility services between the hours of 10:00 p.m. and 07:00 a.m.

In the event of any accidental interruption of any utility service, CMAR shall immediately undertake the following:

A. Make every possible effort to immediately restore the disrupted utility, even if on a temporary basis, call Project Manager immediately and report and describe the incident. Execute

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a Report of Utility Interruption within twenty-four (24) hours of the incident and forward the executed report to the Project Manager.

B. In the event of an accidental utility interruption, after completing the Report of Utility Interruption, CMAR shall submit to OWNER a proposed permanent repair plan, which, upon execution, will restore the damaged utility to like new in every way. Once the repair plan is approved by OWNER, CMAR shall proceed with a permanent repair of the interruption.

- 5.6.5 Transition: 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 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.

5.7 EMERGENCIES

- 5.7.1 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.
- 5.7.2 The amount of reimbursement claimed by the CMAR on account of any emergency action shall be determined in the manner provided herein for claims.
- 5.7.3 The CMAR shall maintain a current emergency telephone number list at the job site and provide to the OWNER and Architect. 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.

5.8 CONSTRUCTION SCHEDULE

- 5.8.1 Within thirty (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.
- 5.8.2 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.

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- 5.8.3 The construction schedule shall include each of the scheduling line items listed in the Mechanical Systems Commissioning specification.
- 5.8.4 The CMAR shall utilize an Owner approved, acceptable software 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.
- 5.8.5 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.
- 5.8.6 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.
- 5.8.7 In the event of any failure to adhere to the construction schedule the CMAR shall, within seven (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 its 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.

5.9 CONSTRUCTION PROGRESS MEETINGS

- 5.9.1 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.
- 5.9.2 The CMAR will conduct the job-site construction progress meetings and will prepare and distribute typed meeting minutes for each such meeting.
- 5.9.3 As soon as practicable after award of Contract and prior to commencing any work, a pre-construction conference will be arranged. The purpose of said conference is to determine procedures related to smooth progress of the Project and to review any items requiring clarification. Procedures for processing and distribution of all documents and correspondence related to the Contract will be established.
- 5.9.4 As deemed necessary by the Owner or ARCHITECT, the CMAR shall provide a three (3) week detailed short-interval schedule for each building or area of the Work, at regularly scheduled progress meetings. The format shall be subject to review and approval by the Owner and ARCHITECT.

5.10 PROGRESS PHOTOGRAPHS

- 5.10.1 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 an electronic jump-drive/flash drive and issued to the Owner

along with each progress payment application. Other data storage formats will be acceptable to the Owner with prior approval.

5.11 TAXES, PERMITS, FEES, AND NOTICES

- 5.11.1 The CMAR shall pay all sales, consumer, use, and other taxes required by law.
- 5.11.2 CMAR shall be responsible for coordination and obtaining of any and all permits paid by Owner and certificates, required by the relevant regulatory agencies, applicable to constructing and, upon completion, utilization of this facility by OWNER including: Plan Check fee(s), Building Permit(s), Grading Permit(s), Drainage/Flood Control Permit(s), Electrical Permit(s), Mechanical Permit(s), Plumbing Permit(s), Dust Control Permit(s), Fire Protection Permit(s), Water/Sanitation Connection Fee(s), Temporary Occupancy Certificate(s), Permanent Occupancy Certificate, and Security Deposits.
- 5.11.3 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, it shall immediately notify the Owner and the Architect in writing. If the CMAR performs any work which it 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, it shall assume full responsibility therefore and shall bear all costs attributable thereto.

5.12 PROJECT SIGN

- 5.12.1 Upon commencing the Work the CMAR shall erect one (1) painted project sign, four (4) feet by eight (8) feet, in the format directed by the Owner. This sign shall be the only CMAR sign displayed on the Project site. The sign shall include as a minimum the Project name, the Architect, the CMAR and major subcontractors.

5.13 ACCESS ROADS

- 5.13.1 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 its own cost, to the same condition as existed before the commencement of the Work.
- 5.13.2 Dirt roads shall be periodically sprinkled with water when dust conditions create an onsite or off site hazard or nuisance to workers, neighboring properties, or the public in general. The CMAR shall secure and pay for any dust control permits required by State or local jurisdictions.

5.14 CMAR'S FIELD OFFICE

- 5.14.1 Upon commencement of the Work, the CMAR shall provide on the site a temporary field office for its 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 two hundred forty (240) square feet of floor area and as appropriate to facilitate the required job site meetings, conference seating for 12.
 - B. Outside door with security lock.
 - C. Minimum of four (4) 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.

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- 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 Owner's Project Manager.

5.14.2 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.

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

5.15 OWNER'S FIELD OFFICE – NOT REQUIRED

5.16 TOILET FACILITIES

5.16.1 The CMAR shall provide and maintain in a clean and sanitary condition in a weatherproof building satisfactory toilet accommodations for all workers 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.

5.17 CONSTRUCTION SURVEYS

5.17.1 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.

5.18 ARCHAEOLOGICAL FINDINGS

5.18.1 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.

5.19 SUBSURFACE CONDITIONS

5.19.1 Should the CMAR encounter subsurface or hidden conditions at the site materially differing from those indicated in the Contract Documents, it 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 it finds that they materially differ, it will, after consultation with the Owner, make such changes in the Contract Documents as it may deem necessary. Any increase or decrease in cost resulting from such changes will be adjusted by Change Order.

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

5.20 PATENTS AND ROYALTIES

5.20.1 To the fullest extent permitted by law, the CMAR shall defend and hold harmless the Owner, its trustees, superintendent, administrators, agents, and employees harmless from liability of any

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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, it 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.

5.21 MATERIALS TESTING

- 5.21.1 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.
- 5.21.2 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.
- 5.21.3 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 its responsibility to complete the Work in accordance with the Contract Documents.

5.22 OPERATION AND MAINTENANCE MANUALS

- 5.22.1 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, two (2) 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. CMAR shall provide separate volumes for General, Mechanical and Electrical portions of the Work. Each volume shall be a three-inch (3"), three-ring binder. The cover and spine of each volume shall be imprinted with name of project, Owner, description of contents and date. All data shall be indexed as per the index of the Technical Specifications. All pages shall be 8-1/2 x 11 inches except for fold out pages of diagrams and manufacturer's literature. Include manufacturer's supplier's and Subcontractor's names, addresses and telephone numbers, model numbers, proportions of mixes, furnish numbers and all pertinent information required for replacement ordering or duplication for each incorporated material, equipment and finishes installed under this Contract.

All data to be included in the O&M Manuals shall be included in CMAR's submittals under this General Condition.

- 5.22.2 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 two (2) electronic jump-drive/flash drives..

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

5.23 CORRECTION OF WORK

5.23.1 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.

5.23.2 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.

5.23.3 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.

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

5.23.5 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.

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

5.23.7 If the Owner prefers to accept non-conforming work, it 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.

5.23.8 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.

5.24 SUBCONTRACTORS

5.24.1 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.

5.24.2 Should the CMAR decide for any reason to substitute a Subcontractor for work that it 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 Owner. The Owner reserves the right to either approve or deny such requests.

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- 5.24.3 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.
- 5.24.4 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 (1) 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.
- 5.24.5 The CMAR shall pay each Subcontractor, within ten (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. CMAR shall obtain lien releases.
- 5.24.6 The CMAR shall be as fully responsible to the Owner for the acts and omissions of its Subcontractors, and of persons either directly or indirectly employed by them, as it is for the acts and omissions of the persons directly employed by it. 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.
- 5.24.7 If the CMAR fails to make appropriate payments to any Subcontractor, worker, 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, its Surety, Subcontractors, workers, 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.
- 5.24.8 The CMAR shall be responsible for the proper distribution of all insurance recoveries resulting from an insured loss under the Contract.
- 5.24.9 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.
- 5.24.10 Neither the Owner nor the Architect shall have any obligation to pay or to see to the payment of any monies to any Subcontractor, worker, or supplier, except as may otherwise be required by law.
- 5.24.11 Prior to receiving or accepting any payment, each Subcontractor must have a valid Nevada

business license, pursuant to NRS 338.072.

5.25 JOB SAFETY

- 5.25.1 The CMAR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. All costs in connection with meeting all the requirements of this General Condition shall be borne by CMAR.
- 5.25.2 All work shall be performed in strict accordance with the most current edition of the State of Nevada Occupational Safety and Health Standards.
- 5.25.3 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.
- 5.25.4 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 regulations, and notifying owners and users of adjacent properties.
- 5.25.5 The CMAR shall designate a responsible member of its 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.
- 5.25.6 In any emergency affecting the safety of persons or property, the CMAR shall act, at its discretion, to prevent threatened damage, injury, or loss.
- 5.25.7 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.
- 5.25.8 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.
- 5.25.9 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.
- 5.25.10 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).
- 5.25.11 Smoking:
Jobsite is to be tobacco free. Smoking, tobacco products, smokeless cigarettes, or vapor cigarettes shall not be permitted or tolerated on jobsite.
- 5.25.12 Pumping and Drainage:

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Surface or sub surface water or other fluid shall not be permitted to accumulate in excavations or under any structure. Should such conditions develop or be encountered, the water or other fluid shall be controlled and suitably disposed of by means of temporary pumps, piping, drainage lines and ditches, dams or other methods approved by Owner and other public agencies having jurisdiction.

5.25.13 Fire Prevention:

CMAR shall conform to all Federal, State, and local laws and regulations pertaining to burning, fire prevention and control within or adjacent to the jobsite. Necessary precautions to avoid and eliminate fire hazards shall be the responsibility of CMAR. This includes keeping the jobsite area clear of all trash at all times.

All tarpaulins used for any purpose during construction of any work shall be made of material resistant to fire, water and weather and shall bear UL labels. Lighting of any fires on the jobsite and inside any buildings on the jobsite is strictly forbidden.

CMAR shall provide portable fire extinguishers compatible with the hazard of each work area and shall instruct its personnel in their location and use. Wherever welding and burning are conducted, no inflammable materials shall be allowed, and a fire watch shall be provided by CMAR to be present during the burning and welding operation to ensure that protective measures are taken and that no fires result from such operation. The fire watch shall have fire extinguisher equipment readily available and know-how for proper use.

5.25.14 Hazardous Materials:

During the course of construction, there may be hazardous materials discovered on the construction site. Such materials can be in the form of asbestos in structures, underground fuel storage units, contaminated soil or other unknown hazardous materials. CMAR shall immediately notify Owner of any hazardous materials subsequently found on the site and shall not remove same without the permission of Owner. Owner shall be responsible for removal and abatement of any existing hazardous materials.

If the hazardous material and subsequent contamination was caused by CMAR, CMAR shall remove said hazardous material and contaminated soils or materials from the site and shall dispose of same in accordance with all Federal, State and Local laws and regulations. Removal of such materials and contamination shall be monitored by a licensed hazardous materials laboratory, and said laboratory shall prepare a written report attesting to the complete removal of the contaminating material and resulting contamination, all to the satisfaction of, and at no cost to, Owner.

5.25.15 Illumination:

When any work is performed at night or where daylight is shut off or obscured, CMAR shall, at its expense, provide artificial light sufficient to permit work to be carried on efficiently, satisfactorily and safely, and to permit thorough inspection. During such time periods access to the place of work shall also be clearly illuminated. All wiring for electric light and power shall be installed and maintained in compliance with local codes, securely fastened in place at all points, and shall be kept as far as possible from telephone wires, and signal wires.

Lighting circuits in buildings and for parking lots and outdoor walkways must be functional at all times, even if this requires temporary wiring (and temporary power source) to be installed by CMAR as part of the Work.

5.25.16 Cleaning Up:

CMAR shall, at all times, keep its work areas in a neat, clean, and safe condition. Upon completion

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of any portion of the Work, CMAR shall promptly remove all of its equipment, construction plant, temporary structures and surplus materials which will not be used at or near the same location during later stages of Work. Upon completion of the Work and before final payment is made, CMAR shall at its expense, satisfactorily dispose of all plant, buildings, rubbish, unused materials, and other equipment and materials belonging to it or used in the performance of the Work, and CMAR shall leave the jobsite and Premises in a neat, clean, and safe condition. In the event of CMAR's failure to comply with the foregoing, the same may be accomplished by Owner at CMAR's expense.

5.25.17 Hazard Communication:

CMAR shall be aware of OSHA Federal Standard 29 CFR 1910.1200, Hazard Communication and 29 CFR 1910.1020, Access to Employee Exposure and Medical Records. CMAR's Safety Program shall address and include all aspects of the preceding OSHA rules, as well as any local or State hazard communication laws.

CMAR shall furnish to Owner the MSDS Sheet on any material requiring same, for Owner review and approval prior to said material being delivered to the site. CMAR shall specifically follow all the safety requirements listed on the MSDS Sheet.

5.26 SITE MANAGEMENT AND CLEANUP PROCEDURES

5.26.1 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 its operations.

5.26.2 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 workers, neighboring properties, or the public.

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

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

5.26.5 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.

5.27 ROOFING INSTALLATION AND PROTECTION

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

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

5.27.3 If staging, access, or work is required on the finished membrane, the CMAR shall provide

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protection along the access path and under the work extending forty-eight inches (48") beyond the required work area. Protection shall consist of three-quarter inch (3/4") plywood over a heavy canvas tarp with sandbag ballasts as required to prevent the plywood from becoming airborne during strong winds.

5.28 QUALITY ASSURANCE/QUALITY CONTROL

5.28.1 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.

5.29 DELIVERY, UNLOADING AND STORAGE

5.29.1 CMAR shall receive, unload, store in a secure place, and deliver from storage to the construction site all materials and plant equipment required for the performance of the Contract. The storage facilities and methods of storing shall meet Owner's approval. Materials and equipment subject to degradation by outside exposure shall be stored in a weather tight enclosure provided by CMAR.

5.30 CMAR's WORK AREA

5.30.1 All CMAR's work areas on the jobsite will be assigned by Owner. CMAR shall confine its office, shops, storage, assembly and equipment and vehicle parking to the areas so assigned. Before commencing work, CMAR shall provide a temporary office on the site of the Work, which shall have a telephone where a representative of CMAR may be reached at all times during normal working hours.

5.30.2 Because movement to and from a work area is limited, CMAR shall have in the Work area all equipment it determines necessary, as well as a first aid station, drinking water facilities, radio communications, restroom facilities and any other items to support CMAR's activities.

5.30.3 Should CMAR find it necessary or advantageous to use any additional land outside the Project site for any purpose whatever, CMAR shall, at its expense, provide and make its own arrangements for the use of such additional land.

5.31 RESPONSIBILITY FOR WORK SECURITY

5.31.1 CMAR shall at all times conduct all operations under the Contract in a manner to avoid the risk of loss, theft or damage by vandalism, sabotage or other means to any property. CMAR shall promptly take all reasonable precautions, which are necessary and adequate against any conditions, which involve a risk of loss, theft or damage to any property. CMAR shall continuously inspect all its work, materials, equipment and facilities to discover and determine any such conditions and shall be solely responsible for discovery, determination and correction of any such conditions.

5.31.2 CMAR shall prepare and maintain accurate reports of incidents of loss, theft or vandalism and shall furnish these reports to Owner in a timely manner.

5.31.3 CMAR shall be responsible to obtain from Owner copies of applicable school site security regulations, and shall comply with said regulations for the jobsite and all applicable laws and regulations. Any costs associated with appropriate badging of personnel shall be borne solely by CMAR.

5.31.4 CMAR shall cooperate with Owner on all security matters and shall promptly comply with any Project security requirements established by Owner. Such compliance with these security requirements shall not relieve CMAR of its responsibility for maintaining proper security for the above noted items, nor shall it be construed as limiting in any manner CMAR's obligation to

undertake reasonable action as required to establish and maintain secure conditions at the site.

5.32 PROTECTION OF WORK IN PROGRESS, MATERIALS, EQUIPMENT AND PROPERTY

5.32.1 CMAR shall be responsible for and shall bear any and all risk of loss or damage to work in progress, all materials delivered to the site, and all materials and equipment involved in the Work until completion and final acceptance of Work under this Contract. Excluded from CMAR's responsibility is any loss or damage, which results from the gross negligence or intentional misconduct of Owner.

5.32.2 Permanent openings or thoroughfares for the introduction of work and materials to the structure and construction site shall be protected so that upon completion, the entire work will be delivered to Owner in proper, whole, and unblemished condition.

5.33 PROTECTION OF EXISTING PROPERTY

5.33.1 CMAR shall so conduct its operations as not to damage, close, or obstruct any utility installation, highway, road, or other property until permits therefore have been obtained. If facilities are closed, obstructed, damaged or rendered unsafe by CMAR's operations, CMAR shall, at its expense, make such repairs and provide such temporary guards, lights, and other signals as necessary or required for safety and as will be acceptable to Owner.

5.33.2 Unless otherwise specifically provided in the Contract, CMAR shall not do any work that would disrupt or otherwise interfere with the operation of any pipeline, telephone, electric transmission line, ditch, or other structure, nor enter upon lands in their natural state until approved by Owner. Thereafter, and before it begins such work, CMAR shall give due notice to Owner of its intention to start such work. CMAR shall not be entitled to any extension of time or any extra compensation on account of any postponement, interference or delay caused by any such line, ditch, or structure on or adjacent to the site of work.

5.33.3 CMAR shall preserve and protect all cultivated and planted areas, and vegetation such as trees, plants, shrubs, and grass on or adjacent to the premises, which, as determined by Owner, do not unreasonably interfere with the performance of this Contract. CMAR shall be responsible for damage to any such areas and vegetation and for unauthorized cutting of trees and vegetation, including without limitation damage arising from the performance of its work through operation of equipment or stockpiling of materials. All costs in connection with any repairs or restoration necessary or required by reason of any such damage or unauthorized cutting shall be borne by CMAR.

5.34 PROJECT SITE PROTECTION

5.34.1 CMAR shall be responsible for repairs to any wall, floor, or ceiling surface within the existing Building(s) that is damaged by CMAR's construction operations. The required repairs shall be made in accordance with relevant construction specifications or Owner's Standard Specifications, whichever is the more stringent, and in a manner satisfactory to Owner. Owner will be sole judge as to whether or not any areas have been damaged by CMAR and which specification is applicable.

5.34.2 If CMAR damages Owner 's property and CMAR fails to take corrective action within five (5) days after receiving written notice of same, Owner reserves the right to correct the violation. The cost of such correction shall be to the account of CMAR.

5.35 DISPOSAL OF MATERIAL OUTSIDE JOBSITE PROPERTY

5.35.1 CMAR shall make its own arrangements for disposal of materials outside the project and shall

pay all costs involved.

- 5.35.2 CMAR shall remove all excavated material immediately from the jobsite. No stockpiling of excavated materials shall be allowed at the project site. Materials resulting from demolition and from all excavations shall be removed immediately from jobsite and hauled to an approved landfill.
- 5.35.3 When any material is to be disposed of outside the jobsite property, CMAR shall first obtain a written permit from the property owner on whose property the disposal is to be made and it shall file in writing with Owner said permit or the certified copy thereof together with a written release from the property owner absolving Owner of any and all responsibility in connection with the disposal of material on said property.
- 5.35.4 When material is disposed of as above provided and the disposal location is visible from the project, CMAR shall dispose of the material in a neat and uniform manner to the satisfaction of Owner.
- 5.35.5 Full compensation for all costs involved in disposing of material as specified in this Article, including all costs of hauling, shall be considered as included in the price paid for the Contract items of work involving such material and no additional compensation will be allowed therefore.
- 5.35.6 No material that is to be disposed of outside the jobsite property shall be stockpiled on Owner's property longer than seven (7) days, unless otherwise approved by Owner.
- 5.35.7 Recycling: is a priority when possible, the CMAR will recycle demo items. Recycled demo items not limited to metal, wood, plastic, and etc. Report the proceeds to the Owner and proceeds may be used for the Project or distributed back to CCSD.

5.36 CMAR-FURNISHED MATERIALS, EQUIPMENT AND WORKMANSHIP

- 5.36.1 Only new items of recent manufacture, of designated but in no event less than standard quality, free from defects, will be permitted on the Work. Rejected items shall be removed immediately from the Work and replaced with items of quality specified. Failure by Owner to order removal of rejected materials and equipment shall not relieve CMAR from responsibility for quality and character of items used or from any other obligation under the Contract.
- 5.36.2 CMAR shall continuously check architectural and structural clearances for accessibility of equipment and mechanical and electrical systems. No allowance of any kind will be made for CMAR's negligence to foresee means of installing equipment into position inside structures.
- 5.36.3 No work defective in construction or quality or deficient in any requirement of the drawings and specifications will be acceptable regardless of Owner's failure to discover or to point out defects or deficiencies during construction; nor will the presence of inspectors on the Work relieve CMAR from responsibility for securing the quality and progress of work as required by the Contract. Owner shall notify CMAR of defective or unacceptable work as soon as Owner discovers such defective work. Defective work revealed within the time required by warranties shall be remedied in accordance with the Warranty. No payment, whether partial or final, shall be construed as an acceptance of defective work or improper materials.
- 5.36.4 CMAR shall waive "common practice" and "common usage" as construction criteria wherever details and specifications or governing codes and ordinances require greater quantity or better quality than common practices and common usage would require.
- 5.36.5 CMAR shall order and schedule delivery of materials in reasonable time to avoid delays in construction. If an item is found to be unavailable, CMAR shall notify Owner immediately of recommended substitute(s) to permit Owner's selection of a suitable substitute (see Section 2.5).

5.37 CUTTING AND PATCHING

5.37.1 Structural Work: Do not cut and patch structural elements in a manner that would change their load-carrying capacity or load-deflection ratio. Obtain approval of the cutting and patching proposal before cutting and patching the following:

Structural elements:

- A. Foundation construction.
- B. Bearing and retaining walls.
- C. Structural steel.
- D. Lintels.
- E. Miscellaneous structural metals.
- F. Piping, ductwork, vessels, and equipment.

5.37.2 Operational Limitations: Do not cut and patch operating elements or related components in a manner that would result in reducing their capacity to perform as intended. Do not cut and patch operating elements or related components in a manner that would result in increased maintenance or decreased operational life or safety.

Obtain approval of the cutting and patching proposal before cutting and patching the following operating elements or safety related systems:

- A. Primary operational systems and equipment.
- B. Air or smoke barriers.
- C. Water, moisture, or vapor barriers.
- D. Membranes and flashings.
- E. Fire protection systems.
- F. Noise and vibration control elements and systems.
- G. Control systems.
- H. Communication systems.
- I. Electrical wiring systems.

5.37.3 Visual Requirements: Do not cut and patch construction exposed on the exterior or in occupied spaces in a manner that would, in the Architect's opinion, reduce the building's aesthetic qualities. Do not cut and patch construction in a manner that would result in visual evidence of cutting and patching. Remove and replace construction cut and patched areas in a visually unsatisfactory manner. If possible, retain the original Installer or fabricator to cut and patch the exposed Work.

If it is impossible to engage the original Installer or fabricator, engage another recognized experienced and specialized firm.

5.37.4 Existing Warranties: Replace, patch, and repair material and surfaces cut or damaged by methods and with materials in such a manner as not to void any warranties required or existing.

5.37.5 Materials, General: Use materials identical to existing materials. For exposed surfaces, use materials that visually match existing adjacent surfaces to the fullest extent possible if identical materials are unavailable or cannot be used. Use materials whose installed performance will equal or surpass that of existing materials.

5.37.6 Inspection: Examine surfaces to be cut and patched and conditions under which cutting and patching is to be performed before cutting. If unsafe or unsatisfactory conditions are encountered, take corrective action before proceeding.

Before proceeding, meet at the Project Site with parties involved in cutting and patching, including

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mechanical and electrical trades. Review areas of potential interference and conflict. Coordinate procedures and resolve potential conflicts before proceeding.

5.37.7 Cutting: Cut existing construction using methods least likely to damage elements retained or adjoining construction. Where possible, review proposed procedures with the original Installer; comply with the original Installer's recommendations.

- A. In general, where cutting, use hand or small power tools designed for sawing or grinding, not hammering and chopping. Cut holes and slots as small as possible, neatly to size required, and with minimum disturbance of adjacent surfaces. Temporarily cover openings when not in use.
- B. To avoid marring existing finished surfaces, cut or drill from the exposed or finished side into concealed surfaces.
- C. Cut through concrete and masonry using a cutting machine, such as a Carborundum saw or a diamond-core drill.
- D. Where services are required to be removed, relocated, or abandoned, by-pass utility services, such as pipe or conduit, before cutting. Cut-off pipe or conduit in walls or partitions to be removed. Cap, valve, or plug and seal the remaining portion of pipe or conduit to prevent entrance of moisture or other foreign matter after by-passing and cutting.

5.37.8 Patching: Patch with durable seams that are as invisible as possible. Comply with specified tolerances.

- A. Where feasible, inspect and test patched areas to demonstrate integrity of the installation.
- B. Restore exposed finishes of patched areas and extend finish restoration into retained adjoining construction in a manner that will eliminate evidence of patching and refinishing.
- C. Where removing walls or partitions extends from one finished area into another, patch and repair floor and wall surfaces in the new space. Provide an even surface of uniform color and appearance. Remove existing floor and wall coverings and replace with new materials, if necessary, to achieve uniform color and appearance.
 - a. Where patching occurs in a smooth painted surface, extend final paint coat over entire unbroken surface containing the patch after the area has received primer and second coat.
- D. Patch, repair, or rehang existing ceilings as necessary to provide an even-plane surface of uniform appearance.

5.37.9 Cleaning: Clean areas and spaces where cutting and patching are performed. Completely remove paint, mortar, oils, putty, and similar items. Thoroughly clean piping, conduit, and similar features before applying paint or other finishing materials. Restore damaged pipe covering to its original condition.

5.38 **FINAL CLEANING**

5.38.1 The CMAR is responsible for coordinating final cleaning of an area or piece of equipment where more than one Subcontractor is involved, and for the Project in general.

5.38.2 Environmental Requirements: Conduct cleaning and waste-disposal operations in compliance with local laws and ordinances. Comply fully with federal and local environmental and antipollution regulations. Do not dispose of volatile wastes, such as mineral spirits, oil, or paint thinner, in storm or sanitary drains. Burning or burying of debris, rubbish, or other waste material on the premises is not permitted.

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- 5.38.3 Cleaning Agents: Use cleaning materials and agents recommended by the manufacturer or fabricator of the surface to be cleaned. Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.
- 5.38.4 General: Provide final-cleaning operations when indicated. Employ experienced workers or professional cleaners for final cleaning. Clean each surface or unit of Work to the condition expected from a commercial building cleaning and maintenance program. Comply with manufacturer's instructions.

Complete the following cleaning operations before requesting inspection for certification of Substantial Completion for the entire Project or a portion of the Project.

1. Clean the Project Site, yard and grounds, in areas disturbed by construction activities, including landscape development areas, of rubbish, waste material, litter, and foreign substances.
2. Sweep paved areas broom clean. Rake grounds that are neither planted nor paved to a smooth, even-textured surface.
3. Remove petrochemical spills, stains, and other foreign deposits.
4. Remove tools, construction equipment, machinery, and surplus material from the site.
5. Remove snow and ice to provide safe access to the building.
6. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces. Restore reflective surfaces to their original condition.
7. Remove debris and surface dust from limited access spaces, including roofs, plenums, shafts, trenches, equipment vaults, utility access holes, attics, and similar spaces.
8. Broom clean concrete floors in unoccupied spaces.
9. Vacuum clean carpet and similar soft surfaces, removing debris and excess nap. Shampoo, if required.
10. Clean transparent materials, including mirrors and glass in doors and windows. Remove glazing compounds and other substances that are noticeable, vision-obscuring materials. Replace chipped or broken glass and other damaged transparent materials. Polish mirrors and glass, taking care not to scratch surfaces.
11. Remove labels that are not permanent labels.
12. Touch up and otherwise repair and restore marred, exposed finishes and surfaces. Replace finishes and surfaces that cannot be satisfactorily repaired or restored or that already show evidence of repair or restoration.
 - a. Do not paint over "UL" and similar labels, including mechanical and electrical nameplates.
13. Wipe surfaces of mechanical and electrical equipment, elevator equipment, and similar equipment. Remove excess lubrication, paint and mortar droppings, and other foreign substances.
14. Clean plumbing fixtures to a sanitary condition, free of stains, including stains resulting from water exposure.
15. Replace disposable air filters and clean permanent air filters. Clean exposed surfaces of diffusers, registers, and grills.
16. Clean ducts, blowers, and coils if units were operated without filters during construction.
17. Clean food-service equipment to a sanitary condition, ready and acceptable for its intended use.
18. Clean light fixtures, lamps, globes, and reflectors to function with full efficiency. Replace burned out bulbs and defective and noisy starters in fluorescent and mercury vapor fixtures.
19. Leave the Project clean and ready for occupancy.

5.39 DRUG AND ALCOHOL POLICY

- 5.39.1 In order to be eligible to perform work on Carson School District (CCSD) construction projects all contractors who will work on such projects must have in existence a Drug and Alcohol Policy. This requirement is a reasonable precaution to ensure a safe and drug-free environment on school construction projects as they may involve workers being in relatively close contact with students.

- 5.39.2 All contractors who perform work on CCSD projects, regardless of tier, shall have in place a Drug and Alcohol Policy applicable to all workers who will be employed on those projects. The Policy must meet the minimum requirements of the CCSD. Each contractor shall demonstrate compliance with this provision by submitting a certification under penalty of perjury that the Policy is in place, that it will be actively enforced, and that all workers who will be employed on CCSD projects will have undergone the pre-placement drug testing required by CCSD. The CCSD and/or the general contractor is empowered to review contractor records of enforcement of its Drug and Alcohol Policy at any time during the period following award of the contract up to and including completion of the project in order to determine whether the policy is in fact being enforced. The contractor shall forthwith deliver to the CCSD any and all records requested to determine compliance with this Drug and Alcohol Policy requirement. Failure to maintain or rigorously enforce the policy or to timely respond to CCSD demands for production of records relating to the Drug and Alcohol Policy may result in termination of the project contract at no cost to the CCSD.

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 (RFI) 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 of omissions of the CMAR or any Subcontractor, or any of its 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 that do not involve a change in the Contract Sum or the Contract Time.
- 6.1.12 The Architect shall attend 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 fourteen (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. Each Application for Payment shall be consistent with previous applications and payments as certified by the Architect and Owner's Project Manager and paid for by the Owner. 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 fifty percent (50%) complete, the Owner will discontinue withholding any additional retention beyond the 5% already withheld on the initial fifty percent (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 its 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 ten (10) 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 thirty (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 seven (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.
- F. Weekly Prevailing Wage Reports must have been submitted in a timely manner and in good standing with no outstanding issues.

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 its Surety from any obligations under the Contract, or under the Performance and Payment Bonds.

7.4 INTENTIONALLY OMITTED

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

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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, supervisor, 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 related to the Project.
- 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 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 its

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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 its 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.

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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.

CMAR shall furnish Owner's Risk Manager with certificates of insurance (ACORD form or equivalent) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by Owner's Risk Manager before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to:

Carson City School District/ Risk Manager
1402 West King Street
P.O. Box 603
Carson City, NV 89702

The project/contract number and project description shall be noted on the certificate of insurance at any time.

- 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 ten (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 sixty (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 forty-five (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 thirty (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 in writing.
- 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 NRS Section 616.291.
- 8.1.11 The insurance provided by the CMAR and its 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 its 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.

Deductibles and Self-Insured Retentions:
Any deductible or self-insured retention shall not exceed \$100,000.00 per occurrence, unless otherwise approved by the Owner in writing.
- 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 its 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 its 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 WORKERS COMPENSATION

- 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, its Subcontractors of every tier for those sources of liability which would be covered by the standard Workers Compensation Policy as prescribed in NRS 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 (NRS 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

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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).

8.2.3 Workers' Compensation and Employer's Liability Insurance is always required for any contractor who uses employees or subcontractors.

Nevada law allows the following to reject workers' compensation coverage if they do not use employees or subcontractors in the performance of work under the contract:

- Sole proprietors (NRS 616B.627 and NRS 617.210)
- Unpaid officers of quasi-public, private or nonprofit corporations (NRS 616B.624 and NRS 617.207)
- Unpaid managers of limited liability companies (NRS 616B.624 and NRS 617.207)
- An officer or manager of a corporation or limited liability company who owns the corporation or company (NRS 616B.624 and NRS 617.207)

If a contractor has rejected workers' compensation coverage under applicable Nevada law, the contractor must indicate the basis for the rejection of coverage and complete, sign and have notarized an Affidavit of Rejection of Coverage. The Affidavit must be completed, signed and notarized prior to performance of any work.

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 (3) 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 Owner, its trustees, administrators, managers, directors and officers, employees and agents shall be named as Additional Insured's under the General Liability using the applicable ISO endorsement CG 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.

NOTE: Endorsement Form must be included with the Certificate of Insurance.

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 one-hundred percent (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 one-hundred percent (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 NRS 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 one-hundred percent (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 one percent (1%) of the Contract Sum, whichever is greater, shall furnish Performance and Payment Bonds, each in the amount of one-hundred percent (100%) of the Subcontractor's bid (per NRS 339.025). The required bonds shall be procured and furnished to the Owner prior to the Subcontractor performing

Exhibit D

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

Work under this contract will not be authorized until the CMAR has provided evidence of insurance that meets the following requirements:

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 (MINIMUM LIMITS)

Each Occurrence	\$1,000,000
Products/Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
General Aggregate	\$2,000,000

Although Builders Risk insurance currently is not being provided by the CMAR, in the event Owner requests such insurance to be provided by CMAR, the extent, coverage, deductibles, etc., shall be discussed and agreed upon in writing.

8.7.2 Business Automobile Liability: (MINIMUM LIABILITY LIMITS)

Owned, Non-Owned, or Hired Automobiles \$1,000,000 per accident, combined single limit.

8.7.3 Workers Compensation/Employers Liability Insurance

Provide Workers Compensation/Employers Liability insurance as may be required by applicable federal or state laws.

8.7.4 Umbrella or Excess Liability Insurance:

Umbrella or excess liability insurance may be used to achieve the above minimum liability limits. The Umbrella or excess liability insurance policy must be endorsed to the Carson City School District as being “As Broad as Primary Policy”.

8.7.5 Cross-Liability:

All required liability policies shall provide cross-liability coverage.

8.7.6 General Insurance Requirements:

The Risk Manager may make exceptions (for higher or lower limits) if it is determined that the exposure is more or less than contemplated by these requirements.

8.7.7 Professional Liability (Errors and Omissions) and High Risk Activities:

The following contractors shall provide a certificate of insurance for Professional Liability: accountant, appraiser, architect, attorney, auditor, computer/software design, engineer, financial/investment consultant, medical professional, construction/project management and professional consultants/instructors.

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Minimum Limits:

Each Occurrence/Incident/Claim	\$ 1,000,000
Aggregate	\$ 2,000,000

The scope of work, size of contract and potential for loss may require higher limits. Exposures related to aircraft, boats, chartered buses, hazardous activities and professional services may require supplemental insurance. Contact the Risk Management office at (775) 283-2006, when there is a question about the nature of the activity and insurance requirements.

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