

DEC 13 2007

**CONSTRUCTION MANAGER AT RISK  
CONSTRUCTION CONTRACT**

**PROJECT TITLE: Chandler Heights Community Facilities Phase III - Offsite Improvements**  
**PROJECT NO: WW0401-403**

This CONTRACT is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Chandler, 215 E. Buffalo Street, Chandler, Arizona 85225, (hereinafter referred to as "CITY,") and M. A. Mortenson Company a Corporation of the State of Minnesota, licensed to business in the State of Arizona, (hereinafter referred to as "CM@RISK.")

CITY and CM@RISK, in consideration of the mutual covenants hereinafter set forth, agree as follows:

**1. ARTICLE ONE – CITY'S STANDARD CONSTRUCTION GENERAL CONDITIONS**

The City's General Conditions for Construction Contracts are incorporated herein by reference and the parties agree to be bound by all provisions therein. If any of the provisions of the conflict with the City's General Conditions for Construction Contracts, the parties are bound by the General Conditions. For the purposes of this Agreement, references to CONTRACTOR and to CM@RISK in said General Conditions refer to CM@RISK herein.

**2. ARTICLE TWO – DEFINITIONS**

Words used in this Agreement which are defined in CITY's General Conditions for Construction Contracts shall have the meaning stated therein. CM@RISK is the CONTRACTOR as defined in said General Conditions.

**2.1.** "Construction Allowance Items" means those items included in the GMP as allowances, which items shall be paid based on the actual cost to CM@RISK as described in the City's General Conditions for Construction Projects, Subsection 12.4., provided, however, no overhead or profit shall be included in the item as these are paid separately. The actual amounts paid for Allowance items shall be included in the Contract Price Subtotal by which the percentage for the Contractor's fee for overhead and profit is multiplied.

**2.2.** "Guaranteed Maximum Price" (GMP) means the maximum amount to be paid by the City to CM@RISK for the performance of the Work which shall constitute payment in full for the furnishing of all materials, equipment, appurtenances, labor, plant and tools necessary to provide a complete workmanlike, finished and satisfactory Project as described herein.

**3. ARTICLE THREE – CM@RISK – FIDUCIARY DUTY**

**3.1.** This is a contract for complete construction services in accordance with the Construction Manager at Risk method of delivery of construction services. CM@RISK has participated in the design process and been an active member of the Project Design Team and is fully aware of any issues and constraints involved in this construction project.

**3.2.** CM@RISK is the CITY's fiduciary responsible for undertaking all necessary action contemplated under the contract documents to construct the Project and ensure timely and quality completion of the project at a cost within the Guaranteed Maximum Price (GMP).

**3.3.** This project is an "open book" project. CITY is entitled to attend any and all meetings, and CITY shall have access to any and all records of CM@RISK or maintained by CM@RISK relating to the Project.

#### 4. ARTICLE FOUR – WORK

4.1. CM@RISK shall perform all work necessary to complete the Project described herein. The Project is known as and is hereinafter referred to as, CITY PROJECT NO. **WW0401-403** and is described as follows: construction of Chandler Heights Community Facilities Phase III – Offsite Improvements described in the Contract Documents and including the furnishing of all materials, equipment, appurtenances, labor, plant and tools necessary to provide a complete workmanlike, finished and satisfactory Project as described herein. Each item shall be completed with all necessary connections, testing, painting and related work accomplished to provide for the satisfactory use and/or operation of the item.

4.2. CM@RISK shall complete, provide and perform, or cause to be performed, all work in a proper and workmanlike manner, with appropriate consideration for public safety and convenience, consistent with the highest standards of professional and construction practices and in full compliance with, and as required by or pursuant to, this Contract, and with the greatest economy, efficiency, and expediency consistent therewith all as more particularly described in the Contract Documents.

#### 5. ARTICLE FIVE – CITY’S REPRESENTATIVE

5.1. CITY has appointed a CITY’S REPRESENTATIVE (sometimes referred to as CITY REP and sometimes known as the Owner’s Representative or Construction Manager) to manage this Project and to represent the CITY on the Project site. The CITY REP will assume all duties and responsibilities and will have all rights and authority assigned to the CITY REP in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents. Any references in the Contract Documents, or other pertinent documents, to the Engineer or Project Engineer shall mean the CITY REP.

5.2. The CITY’S Representative is Bob Fortier

#### 6. ARTICLE SIX - CONTRACT TIME

6.1. Completion time. The Work shall be substantially complete within **One Hundred Twenty (120)** days after the date when the Contract Times commence to run as provided in the Contract Documents, and all Work shall be finally completed and ready for final payment in accordance with the Contract Documents within **One Hundred Fifty (150)** days after the date when the Contract Times commences to run.

6.2. CPM Schedule. CM@RISK shall submit to CITY, on or before the effective date of the Construction Contract, a Construction Progress Schedule in Critical Path Method (CPM) format indicating the times for starting and completing the various stages of the Work, including any Milestones specified in this Contract and as more fully described in the General Conditions and other Contract Documents. Revisions/updates to the CPM schedule shall be submitted as often as necessary to accurately reflect plans for completion of the work, but no less frequently than required in the Contract Documents.

6.3. Time is of the Essence. All of the time limits for Milestones, if any, for Substantial Completion and for Final Completion and readiness for final payment as stated in the Contract Documents, are of the essence of the Contract.

6.4. No Waiver. Failure of CITY to insist upon the performance of any covenant or condition within the time periods specified herein, shall not constitute a waiver of CM@RISK’S duty to perform every other covenant or condition within the designated periods, unless a specific waiver is granted in writing for each such covenant or condition.

**6.5. Specific Waiver.** CITY'S agreement to waive a specific time provision or to extend the time for performance shall not constitute a waiver of any other time provisions contained in the Contract Documents. Failure of CM@RISK to complete performance promptly within the additional time authorized in the waiver or extension of time agreement shall constitute a material breach of this Contract entitling CITY to all the remedies set forth herein or provided by law.

**6.6. Material Breach.** Failure of CM@RISK to perform any covenant or condition contained in the Contract Documents within the time periods specified herein, shall constitute a material breach of this Agreement entitling CITY to terminate the Agreement unless CM@RISK applies for and receives an extension of time, in accordance with the procedures set forth in the Contract Documents.

**6.7. Written Extensions.** Failure of CITY to insist upon the performance of any covenant or condition within the time periods specified herein, or CITY's agreement to waive a specific time provision or to extend the time for performance shall not constitute a waiver of CM@RISK's duty to perform every other covenant or condition within the designated periods, unless a specific waiver is granted in writing for each such covenant or condition. Failure of CM@RISK to complete performance promptly within the additional time authorized in the waiver or extension of time agreement shall constitute a material breach of this Agreement entitling CITY to all the remedies set forth herein or provided by law.

## **7. ARTICLE SEVEN - LIQUIDATED AND SPECIAL DAMAGES**

### **7.1. Liquidated Damages:**

**7.1.1.** It is hereby agreed that the amounts per day set forth herein in paragraphs 7.1.2. are reasonable estimates of such damages, that said amounts do in fact bear a reasonable relationship to the damage that would be sustained by CITY, and CM@RISK agrees to pay such liquidated damages as herein provided.

**7.1.2.** CITY and CM@RISK recognize that time is of the essence of this Contract and that CITY will suffer financial loss, in addition to and apart from the costs described in Paragraph 7.2, if the Work and/or portions of the Work are not performed and completed within the times specified in Article Six, plus any extensions thereof allowed in accordance with the Contract Documents. CITY and CM@RISK also recognize the delays, expense, and difficulties involved in proving, through legal or arbitration proceedings, the actual loss suffered by CITY if the Work or portion of the Work is not completed on time. Accordingly, instead of requiring any such proof, CITY and CM@RISK agree that as liquidated damages for delay (but not as a penalty) CM@RISK shall pay CITY **Seven Hundred Ten** dollars and no cents (**\$710**) for each calendar day that expires after the time specified in Article Six for substantial completion, until the Work is substantially complete. After Substantial Completion, if CM@RISK shall neglect, refuse or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by CITY, CM@RISK shall pay CITY **Three Hundred Fifty Five** dollars and no cents (**\$355**) for each day that expires after the time specified in Article Six for final completion and readiness for final payment.

**7.2. Special Damages:** In addition to the amounts provided for liquidated damages, CM@RISK shall pay CITY the actual costs reasonably incurred by CITY for the CITY REP, the Project Designer and for engineering and inspection forces employed on the Work for each day that expires after the time specified in Article Six for Final Completion, including any extensions thereof made in accordance with the Contract Documents, until the Work is finally complete. The rate for inspection services for this contract is One Hundred Forty Eight dollars (\$148 per) hour. The rate for work by the Project Designer for this Contract is One Hundred Ninety dollars (\$190) per hour. The rate for work by the CITY REP is One Hundred Ninety dollars (\$190) per hour. Each of these hourly rates is calculated at time and one half for work required to be performed during other than normal business hours

7.3. CITY may withhold and deduct from any payment due to CM@RISK the amount of liquidated damages, special damages, and other costs, such as CM@RISK'S failed testing costs or damages to other CITY property, from any moneys due CM@RISK under the Contract.

## 8. ARTICLE EIGHT - CONTRACT PRICE

8.1. Guaranteed Maximum Price. The Guaranteed Maximum Price (GMP) is the total amount payable by the City to Contractor for the complete construction of the Project. CM@RISK represents, warrants and guarantees to CITY that the total maximum cost to be paid by CITY for CM@RISK's complete performance of this Contract, including, without limitation, Final Completion of all Work, all services of CM@RISK under this Contract, and all fees, compensation and reimbursements to CM@RISK, shall not exceed the total amount of **One Million Nine Hundred Fifty One Thousand Two Hundred and Six dollars (\$1,951,206)** ("Guaranteed Maximum Price"). Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the CM@RISK without reimbursement by CITY.

8.2. Guaranteed Maximum Price Components. The Guaranteed Maximum Price is comprised of the maximum amount payable by CITY for:

8.2.1. The Cost of the Work for full and complete performance of the Work to complete the Project as described herein. The items to be included in Cost of Work are those listed in Section 12.4 of the City's General Conditions for Construction Projects, except that no overhead and profit shall be included in the cost of work and shall be subtracted out of items listed in 12.4 A 5) c and the items listed in 12.4.A 5) d and h are not included in the cost of the work. The Cost of the Work will be referred to as the Work Item Direct Costs. No additional payments will be made for any work included in and/or necessary for completion of the Project unless specifically noted and excluded from the GMP in the assumptions and clarifications of the GMP. Progress payments will be made based on the schedule of values, however, City reserves the right to audit the books of CM@RISK, at any time, to determine actual costs and to modify the schedule of values to better reflect actual costs of the work.

8.2.2. A fee to CM@RISK for Overhead and Profit which has been estimated for inclusion in the GMP to be the amount of **One Hundred Thirty Five Thousand Three Hundred Seven dollars (\$135,307)** ("CM@RISK's Fee"). This fee shall be determined by multiplying the agreed upon percentages listed in the GMP by the Work Item Direct Costs less the amounts listed for Contractor's General Conditions. This CM@RISK's Fee shall be the CM@RISK's sole and exclusive compensation for all costs not included in Subsections 8.2.1 or 8.2.3 herein and for those costs and expenses listed in Subsection 12.4 B and 12.5 of the City's General Conditions for Construction Projects, and is inclusive of all overhead and profit arising out of or relating to the CM@RISK's Work.

8.2.3. Reimbursement to CM@RISK by CITY for the cost of insurance, bonds and taxes actually incurred by CM@RISK for this Project.

8.2.4. The Guaranteed Maximum Price is further broken down into line items and categories on Exhibit A attached hereto.

8.3. Quantities. The quantities set forth in the GMP are used only for the purpose of substantiating and demonstrating the basis for the GMP submitted by CM@RISK and are not a part of this Contract nor any guarantee by CITY. CM@RISK shall install and perform such quantities as necessary to complete the Project in accordance with the Project description and the Contractor agrees to perform all of the Work for costs plus fees and reimbursements described herein, not to exceed the Guaranteed Maximum Price, regardless of whether or not the items or units are decreased or increased.

**8.4. Cost Overruns.** CM@RISK shall be solely liable and responsible for and shall pay any and all costs, fees and other expenditures in excess of the Guaranteed Maximum Price for and/or relating to the Work, without entitlement to reimbursement from CITY. CM@RISK is not entitled to any fee, payment, compensation or reimbursement under this Agreement or relating to the Work or Project other than as expressly provided in this Article 8.

**8.5. Inferable Work (intent of the Project).** CM@RISK agrees that the scope of the Guaranteed Maximum Price includes Work not expressly indicated on the Contract Documents, but which is reasonably inferable from the Project description and/or Contract Documents, or consistent therewith, and such Work shall be performed by CM@RISK without any increase in the Guaranteed Maximum Price.

**8.6. Allowances.** The GMP includes some work items with the cost listed as an allowance. Allowances are to be used specifically for the areas of work defined in the Contract Documents; provided however,

**8.6.1.** If the designated work is completed for less than the allowance, the surplus will revert to the project construction contingency.

**8.6.2.** If the designated work requires more than the allowance, the additional funds will be allocated by the CITY with assistance from CM@RISK within the GMP by transferring excess from other allowance items, value engineering or using less expensive means, methods or components or as a last resort reducing the scope of the Project.

**8.6.3.** A running balance sheet will be kept concerning the various allowances so that monies can be floated among the allowances to maintain the integrity of the overall GMP. Thus, savings in one area of work will be available to offset overruns in another area of work specifically associated with these allowances.

**8.7. Construction Contingency.** This GMP includes a dollar amount listed as a Construction Contingency which shall be readily available for increased costs for subcontractors, material and equipment subject to prior approval of City, which approval will not be withheld unreasonably. The Construction Contingency may also be used, at the discretion of CITY, to reimburse CM@RISK for unexpected costs due to (a) scope gaps between trade subcontractors; (b) contract default by trade subcontractors; (c) unforeseen field conditions but only as defined in Subsection 4.3 of the City's General Conditions for Construction Projects; (d) work completed to meet the intent of the design, but which was not indicated on the plans; (e) costs overruns not covered by allowances; (f) costs of corrective work not provided for elsewhere and (g) implementation of any Recovery Plan. Cost for which CM@RISK desires to be paid from the Construction Contingency shall be documented by CM@RISK on a time and materials basis and are subject to verification by the CITY. If agreed to by CITY, a "Use of Contingency" form shall be executed by both parties authorizing the actual cost of the work to be paid and included in the Work Item Direct Costs. The Construction Contingency is not allocated to any particular item of the Project but may be used for any portion of the work as determined above. Any amount not used in the Construction Contingency shall belong to the CITY and shall reduce the GMP.

**8.8. Owner's Contingency.** This GMP also includes a dollar amount listed as an Owner's Contingency which may be used only by the CITY (owner department) for upgrades and changes in scope or other changes not already included within the intent of the Project Program. CITY shall provide CM@RISK with a Work Change Directive authorizing CM@RISK to perform the additional work and to transfer funds from the Owner's Contingency to the Work Item Direct Costs category to be paid with such direct costs. These additional costs shall be in amount mutually agreed upon by CM@RISK and CITY or shall be documented by CM@RISK on a time and materials basis and are subject to verification by the CITY. Any amount not used in the Owner's Contingency shall belong to the CITY and shall reduce the GMP.

**8.9. Reduction of the Work.** If CITY elects to have a party other than CM@RISK, or one of CM@RISK's Subcontractors, perform the Work related to an Allowance Item or other portion of the Work, or otherwise eliminates or reduces the scope of an Allowance Item or other portion of the Work, the Guaranteed Maximum Price shall be reduced by the Allowance Amount for any such Allowance Item or the budgeted amount in the Guaranteed Maximum Price for such item, and such amount shall be excluded from the Work Item Direct Costs upon which the CM@RISK's Fee is calculated.

**8.10. Taxes.** CM@RISK shall pay all existing and future applicable Federal, State and local sales, consumer, use and similar taxes, whether direct or indirect, relating to, or incurred in connection with the performance of the Work. In the event CM@RISK is obligated to pay any new or increased taxes or duties arising after the date hereof, the amount of such new or increased taxes shall increase the Guaranteed Maximum Price pursuant to the Change Order provisions of this Agreement as set forth in the General Conditions. In the event CM@RISK receives the benefit of a tax exemption or tax reduction taking effect after the date hereof, the amount of such exemption or reduction shall decrease the Guaranteed Maximum Price pursuant to the Change Order provisions of this Agreement.

## **9. ARTICLE NINE - PAYMENT PROCEDURES**

**9.1. Schedule of Values.** Before the first application for Payment, CM@RISK shall submit to CITY, and the parties shall agree upon, a Schedule of Values, setting forth the various portions of the Work, and the costs listed in the Guaranteed Maximum Price allocated to each such portion of the Work. The Schedule shall be used as a basis for reviewing the contractor's applications for payment and as a basis for progress payments. The Schedule of values shall be updated as actual costs become known to accurately reflect the cost of the work. City reserves the right to audit the books of CM@RISK, at any time, to determine actual costs and to modify the schedule of values to better reflect actual costs of the work. At Project completion and prior to final payment the parties will reconcile the schedule of values with the actual costs in accordance with provisions in Article Eight herein to determine the final payment.

**9.2. Applications for Payment.** CM@RISK shall submit completed Applications for Payment in accordance with the Contract Documents. No payment application will be considered complete unless it is accompanied by an updated Construction Progress Schedule and a certification that the on-site, red lined, as-built drawings are up to date. Completed Applications for Payment will be processed by CITY REP as provided in the Contract Documents.

**9.3. Waiver of Claims at Final Payment.** Acceptance of Final Payment by CM@RISK shall constitute a waiver of affirmative claims by CM@RISK except those previously made in writing and identified as unsettled at the time of Final Payment.

**9.4. Retention.** Prior to Substantial Completion, progress payments will be made in the amount equal to the percentages indicated below, but in each case less the aggregate of payments previously made and less such amounts as CITY'S REPRESENTATIVE may determine, in accordance with the General Conditions or other provisions of the Contract Documents.

**9.4.1.** To insure the proper performance of the contract CITY shall retain ten per cent (10%) of the amount of each approved progress payment until the Work is fifty percent (50%) complete.

**9.4.2.** When the Work is fifty percent (50%) complete as measured by the schedule of values and approved by CITY REP, one-half of the amount retained under the ten percent (10%) retention provision, shall be paid to CM@RISK, provided CM@RISK is on schedule for project completion and is making satisfactory progress on the Work and there is no specific cause or claim requiring a greater amount to be retained. After fifty percent (50%) completion, CITY shall retain five percent (5%) of each approved progress payment providing CM@RISK is on schedule for project completion, is making satisfactory

progress on the Work, except that if at any time CITY determines satisfactory progress is not being made, ten percent (10%) retention shall be reinstated for all progress payments made under the contract subsequent to such determination

**9.4.3.** In lieu of retention, CITY will, at the option of CM@RISK, accept security as provided in ARS § 34-221.

**9.5.** CITY may withhold and deduct from each progress payment and final payment an amount equal to CITY'S estimate of the liquidated damages then due, or that would become due based on CITY'S estimate of late completion of the Work, provided CM@RISK fails to submit and implement a written schedule recovery plan describing the cause of schedule slippage or delayed progress and the actions proposed and taken to recover schedule slippage.

**9.6.** Final Payment: Upon final completion and acceptance of the Work and upon compliance with all other terms and conditions of the Contract Documents, CITY shall pay the remainder of the Contract Price, including retainage withheld, less such deductions as may be withheld to cover claims in accordance with state law and the Contract Documents, and to cover liquidated and special damages and other charges owing to CITY.

## **10. ARTICLE TEN – CHANGES TO CONTRACT GMP**

**10.1. Changes to Scope.** CITY reserves the right to change the scope of the Project by adding or deducting work to be performed by CM@RISK under this Contract. Increases to the scope of work to be paid for out of the Owner's Contingency shall be documented by a Work Change Directive. If deductions from the work and additions after the Owner's Contingency has been exhausted shall be documented by a Change Order executed by both parties.

## **11. ARTICLE ELEVEN - CM@RISK'S REPRESENTATIONS**

As part of the inducement for CITY to enter into this Contract, CM@RISK makes the following representations:

**11.1.** CM@RISK was a member of the Design Team for this Project and participated in and provided recommendations concerning the Contract Documents and Project Design.

**11.2.** CM@RISK has examined and carefully studied the Contract Documents (including any Addenda) and other related data identified in the Bidding Documents, including "technical data" and all federal, state and local laws, ordinances, standards, rules and regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

**11.3.** CM@RISK has obtained and carefully studied (or assumes responsibility for having done so) the reports of investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) and the drawings of physical conditions in or relating to existing surface or subsurface structures, at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing all the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CM@RISK and safety precautions and programs incident thereto. The reports and drawings available to CITY are listed in the Supplementary Conditions. CM@RISK acknowledges that such reports and drawings are not Contract Documents and may not be complete for CM@RISK's purposes. CM@RISK acknowledges that CITY and CITY'S REP do not assume responsibility for the accuracy or completeness of information and data shown or indicated therein with respect to Underground Facilities at or contiguous to the site. CM@RISK acknowledges full responsibility for locating and resolving any conflicts with any Underground Facilities.

**11.4.** CM@RISK has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

**11.5.** CM@RISK has made or caused to be made examinations, investigations, tests, studies and related data as he deems necessary, and CM@RISK does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

**11.6.** CM@RISK has correlated the information known to CM@RISK, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies, reports, and data, with the terms and conditions of the Contract Documents.

**11.7.** CM@RISK has given CITY REP written notice of all conflicts, errors, or discrepancies that CM@RISK has discovered in the Contract Documents, and the written resolution thereof by CITY is acceptable to CM@RISK, and the Contract Documents are sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work. CM@RISK assumes full responsibility and liability for any conflicts, errors or discrepancies in the Contract Documents, including, but not limited to, the specifications, design and engineering for the project, for which written notice has not been provided and which a reasonable Contractor, participating in the Design Process as the Construction Manager at Risk would have discovered.

## **12. ARTICLE TWELVE – CONTRACT DOCUMENTS, DRAWINGS AND ADDENDA**

The Contract Documents which comprise the entire agreement between CITY and CM@RISK concerning the Work consist of those listed below. There are no Contract Documents other than the following:

**12.1.** This Contract

**12.2.** The project Design, Engineering and Specifications entitled: Chandler Heights Community Facilities Phase III - Offsite Improvements Project No. WW0401-403

**12.3.** The Drawings, comprised of a set entitled: Chandler Heights Community Facilities Phase III - Offsite Improvements Project No. WW0401-403

**12.4.** Performance Bond and Payment Bond.

**12.5.** The approved Construction Schedule (CPM).

**12.6.** General Conditions (pages 1 to 55, inclusive).

**12.7.** Notice to Proceed.

**12.8.** Approved Construction GMP and attached Assumptions

**12.9.** CM@RISK'S Schedule of Manufacturers and Suppliers of Major Equipment and Material Items.

**12.10.** The following which may be delivered or issued after the Effective Date of this Contract and are not attached hereto:

- A. Written Amendments;
- B. Work Change Directives;
- C. Change Order(s).

### 13. ARTICLE THIRTEEN – INSURANCE

#### 13.1. General Requirements:

- A. CM@RISK, at its own expense, shall purchase and maintain insurance of the types and amounts required in this section, with companies possessing a current A.M. Best, Inc. rating of B++6, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY.
- B. Policies written on a "Claims made" basis are not acceptable.
- C. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of CITY, constitute a material breach of this Agreement and may result in termination of this contract.
- D. If any of the insurance policies are not renewed prior to expiration, payments to the CM@RISK may be withheld until these requirements have been met, or at the option of the City, the City may pay the Renewal Premium and withhold such payments from any monies due the CM@RISK.
- E. All insurance policies, except Workers' Compensation and Professional Liability required by this Agreement, and self-insured retention or deductible portions, shall name, to the fullest extent permitted by law for claims arising out of the performance of this contract, the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
- F. CM@RISK's insurance shall be primary insurance over any insurance available to the CITY and as to any claims resulting from this contract, it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
- G. The insurance policies, except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against CITY, its agents, representatives, officers, directors, officials and employees for any claims arising out of CM@RISK's acts, errors, mistakes, omissions, work or service.
- H. The insurance policies may provide coverage which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall be assumed by and be for the account of, and at the sole risk of CM@RISK. CM@RISK shall be solely responsible for the deductible and/or self-insured retention. The amounts of any self-insured retentions shall be noted on the Certificate of Insurance. CITY, at its option, may require CM@RISK to secure payment of such deductibles or self-insured retentions by a Surety Bond or an irrevocable and unconditional letter of credit. Self-insured retentions (SIR) in excess of \$25,000 will not be accepted except with permission of the Management Services Director/designee.
- I. All policies and certificates shall contain an endorsement providing that the coverage afforded under such policies shall not be reduced, canceled or allowed to expire until at least thirty (30) days prior written notice has been given to CITY.
- J. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the CM@RISK with reasonable promptness in accordance with the CM@RISK's information and belief.
- K. In the event that claims in excess of the insured amounts provided herein, are filed by reason of any operations under this contract, the amount of excess of such claims, or any portion thereof, may be

withheld from payment due or to become due the CM@RISK until such time as the CM@RISK shall furnish such additional security covering such claims as may be determined by the CITY.

### **13.2. Proof of Insurance - Certificates of Insurance**

- A. Prior to commencing work or services under this Agreement, CM@RISK shall furnish to CITY Certificates of Insurance, issued by CM@RISK's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect and obtain from the City's Risk Management Division approval of such Certificates.
- B. If a policy does expire during the life of this Agreement, a renewal certificate must be sent to the City of Chandler five (5) days prior to the expiration date.
- C. All Certificates of Insurance shall identify the policies in effect on behalf of CM@RISK, their policy period(s), and limits of liability. Each Certificate shall include the job site and project number and title. Coverage shown on the Certificate of Insurance must coincide with the requirements in the text of the contract documents. Information required to be on the certificate of Insurance may be typed on the reverse of the Certificate and countersigned by an authorized representative of the insurance company.
- D. CITY reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. CITY shall not be obligated, however, to review same or to advise CM@RISK of any deficiencies in such policies and endorsements, and such receipt shall not relieve CM@RISK from, or be deemed a waiver of CITY's right to insist on, strict fulfillment of CM@RISK's obligations under this Agreement.

### **13.3. Required Coverage**

Such insurance shall protect CM@RISK from claims set forth below which may arise out of or result from the operations of CM@RISK under this Contract and for which CM@RISK may be legally liable, whether such operations be by the CM@RISK or by a Sub-consultant or subCM@RISK or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Coverage under the policy will be at least as broad as Insurance Services Office, Inc., policy form CG00011093 or equivalent thereof, including but not limited to severability of interest and waiver of subrogation clauses.

- A. Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- B. Claims for damages because of bodily injury, occupational sickness or disease, or death of the CM@RISK's employees;
- C. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the CM@RISK's employees;
- D. Claims for damages insured by usual personal injury liability coverage;
- E. Claims for damages, other than to Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- F. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; Coverage will be at least as broad as Insurance Service Office, Inc., coverage Code "I" "any auto" policy form CA00011293 or equivalent thereof.

- G. Claims for bodily injury or property damage arising out of completed operations;
- H. Claims involving contractual liability insurance applicable to the CM@RISK's obligations under the Indemnification Agreement;
- I. Claims for injury or damages in connection with one's professional services;
- J. Claims involving construction projects while they are in progress. Such insurance shall include coverage for loading and off loading hazards. If any hazardous material, as defined by any local, state or federal authorities are to be transported, MCS 90 endorsement shall be included;

**13.3.1. Commercial General Liability - Minimum Coverage Limits:**

The Commercial General Liability insurance required herein shall be written for not less than \$1,000,000 limits of liability or ten percent (10%) of the Contract Price, whichever coverage is greater. Any combination between general liability and excess general liability alone amounting to a minimum of \$1,000,000 per occurrence (or 10% per occurrence) and an aggregate of \$2,000,000 (or 20% whichever is greater) in coverage will be acceptable. The Commercial General Liability additional insured endorsement shall be as broad as the Insurance Services, Inc's (ISO) Additional Insured, Form B, CG 20101001, and shall include coverage for CM@RISK's operations and products, and completed operations.

**13.3.2. General Liability - Minimum Coverage Limits**

- A. The General Liability insurance required herein, including, Comprehensive Form, Premises-Operations, Explosion and Collapse, Underground Hazard, Products/Completed Operations, Contractual Insurance, Broad Form Property Damage, Independent CM@RISKs, and Personal Injury shall be written for Bodily Injury and Property Damage Combined shall be written for not less than \$1,000,000 or 10% of the contract cost and with a \$2,000,000 aggregate.
- B. Automobile Liability: CM@RISK shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any owned, hired, and non-owned vehicles assigned to or used in performance of the CM@RISK's work. Coverage shall be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof). Such insurance shall include coverage for loading and off loading hazards if hazardous substances, materials or wastes are to be transported and a MCS 90 endorsement shall be included with coverage limits of \$5,000,000 per accident for bodily injury and property damage.

**13.3.3. Worker's Compensation and Employer's Liability:**

CM@RISK shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over CM@RISK's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease coverage for each employee, and \$1,000,000 disease policy limit. In case any work is subcontracted, CM@RISK will require the Subcontractor to provide Workers' Compensation and Employer's Liability to at least the same extent as required of CM@RISK.

**13.3.4. Builders' Risk (Property) Insurance:**

CM@RISK shall purchase and maintain in force on a replacement cost basis, Builders' Risk insurance in the amount of the initial Contract Amount as well as subsequent modifications thereto for the entire work at the site. Such Builders' Risk insurance shall be maintained until final payment has been made or until no person or entity other than the City of Chandler has an insurable interest in the property required to be covered,

whichever is earlier. The insurance shall, at a minimum, cover the perils insured under the Insurance Services Office, Inc. (ISO) special causes of loss form CP1030, and shall be endorsed as needed to provide full coverage for loss or damage from collapse, including collapse resulting from design error. CM@RISK shall provide and maintain Builder's Risk insurance covering construction activities including but not limited to fire, extended coverage, vandalism and malicious mischief, theft, collapse, flood, with the coverage limit of not less than the contract value, less site preparation.

#### **13.3.5. Construction Insurance:**

CM@RISK shall provide and maintain construction insurance coverage listed below until the project is accepted by the City of Chandler which shall be written for 100% of the completed value covering the City of Chandler as the insured.

- A. For construction of new buildings: "Builders Risk Form" - all risk forms with an extension of buildings coverage to include personal property of others in the care, custody and control of the insured.
- B. For additions or repairs of existing buildings or structures: "Builders Risk Completed Value Form", covering CM@RISKs' interest in improvements, repairs, additions, alteration to completed buildings, and subject the coverages described in item A above.
- C. For construction of bridges, viaducts or similar structures: "Bridge Builders Risk Form", All Risk Contract.

#### **14. ARTICLE FOURTEEN - INDEMNIFICATION**

To the fullest extent permitted by law, CM@RISK shall defend, indemnify and hold harmless the City of Chandler, its agents, representatives, officers, directors, officials and employees, individually and collectively, (hereinafter CoC) from and against all losses, claims, damages, suits, actions, payments, judgments, demands, expenses and costs, including, but not limited to, attorney's fees, defense costs, court costs, and the cost of appellate proceedings, or actions of any kind and nature, wages or overtime compensation due employees in rendering service under this Contract and whether to any person or property, including natural resources and any claim made under the Fair Labor Standards Act or any other federal or state laws, related to, arising out of, or alleged to have resulted from acts, errors, mistakes, omissions, work or services of CM@RISK, its employees, agents, or any tier of subcontractors in the performance of this Contract or of any other person for whose acts, errors, mistakes or omissions CM@RISK may be legally liable, and from any claims or amounts arising or recovered under Workers' Compensation laws or any other law, bylaw, or ordinance, order or decree or any failure on the part of CM@RISK, its agents, employees or representatives to fulfill CM@RISK'S obligations under this Contract. This indemnity shall not be construed to include losses, claims, damages, suits, or actions of any kind and nature, to the extent arising from or alleged to have resulted from the errors, mistakes or omissions of CoC, (other than CM@RISK, its employees, agents, or any tier of subcontractors). The provisions of this paragraph shall survive termination of this Contract.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

## **15. ARTICLE FIFTEEN - MISCELLANEOUS**

**15.1.** Terms used in this Contract which are defined in the General Conditions, shall have the meanings indicated in the General Conditions.

**15.2.** The failure of any party to enforce against another party any provision of this Contract shall not constitute a waiver of that party's right to enforce such a provision at a later time, and shall not serve to vary the terms of this Contract.

**15.3.** CITY and CM@RISK each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in these Contract Documents.

## **16. ARTICLE SIXTEEN – CONFLICT OF INTEREST**

CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Contract.

Pursuant to A.R.S. Section 38-511, the City may cancel this contract within three (3) years after its execution without penalty or further obligation by the City if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City of Chandler is, at any time while the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

## **17. ARTICLE SEVENTEEN - TERMINATION WITHOUT CAUSE**

CITY may at any time and for any or no reason, at its convenience, terminate this Agreement or any part of the services to be rendered pursuant thereto by ten (10) day written notice to CONTRACTOR specifying the termination date. Immediately after receiving such notice, CONTRACTOR shall discontinue advancing the work under this Agreement and shall deliver to CITY all drawings, notes, calculations, sketches and other materials entirely or partially completed, together with all unused materials supplied by CITY.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day and year first written above.

This Contract will be effective on \_\_\_\_\_ of \_\_\_\_\_, 200\_\_\_\_\_ .

CITY OF CHANDLER

CONSTRUCTION MANAGER/AT RISK

\_\_\_\_\_  
MAYOR Date

By:   
\_\_\_\_\_  
Signature  
Robert Aordin  
\_\_\_\_\_  
Printed or Typed

ADDRESS FOR NOTICE

ADDRESS FOR NOTICE

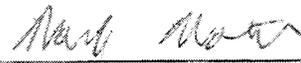
City of Chandler  
P.O. Box 4008, Mail Stop 407  
Chandler, AZ 85244-4008  
480-782-3307

M. A. Mortenson Company  
\_\_\_\_\_  
3100 W. Ray Road, Ste. 101  
\_\_\_\_\_  
Chandler, AZ 85226  
\_\_\_\_\_  
Phone: (480) 839-5944  
\_\_\_\_\_

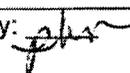
ATTEST:

ATTEST: If Corporation

\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney by: 

SEAL

**EXHIBIT A  
GMP**

		<b>Total Cost</b>
<b>Surveying</b>		\$47,940
<b>Earthwork/Paving/Concrete</b>		\$754,928
<b>Traffic Control Allowance</b>		\$100,000
<b>Site Utilities</b>		\$572,431
<b>Electrical</b>		\$122,385
<b>Testing and Inspection Allowance</b>		\$10,000
<b>Subtotal Direct Construction Cost</b>		\$1,607,684
<b>Construction Contingency</b>	5.000%	\$80,384
	<b>Subtotal</b>	<b>\$1,688,068</b>
<b>Contractor's Liability Insurances</b>	0.823%	\$16,058
<b>Builder's Risk Insurances</b>	0.213%	\$4,156
<b>Payment/Performance Bond</b>	0.690%	\$13,463
	<b>Subtotal</b>	<b>\$1,721,746</b>
<b>Contactors Overhead</b>	3.500%	\$60,261
<b>Contractor's Fee</b>	4.000%	\$75,046
	<b>Total Construction Cost before tax</b>	<b>\$1,857,053</b>
<b>Arizona State Privilege Tax (65% contract value)</b>	7.800%	\$94,153
	<b>Total Construction Cost with tax</b>	<b>\$1,951,206</b>

DESCRIPTION	QTY	U/M	UNIT COST	TOTAL COST
<b>SURVEYING</b>	1	LS	\$ 47,940.00	\$47,940.00
<b>INCLUSIONS</b>				
CERTIFY BUILDING PAD		INCL		
VERIFY HORIZONTAL AND VERTICAL LOCATIONS		INCL		
OFFSETS TO MAIN BUILDING		INCL		
OFFSETS TO GRID LINES		INCL		
OFFSETS FOR BACK OF CURB @ 25' INTERVALS		INCL		
UTILITIES - 25' INTERVALS AND ALL CHANGE OF DIRECTION		INCL		
ELECTRICAL LIGHT POLES		INCL		
ELECTRICAL MAIN SERVICE - 25' INTERVALS 10' OFFSETS		INCL		
BLUE TOPS FINISH GRADE 25' GRID		INCL		
BLUE TOPS PARKING LOT 25' GRID		INCL		
BLUE TOPS SITE FINISH GRADE 50' GRID		INCL		
LINE AND GRADE FOR SCREEN WALLS AND TRASH ENCLOSURE		INCL		
STAKE CENTERLINE FOR DRIVEWAYS, SIDEWALK RAMPS, AND SCUPPERS		INCL		
<b>SUBTOTAL</b>	1	LS	\$ 47,940.00	\$47,940.00
<b>DESCRIPTION</b>	<b>QTY</b>	<b>U/M</b>	<b>UNIT COST</b>	<b>TOTAL COST</b>
<b>EARTHWORK/PAVING/SITE CONCRETE</b>				
<b>INCLUSIONS</b>				
<b>EARTHWORK/DEMO</b>				
<b>SITE PREP AND DEMO</b>				
SITE CLEARING	11341	SF	\$ 0.16	\$18,566.53
	8			
SAW CUT ASPHALT	2484	LF	\$ 3.82	\$9,489.87
REMOVE EXISTING ASPHALT & HAUL OFF - NOT SHOWN	5294	SY	\$ 4.91	\$26,003.60
[01] REMOVE EXISTING CONCRETE LINED IRRIGATION DITCH 8' WIDE (INCLUDES BACKFILL)	2731	LF	\$ 9.82	\$26,828.80
[02] REMOVE EXISTING STRUCTURE (HEADWALL, MANHOLE, AND SALVAGE GRATE, FLAP, GATE, BOLTHS ETC) AND BACKFILL W/ NATIVE SOIL	4	EA	\$ 709.50	\$2,837.98
[03] REMOVE EXISTING IRRIGATION PIPE AND BACKFILL W/ NATIVE SOIL	87	LF	\$ 9.82	\$854.67
[33] SAW CUT ASPHALT	288	LF	\$ 3.82	\$1,100.28
[33] REMOVE EXISTING ASPHALT & HAUL OFF	52	SY	\$ 13.10	\$681.12
<b>EARTHWORK</b>				
STREET GRADING (CUT TO FILL 2' AVG) WITHIN 1/10' (12,602 SY)	8400	SY	\$ 8.19	\$68,766.60
SUB GRADE FILL W/ IMPORTED SOIL	4200	CY	\$ 9.28	\$38,967.60
SCARIFY AND RECOMPACT 12" SUBGRADE	4200	SY	\$ 4.91	\$20,629.98
DISPOSAL OF AND STOCKPILING OF EXCESS MARERIALS		INCL		
STREET CUT PERMITS		INCL		
EXCAVATION AND DIRT MOVING PERMIT & DUST CONTROL		INCL		
BACKFILL EXISTING DITCH W/ IMPORTED SOIL (2,731 LF)	4552	CY	\$ 9.28	\$42,233.46
SOFTSPOTS IN ROAD (ALLOWANCE)	1	LS	\$ 25,000.00	\$25,000.00
PREMIUM FOR ROAD CLOSURES	96	HRS	\$ 40.00	\$3,840.00
<b>PAVING/BASE</b>				
1 1/2" A12.5/2 1/2" A19/10" ABC PAVEMENT	9304	SY	\$ 27.29	\$253,890.34
[61] TEMP 2" A.C. / 7" ABC PAVEMENT	3129	SY	\$ 24.01	\$75,138.87
[63] 2" AC / 6" ABC	169	SY	\$ 21.83	\$3,689.39
WIDEN ROAD WITH 2 1/2" A.C. / 10" ABC PAVEMENT - NOT SHOWN	4017	SY	\$ 27.29	\$109,617.10
[33] PATCH BACK ASPHALT PAVEMENT	52	SY	\$ 43.66	\$2,270.39
TEMPORARY ROAD (600 LF 30 FT WIDE)	2000	SY	\$ 8.00	\$16,000.00
<b>PRESERVATIVE SEAL</b>				
<b>TEMP EROSION &amp; SEDIMENT CONTROL</b>				
EROSION AND SEDIMENT CONTROL MEASURES	1	LS	\$ 9,278.03	\$9,278.03
<b>PAVEMENT MARKINGS</b>				
8" SOLID WHITE (1,394 LF)	929	LF	\$ 1.31	\$1,216.80
6" SOLID WHITE (2,706 LF)	1353	LF	\$ 1.31	\$1,772.16
4" DOUBLE YELLOW (2,126 LF)	708	LF	\$ 1.31	\$927.34
6", 2'6" BROKEN WHITE (483 LF)	241	LF	\$ 1.09	\$263.05
12" SOLID WHITE @ 45° (641 LF)	641	LF	\$ 1.31	\$839.58
LEFT TURN ARROW MARKING	6	EA	\$ 49.12	\$294.71
WATER BLASTING CONFLICTING PAVEMENT MARKING	1	LS	\$ 545.77	\$545.77
ADJUST STRIPING AS NECESSARY	1	LS	\$ 1,091.53	\$1,091.53
<b>CURB AND GUTTER</b>				
[44] VALLEY GUTTER & APPRON	2479	SF	\$ 7.10	\$17,588.51

[42] 6" VERTICAL CURB AND GUTTER	3437	LF	\$ 13.64	\$46,895.12
6" VERTICAL CURB - MEDIAN	1988	LF	\$ 13.64	\$27,124.67
[61] SCUPPER	4	EA	\$ 9,278.03	\$37,112.11
<b>Earthwork/Demo</b>				
<b>SIDEWALK</b>				
[46] SIDEWALK RAMP W/ DETECTABLE RAMP WITH WARNING DEVICE	1633	SF	\$ 7.10	\$11,586.14
UNIT PAVERS				
PAVERS - MERIDIAN ENDS	1111	SF	\$ 8.73	\$9,701.59
<b>SITE FURNISHINGS</b>				
[39] SAFETY POSTS PER MAG 1140	4	EA	\$ 1,364.42	\$5,457.66
<b>STREET SIGNS</b>				
R8-3A SIGN (24"X24") - LIGHT POLE MOUNTED	4	EA	\$ 311.09	\$1,244.35
R3-5R SIGN (24"X30") - LIGHT POLE MOUNTED	1	EA	\$ 311.09	\$311.09
R2-1 (24"X30", 45 MPH) - LIGHT POLE MOUNTED	2	EA	\$ 311.09	\$622.17
R1-1 SIGN (30"X30") - W/ POLE AND CONCRETE FOOTING	2	EA	\$ 600.34	\$1,200.69
R6-2 SIGN (36"X12") W/ POLE AND CONCRETE FOOTING	1	EA	\$ 600.34	\$600.34
R3-5R SIGN (24"X30") W/ POLE AND CONCRETE FOOTING	2	EA	\$ 600.34	\$1,200.69
OMI -3 (YELLOW) SIGN 18"X18" W/ POLE AND CONCRETE FOOTING	2	EA	\$ 600.34	\$1,200.69
TYPE D RAISED PAVEMENT MARKERS (25' O.C.)	210	EA	\$ 19.65	\$4,126.00
TYPE D RAISED PAVEMENT MARKERS (40' O.C.)	85	EA	\$ 19.65	\$1,670.05
REMOVE AND REINSTALL EXISTING SIGNS W/ ABOVE		INCL		
ADJUST SIGNING AS NECESSARY - ALLOWANCE	1	LS	\$ 2,728.83	\$2,728.83
SALVAGE CONFLICT SIGNS (PERMANENTE REMOVED) AND RETURN TO CITY W/ ABOVE		INCL		
DUST CONTROL/WATER TRUCKS (4 HRS/DAY FOR 1.5 MO)	33	DAY	\$ 236.00	\$7,788.00
REMOVE BARRICADES/POLICE OFFICER/ETC.	1	LS	\$(100,000.00)	-\$100,000.00
<b>SUBTOTAL</b>	<b>1</b>	<b>LS</b>	<b>\$ 754,928.00</b>	<b>\$754,928.00</b>
<b>DESCRIPTION</b>	<b>QTY</b>	<b>U/M</b>	<b>UNIT COST</b>	<b>TOTAL COST</b>
<b>TRAFFIC CONTROL ALLOWANCE</b>				
DUST CONTROL (4 HRS PER DAY FOR ONE MONTH)	22	DAY	\$240.00	\$5,280.00
MULTIPLE MOBILIZATIONS WHAT IS THIS FOR?	2	EA	\$2,500.00	\$5,000.00
RAILS/BARRICADES TRENCHING	2500	LF	\$5.58	\$13,950.00
<b>SUBTOTAL</b>	<b>1</b>	<b>LS</b>	<b>\$100,000.00</b>	<b>\$100,000.00</b>
<b>DESCRIPTION</b>	<b>QTY</b>	<b>U/M</b>	<b>UNIT COST</b>	<b>TOTAL COST</b>
<b>SITE UTILITIES</b>				
<b>INCLUSIONS</b>				
<b>WATER DISTRIBUTION SYSTEM</b>				
[37] MANHOLE PROTECTION (2EA) 2X4s	12	EA	40.13	\$481.56
[38] PROTECT PRIVATE IRRIGATION DITCH	75	LF	13.74	\$1,030.54
[21] HEADWALL W/TRASHRACK	1	EA	14,735.69	\$14,735.69
[30] NEW RWCD DITCH PER DET 6 / SHEET 3 (INCLUDES EXCAVATION)	93	LF	147.36	\$13,704.19
[22] HEADWALL PER DET 8 / SHEET 4	1	EA	14,735.69	\$14,735.69
[36] 12" IRRIGATION VALVE	1	EA	4,911.90	\$4,911.90
[07] 24" WATER VALVE, BOX AND COVER PER SECTION IN PLAN 11 OF 17	1	EA	9,278.03	\$9,278.03
[09] 8" BALL VALVE - FLUSHING PIPE ASSEMBLY	1	EA	2,401.37	\$2,401.37
[11] REMOVE FLUSHING PIPE ASSEMBLY AND CONNECT NEW RECLAIMED 8" WATER LINE	1	LS	5,457.66	\$5,457.66
[15] DIP RECLAIMED 8" WATER LINE - FLUSHING PIPE ASSEMBLY	21	LF	103.70	\$2,177.61
[17] 24" DIP SECTION PER SECTION IN PLAN 11 OF 17 (45 LF)	1	EA	13,644.16	\$13,644.16
[17] 24" DUCTILE IRON VALVE (BUTTERFLY, GLOBE, GATE, CHECK VALVE?)	1	EA	8,732.26	\$8,732.26
[19] DIP 18" FIRE LINE PIPE	21	EA	201.93	\$4,240.60
[19] DIP 12" FIRE LINE PIPE	22	EA	180.10	\$3,962.26
[19] DIP 6" FIRE LINE PIPE	23	LF	87.32	\$2,008.42
[22] FIRE HYDRANT ASSEMBLY	1	EA	10,369.56	\$10,369.56
[22] FIRE HYDRANT ASSEMBLY ALONG CHANDLER HEIGHTS ROAD - ALLOWANCE	2	EA	21,830.65	\$43,661.30
[24] 8" BALL VALVE - FLUSHING PIPE ASSEMBLY	2	EA	2,401.37	\$4,802.74
[25] REMOVE FLUSHING PIPE ASSEMBLY AND CONNECT WATER LINE	3	EA	5,457.66	\$16,372.99
[56] FIRE HYDRANT MARKER	3	EA	382.04	\$1,146.11
CONNECT TO EXISTING RECLAIM WATER LINE PER SECTION IN PLAN 11 OF 17	2	EA	4,366.13	\$8,732.26
RWCD PERMIT (ROOSELVET WATER CONSERVATION DISTRICT)		INCL		
LOCATE UTILITIES - BY BLUE STAKE		INCL		
D-LOAD TEST ON 1% OF PIPE LENGHT		INCL		
[01] 36" RGRCP CL V (INCLUDES TRENCH BACKFILL)	312	LF	169.19	\$52,786.50

[02] 36" RGRCP CL III (INCLUDES TRENCH BACKFILL)	2425	LF	70.95	\$172,052.78
[03] 12" PVC SDR-35 (INCLUDES PIPE FITTINGS)	107	LF	43.66	\$4,671.76
[05] 24" RGRCP CL III	96	LF	60.03	\$5,763.29
[11] 4 SIDE MANHOLE 10'-12' DEEP	1	EA	16,372.99	\$16,372.99
[11] 4 SIDE MANHOLE 8'-10' DEEP	6	EA	13,644.16	\$81,864.94
[12] 4 SIDE PRESSURE MANHOLE	3	EA	13,644.16	\$40,932.47
[13] 5 SIDE MANHOLE 8'-10' DEEP	2	EA	13,644.16	\$27,288.31
[15] DELIVERY STRUCTURE 10' - 12' DEEP	1	EA	49,118.96	\$49,118.96
<b>SANITARY SEWER SYSTEM</b>				
[02] 8" PVC SEWER LINE W/ BEDDING	67	LF	60.03	\$4,022.30
[04] REMOVE PLUG AND CONNECT TO EXISTING SEWER LINE	2	EA	2,728.83	\$5,457.66
[05] 8" SEWER PIPE PLUG PER MAG DET 427	2	EA	491.19	\$982.38
[48] ADJUST SEWER MANHOLE FRAME AND COVER	3	EA	2,728.83	\$8,186.49
P.V.C. PER CITY OF CHANDLER SPEC SEC 10		INCL		
BEDDING MATERIAL (A.B.C.)		INCL		
TRENCH EXCAVATION, BACKFILLING AND COMPACTION PER MAG SPEC SEC 601		INCL		
MANHOLE PROTECTION AND IDENTIFICATION		INCL		
CATCH BASIN ACCESS COVER PER CITY OF CHANDLER		INCL		
[49] ADJUST EXISTING SANITARY MANHOLE FRAME AND COVER TO GRADE IN PAVED AND UNPAVED AREAS	12	EA	4,911.90	\$58,942.76
<b>SUBTOTAL</b>	<b>1</b>	<b>LS</b>	<b>\$572,431.00</b>	<b>\$572,431.00</b>
<b>DESCRIPTION</b>	<b>QTY</b>	<b>U/M</b>	<b>UNIT COST</b>	<b>TOTAL COST</b>
<b>ELECTRICAL</b>				
<b>INCLUSIONS</b>				
[51] 30,000 LUMEN (250 WATT) STREET LIGHT WITH 35' MOUNTING HEIGHT W/ SINGLE-ARM POLE (PER CHANDLER STREET LIGHTING STANDARDS, INCLUDES CONCRETE BASE, EXCAVATION & BACKFILL)	19	EA	3,492.90	\$66,365.18
2 1/2 " PVC EMPTY CONDUIT RUN FOR LIGHTING POLES (INCLUDES BOXES, TRENCHING AND BACKFILL) - NOT SHOWN IN PLANS	3830	LF	7.10	\$27,173.85
[52] 4" DIAM SCH 40 PVC SIGNAL CONDUIT WITH A No.14 TRACER WIRE (INCL TRENCHING AND BACKFILL) - CHANDLER HEIGHTS (NOT SHOWN IN DRAWINGS)	2600	LF	10.92	\$28,379.78
[52] 4" DIAM SCH 40 PVC SIGNAL CONDUIT WITH A No.14 TRACER WIRE (INCL TRENCHING AND BACKFILL)	1226	LF	10.92	\$13,382.16
[53] No. 9 PULLBOX PER ADOT	4	EA	4,911.90	\$19,647.59
[57] No. 7 PULLBOX W/ EXTENSION PER ADOT	1	EA	4,366.13	\$4,366.13
[60] 4" DIA, SCH 40 PVC SIGNAL CONDUIT (INCL TRENCHING & BACKFILL)	118	LF	17.46	\$2,060.81
[62] No. 5 PULLBOX PER ADOT	1	EA	3,820.36	\$3,820.36
STREET LIGHT POLES - CHANDLER HEIGHTS RD MEDIAN		EXCL		
OVERHEAD UTILITY LINE / POLE RELOCATION - BY OTHERS		EXCL		
SRP CONNECTION FEES - BY OTHERS		EXCL		
<b>SUBTOTAL</b>	<b>1</b>	<b>LS</b>	<b>\$122,385.00</b>	<b>\$122,385.00</b>

## **EXHIBIT B CLARIFICATIONS**

The Guaranteed Maximum Price "GMP III" has been prepared in accordance with the following clarifications and assumptions

### **GENERAL INFORMATION**

The items included in GMP III are based scope and direction from Carollo Engineers, Sage Engineering, HEC Engineering, and the CITY. General Conditions for this GMP are included as part of the Phase II onsite GMP. Specifications for this project are based on specifications identified in drawings.

#### **Contingency**

CM@Risk has carried a 5% CM@Risk contingency applied to the construction cost. CM@Risk has not included any Owner contingency at this time.

#### **Escalation**

CM@Risk has not included any cost escalation.

Normal cost escalations for material, equipment and labor are anticipated and included within the estimate. Due to the recent volatility in market conditions, fuel costs, material availability and labor shortages, it is difficult if not impossible to predict costs for extraordinary escalation. It is not in the City's best interest to carry excessive cost allowances within the estimate to cover this potential risk. Should events occur that create extraordinary cost escalations, the project team should address the cost and schedule impact outside of the boundaries of this estimate. Extraordinary escalations include those precipitated by acts of god, war or unprecedented conditions of supply and demand.

#### **Testing, Insurances, Bonds**

A testing and inspection allowance of \$10,000 is applied to the direct construction cost for AC testing.

Special inspection services, Quality Assurance testing, plan check fees, tap fees, impact fees etc. are all excluded and assumed provided by the City.

Builder's Risk and Liability Insurances are included at 0.213% and 0.823% respectively.

Payment and Performance Bond is included at a rate of \$6.90/\$1,000.

### **DOCUMENT SUMMARY**

The GMP estimate is based primarily on the following documents:

- Drawings – *Offsite Improvements with Street Lighting for Chandler Heights Recharge Project* Dated October 2006 by Sage Engineering.
- Drawings – *RWCD Irrigation Pipe Design for Chandler Heights Recharge Project* Dated June 6, 2006 by HEC Engineering.
- Drawings - *Offsite Improvements with Street Lighting for Chandler Heights Recharge Project* Dated October 2006 with revisions dated November 6, 2007 by Sage Engineering.

## **SCHEDULE OF ALLOWANCES**

Allowances are direct construction costs only and do not include markups such as contingency, insurances, bond, general conditions and overhead and profit.

The following is a list of allowances included within the Schematic Design estimate:

- |                                 |           |
|---------------------------------|-----------|
| 1. Soft Spots Under Water Ditch | \$25,000  |
| 2. Traffic Control              | \$100,000 |

## **General Exclusions**

1. Design and Engineering Fees
2. Handling, Surveying, and/or disposal of contaminated materials such as lead, asbestos or petroleum contaminated soil.
3. Public Utility Connection Fees.
4. Rock Excavation.
5. Permit & Plan Check Fees
6. A/E/ Construction Administration
7. Utility Company Excess Facility Charges.
8. Connection Fees, Tap Fees, Inspection Fees, Impact Fees, or Similar Charges
9. All SRP, Qwest and Other Utility Company Construction Costs
10. General Conditions are excluded. They are being covered by the onsite project.
11. Traffic Lights (CM@Risk have included conduits per the drawings)

## **Specific Inclusions**

1. Arizona Privilege / Sales Tax
2. Payment & Performance Bond
3. Contractor's Liability Insurances
4. Builder's Risk Insurance
5. Proposal Based on City Standard for poles with foundation
6. Excavation of Lindsay Road for new base and asphalt only. No existing or projected grades shown on the drawings. Assumed road is level and no over excavation is necessary, based on site visit and existing and projected grading plans.
7. CM@Risk have included pavers and curb at the median @ Gemstone Rd where shown, but no other finishes inside the median, or any other medians (i.e. irrigation, landscape hardscape etc)
8. From the start of the median @ Gemstone Rd going east CM@Risk have included all asphalt north of median and all curb north and south for the median.
9. Independent Testing and Inspection
10. CM@Risk have included conduit only for the streetlights along Chandler Heights Road.  
CM@Risk has included 2 weekends of premium time for any road closures.

**PERFORMANCE BOND**

ARIZONA STATUTORY PERFORMANCE BOND  
PURSUANT TO TITLES 28, 34, AND 41, ARIZONA REVISED STATUTES  
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS THAT: \_\_\_\_\_

(hereinafter "Principal"), and \_\_\_\_\_ (hereinafter "Surety"), a corporation organized and existing under the laws of the State of \_\_\_\_\_ with its principal office in the City of \_\_\_\_\_, holding a certificate of authority to transact surety business in Arizona issued by the Director of Insurance pursuant to Title 20, Chapter 2, Article 1, as Surety, are held and firmly bound unto \_\_\_\_\_ (hereinafter "Obligee") in the amount of \_\_\_\_\_ (Dollars) (\$\_\_\_\_\_), for the payment whereof, Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated

the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ for construction of **Chandler Heights Community Facilities Phase III - Offsite Improvements CITY PROJECT NO. WW0401-403** which contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal faithfully performs and fulfills all the undertakings, covenants, terms, conditions and agreements of the contract during the original term of the contract and any extension of the contract, with or without notice of the Surety, and during the life of any guaranty required under the contract, and also performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of all duly authorized modifications of the contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, the above obligation is void. Otherwise it remains in full force and effect.

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

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

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
PRINCIPAL SEAL

\_\_\_\_\_  
AGENT OF RECORD

By \_\_\_\_\_

\_\_\_\_\_  
SURETY SEAL

\_\_\_\_\_  
AGENT ADDRESS

**PAYMENT BOND**

ARIZONA STATUTORY PAYMENT BOND  
PURSUANT TO TITLES 28, 34, AND 41, OF THE ARIZONA REVISED STATUTES  
(Penalty of this Bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS THAT: \_\_\_\_\_

(hereinafter "Principal"), as Principal, and \_\_\_\_\_ (hereinafter "Surety"), a corporation organized and existing under the laws of the State of \_\_\_\_\_ with its principal office in the City of \_\_\_\_\_, holding a certificate of authority to transact surety business in Arizona issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, as Surety, are held and firmly bound unto \_\_\_\_\_ (hereinafter "Obligee") in the amount of \_\_\_\_\_ (Dollars) (\$ \_\_\_\_\_), for the payment whereof, the Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ for construction of Chandler Heights Community Facilities Phase III - Offsite Improvements CITY PROJECT NO.: WW0401-403 which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal promptly pays all moneys due to all persons supplying labor or materials to the Principal or the Principal's subcontractors in the prosecution of the work provided for in said contract, this obligation is void. Otherwise it remains in full force and effect.

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

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

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

\_\_\_\_\_  
PRINCIPAL SEAL

\_\_\_\_\_  
AGENT OF RECORD

By \_\_\_\_\_

\_\_\_\_\_  
SURETY SEAL

\_\_\_\_\_  
AGENT ADDRESS

**CITY OF CHANDLER, ARIZONA  
CERTIFICATE OF INSURABILITY**

**CITY OF CHANDLER PRIVILEGE TAX LICENSE**

(Refer to Article 6.9, General Conditions; CONTRACTOR'S RESPONSIBILITIES)

**PROJECT NAME: Chandler Heights Community Facilities Phase III - Offsite Improvements**

**PROJECT NUMBER: WW0401-403**

Please attach current certificate per Article 6.9 General Conditions.



CITY OF CHANDLER, ARIZONA  
PUBLIC WORKS DEPARTMENT

CERTIFICATE OF COMPLETION

Project Name: Chandler Heights Community Facilities Phase III - Offsite Improvements  
Project No.: WW0401-403

(TO BE COMPLETED BY CONTRACTOR)

I HEREBY CERTIFY THAT ALL GOODS AND/OR SERVICES REQUIRED BY CITY OF CHANDLER PROJECT NO. WA0320-402 HAVE BEEN DELIVERED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AND BID SPECIFICATIONS AND ALL ACTIVITIES REQUIRED BY THE CONTRACTOR UNDER THE CONTRACT HAVE BEEN COMPLETED AS OF \_\_\_\_\_.  
(Date)

FIRM NAME: \_\_\_\_\_

PRINCIPAL: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

DATE: \_\_\_\_\_

CERTIFIED BY ENGINEER/CONSULTANT:

\_\_\_\_\_  
(Signature)

DATE: \_\_\_\_\_

\_\_\_\_\_  
(Firm Name)

---

**PROJECT ACCEPTED BY USER DEPARTMENT**

\_\_\_\_\_  
(Signature)

DATE: \_\_\_\_\_

\_\_\_\_\_  
(Dept./Div.)

\_\_\_\_\_ Date of Final Walk-Through

**15.4.** \_\_\_\_\_ Date As-Built Received

\_\_\_\_\_ City As-Built Number

Add info #97

DEC 13 2007

# CHANDLER HEIGHTS COMMUNITY FACILITIES PHASE III - OFFSITE IMPROVEMENTS PROJECT NO. WW0401-403



MEMO NO. CA08-094

— OFFSITE IMPROVEMENTS





Chandler - Arizona  
Where Values Make The Difference

**PURCHASING ITEM  
FOR  
COUNCIL AGENDA  
Memo No. CA08-094**

1. Agenda Item Number:

97

2. Council Meeting Date:

December 13, 2007

**TO: MAYOR & COUNCIL  
THROUGH: CITY MANAGER**

3. Date Prepared: November 26, 2007

4. Requesting Department: Community Services/  
Police / Public Works / Municipal Utilities

5. **SUBJECT:** Approve Construction Manager at Risk contract to M.A. Mortenson Company for the Chandler Heights Community Facilities Phase III – Offsite Improvements, Project No. WW0401-403, in an amount of \$1,951,206.

6. **RECOMMENDATION:** Staff recommends that Council approve Construction Manager at Risk contract to M.A. Mortenson Company for the Chandler Heights Community Facilities Phase III, Project No. WW0401-403, in an amount of \$1,951,206.

7. **BACKGROUND/DISCUSSION:** The Chandler Heights Community Facilities project is a 113-acre site located on the northeast corner of Lindsay and Chandler Heights Roads. The project will consist of the construction of three integrated components including: Recharge - 78 acres for groundwater recharge and wetlands, Chandler Heights Police Substation – 4 acres with secured parking, and Veterans Oasis Park – a 31 acre outdoor environmental education park facility.

Phase I of this project is complete and Phase II is 95% complete. The Phase I Guaranteed Maximum Price included onsite earthwork/mass grading, wet utilities (which included reclaim water, potable water, sanitary sewer, and fire lines), and site survey. The Phase II Guaranteed Maximum Price includes construction of four buildings, park landscaping and equipment, paving of pathways, driveways and parking areas, installation of sidewalks and concrete paths, seat walls, screen walls, urban fishing lake maintenance system and all plants and ground cover in the landscape design.

The Guaranteed Maximum Price (GMP) for Chandler Heights Community Facilities Phase III - Offsite Improvements includes adjacent half road improvements of Chandler Heights Road and Lindsay Road. More specifically, this work will consist of surveying, earthwork/paving/concrete, traffic control, site utilities, and electrical work.

8. **EVALUATION:** M.A. Mortenson Company was selected based on qualifications, current workload, and experience in accordance with City regulations and established procedures. The selection was approved and Council awarded a Phase I contract on August 31, 2006. Council awarded a Phase II contract for construction on February 22, 2007.

During the initial planning and construction of the Chandler Heights Community Facilities the offsite improvements included in this contract were originally included as part of development agreement with Whispering Heights. Whispering Heights will be unable to complete the adjacent half road improvements along Chandler Heights and Lindsay Road by the time the Chandler Heights Community Facilities are completed. As a result, City staff has determined it is necessary to perform this construction as part of Phase III to provide access to the new Recharge-wetlands, Chandler Heights Police Substation, and Veterans Oasis Park. Costs for this project were compared to similar projects, and the unit prices for the work were deemed acceptable.

**9. FINANCIAL IMPLICATIONS:**

Original Contract Cost: \$1,951,206

**Fund Source:**

<u>Acct. No.:</u>	<u>Fund Name:</u>	<u>Program Name:</u>	<u>CIP Funded:</u>	<u>Amount:</u>
606.3910.0000.6817.7VW190	Reclaimed Water SDF	Effluent Reuse – Wetlands	FY06/07	\$216,250
421.4580.0000.6611.7PR420	Com. Parks SDF	Veterans Oasis Park Site	FY06/07	\$216,250
465.2100.0000.6210.7PD243	Police SDF	S. Chandler Police Sub	FY06/07	\$67,500
415.3310.0000.6517.8ST303*	Public Works		FY07/08	\$1,451,206

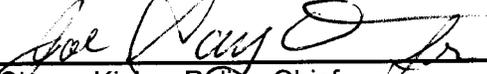
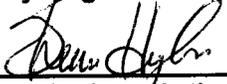
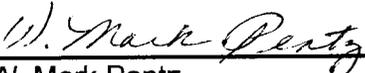
\*Appropriation is being moved from Cooper/Pecos for this project.

\*\*Developer will contribute \$234, 989 through a separate agreement that will be brought to council at a later date.

**10. PROPOSED MOTION:** Move that Council approve Construction Manager at Risk contract to M.A. Mortenson Company for the Chandler Heights Community Facilities Phase III, Project No. WW0401-403, in an amount of \$1,951,206.

**ATTACHMENTS:** Location Map, Contract

**APPROVALS**

<p><b>11. Requesting Department</b>                        Mark M. Eynatten, Community Services Director</p>	<p><b>12. Requesting Department</b>                        Sherry Kiyler, Police Chief</p>
<p><b>13. Requesting Department</b>                        R.J. Zeder, Public Works Director</p>	<p><b>14. Requesting Department</b>                        Dave Siegel, Municipal Utilities Director <i>by SH</i></p>
<p><b>15. Department Head</b>                        R.J. Zeder, Public Works Director</p>	<p><b>16. City Engineer</b>                        Sheina Hughes, Acting Assistant Public Works Director/City Engineer</p>
<p><b>17. City Manager</b>                        W. Mark Pentz <i>by M. Harri</i></p>	

**CONSTRUCTION MANAGER AT RISK  
CONSTRUCTION CONTRACT**

**PROJECT TITLE: Chandler Heights Community Facilities Phase III - Offsite Improvements**  
**PROJECT NO: WW0401-403**

This CONTRACT is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Chandler, 215 E. Buffalo Street, Chandler, Arizona 85225, (hereinafter referred to as "CITY,") and M. A. Mortenson Company a Corporation of the State of Minnesota, licensed to business in the State of Arizona, (hereinafter referred to as "CM@RISK.")

CITY and CM@RISK, in consideration of the mutual covenants hereinafter set forth, agree as follows:

**1. ARTICLE ONE – CITY’S STANDARD CONSTRUCTION GENERAL CONDITIONS**

The City’s General Conditions for Construction Contracts are incorporated herein by reference and the parties agree to be bound by all provisions therein which do not conflict with the terms and conditions of this Agreement. For the purposes of this Agreement, references to CONTRACTOR and to CM@RISK in said General Conditions refer to CM@RISK herein.

**2. ARTICLE TWO – DEFINITIONS**

Words used in this Agreement which are defined in CITY’s General Conditions for Construction Contracts shall have the meaning stated therein. CM@RISK is the CONTRACTOR as defined in said General Conditions.

**2.1.** “Construction Allowance Items” means those items included in the GMP as allowances, which items shall be paid based on the actual cost to CM@RISK as described in the City’s General Conditions for Construction Projects, Subsection 12.4., provided, however, no overhead or profit shall be included in the item as these are paid separately. The actual amounts paid for Allowance items shall be included in the Contract Price Subtotal by which the percentage for the Contractor’s fee for overhead and profit is multiplied.

**2.2.** “Guaranteed Maximum Price” (GMP) means the maximum amount to be paid by the City to CM@RISK for the performance of the Work which shall constitute payment in full for the furnishing of all materials, equipment, appurtenances, labor, plant and tools necessary to provide a complete workmanlike, finished and satisfactory Project as described herein.

**3. ARTICLE THREE – CM@RISK – FIDUCIARY DUTY**

**3.1.** This is a contract for complete construction services in accordance with the Construction Manager at Risk method of delivery of construction services. CM@RISK has participated in the design process and been an active member of the Project Design Team and is fully aware of any issues and constraints involved in this construction project.

**3.2.** CM@RISK is the CITY’s fiduciary responsible for undertaking all necessary action contemplated under the contract documents to construct the Project and ensure timely and quality completion of the project at a cost within the Guaranteed Maximum Price (GMP).

**3.3.** This project is an “open book” project. CITY is entitled to attend any and all meetings, and CITY shall have access to any and all records of CM@RISK or maintained by CM@RISK relating to the Project.

#### 4. ARTICLE FOUR – WORK

4.1. CM@RISK shall perform all work necessary to complete the Project described herein. The Project is known as and is hereinafter referred to as, CITY PROJECT NO. **WW0401-403** and is described as follows: construction of Chandler Heights Community Facilities Phase III – Offsite Improvements described in the Contract Documents and including the furnishing of all materials, equipment, appurtenances, labor, plant and tools necessary to provide a complete workmanlike, finished and satisfactory Project as described herein. Each item shall be completed with all necessary connections, testing, painting and related work accomplished to provide for the satisfactory use and/or operation of the item.

4.2. CM@RISK shall complete, provide and perform, or cause to be performed, all work in a proper and workmanlike manner, with appropriate consideration for public safety and convenience, consistent with the highest standards of professional and construction practices and in full compliance with, and as required by or pursuant to, this Contract, and with the greatest economy, efficiency, and expediency consistent therewith all as more particularly described in the Contract Documents.

#### 5. ARTICLE FIVE – CITY’S REPRESENTATIVE

5.1. CITY has appointed a CITY’S REPRESENTATIVE (sometimes referred to as CITY REP and sometimes known as the Owner’s Representative or Construction Manager) to manage this Project and to represent the CITY on the Project site. The CITY REP will assume all duties and responsibilities and will have all rights and authority assigned to the CITY REP in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents. Any references in the Contract Documents, or other pertinent documents, to the Engineer or Project Engineer shall mean the CITY REP.

5.2. The CITY’S Representative is Bob Fortier

#### 6. ARTICLE SIX - CONTRACT TIME

6.1. Completion time. The Work shall be substantially complete within **One Hundred Twenty (120)** days after the date when the Contract Times commence to run as provided in the Contract Documents, and all Work shall be finally completed and ready for final payment in accordance with the Contract Documents within **One Hundred Fifty (150)** days after the date when the Contract Times commences to run.

6.2. CPM Schedule. CM@RISK shall submit to CITY, on or before the effective date of the Construction Contract, a Construction Progress Schedule in Critical Path Method (CPM) format indicating the times for starting and completing the various stages of the Work, including any Milestones specified in this Contract and as more fully described in the General Conditions and other Contract Documents. Revisions/updates to the CPM schedule shall be submitted as often as necessary to accurately reflect plans for completion of the work, but no less frequently than required in the Contract Documents.

6.3. Time is of the Essence. All of the time limits for Milestones, if any, for Substantial Completion and for Final Completion and readiness for final payment as stated in the Contract Documents, are of the essence of the Contract.

6.4. No Waiver. Failure of CITY to insist upon the performance of any covenant or condition within the time periods specified herein, shall not constitute a waiver of CM@RISK’S duty to perform every other covenant or condition within the designated periods, unless a specific waiver is granted in writing for each such covenant or condition.

6.5. Specific Waiver. CITY’S agreement to waive a specific time provision or to extend the time for performance shall not constitute a waiver of any other time provisions contained in the Contract Documents.

Failure of CM@RISK to complete performance promptly within the additional time authorized in the waiver or extension of time agreement shall constitute a material breach of this Contract entitling CITY to all the remedies set forth herein or provided by law.

**6.6. Material Breach.** Failure of CM@RISK to perform any covenant or condition contained in the Contract Documents within the time periods specified herein, shall constitute a material breach of this Agreement entitling CITY to terminate the Agreement unless CM@RISK applies for and receives an extension of time, in accordance with the procedures set forth in the Contract Documents.

**6.7. Written Extensions.** Failure of CITY to insist upon the performance of any covenant or condition within the time periods specified herein, or CITY's agreement to waive a specific time provision or to extend the time for performance shall not constitute a waiver of CM@RISK's duty to perform every other covenant or condition within the designated periods, unless a specific waiver is granted in writing for each such covenant or condition. Failure of CM@RISK to complete performance promptly within the additional time authorized in the waiver or extension of time agreement shall constitute a material breach of this Agreement entitling CITY to all the remedies set forth herein or provided by law.

## **7. ARTICLE SEVEN - LIQUIDATED AND SPECIAL DAMAGES**

### **7.1. Liquidated Damages:**

**7.1.1.** It is hereby agreed that the amounts per day set forth herein in paragraphs 7.1.2. are reasonable estimates of such damages, that said amounts do in fact bear a reasonable relationship to the damage that would be sustained by CITY, and CM@RISK agrees to pay such liquidated damages as herein provided.

**7.1.2.** CITY and CM@RISK recognize that time is of the essence of this Contract and that CITY will suffer financial loss, in addition to and apart from the costs described in Paragraph 7.2, if the Work and/or portions of the Work are not performed and completed within the times specified in Article Six, plus any extensions thereof allowed in accordance with the Contract Documents. CITY and CM@RISK also recognize the delays, expense, and difficulties involved in proving, through legal or arbitration proceedings, the actual loss suffered by CITY if the Work or portion of the Work is not completed on time. Accordingly, instead of requiring any such proof, CITY and CM@RISK agree that as liquidated damages for delay (but not as a penalty) CM@RISK shall pay CITY **Seven Hundred Ten** dollars and no cents (**\$710**) for each calendar day that expires after the time specified in Article Six for substantial completion, until the Work is substantially complete. After Substantial Completion, if CM@RISK shall neglect, refuse or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by CITY, CM@RISK shall pay CITY **Three Hundred Fifty Five** dollars and no cents (**\$355**) for each day that expires after the time specified in Article Six for final completion and readiness for final payment.

**7.2. Special Damages:** In addition to the amounts provided for liquidated damages, CM@RISK shall pay CITY the actual costs reasonably incurred by CITY for the CITY REP, the Project Designer and for engineering and inspection forces employed on the Work for each day that expires after the time specified in Article Six for Final Completion, including any extensions thereof made in accordance with the Contract Documents, until the Work is finally complete. The rate for inspection services for this contract is One Hundred Forty Eight dollars (\$148 per) hour. The rate for work by the Project Designer for this Contract is One Hundred Ninety dollars (\$190) per hour. The rate for work by the CITY REP is One Hundred Ninety dollars (\$190) per hour. Each of these hourly rates is calculated at time and one half for work required to be performed during other than normal business hours

**7.3.** CITY may withhold and deduct from any payment due to CM@RISK the amount of liquidated damages, special damages, and other costs, such as CM@RISK'S failed testing costs or damages to other CITY property, from any moneys due CM@RISK under the Contract.

## **8. ARTICLE EIGHT - CONTRACT PRICE**

**8.1. Guaranteed Maximum Price.** The Guaranteed Maximum Price (GMP) is the total amount payable by the City to Contractor for the complete construction of the Project. CM@RISK represents, warrants and guarantees to CITY that the total maximum cost to be paid by CITY for CM@RISK's complete performance of this Contract, including, without limitation, Final Completion of all Work, all services of CM@RISK under this Contract, and all fees, compensation and reimbursements to CM@RISK, shall not exceed the total amount of **One Million Nine Hundred Fifty One Thousand Two Hundred Six dollars (\$1,951,206)** ("Guaranteed Maximum Price"). Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the CM@RISK without reimbursement by CITY.

**8.2. Guaranteed Maximum Price Components.** The Guaranteed Maximum Price is comprised of the maximum amount payable by CITY for:

**8.2.1.** The Cost of the Work for full and complete performance of the Work to complete the Project as described herein. The items to be included in Cost of Work are those listed in Section 12.4 of the City's General Conditions for Construction Projects, except that no overhead and profit shall be included in the cost of work and shall be subtracted out of items listed in 12.4 A 5) c and the items listed in 12.4.A 5) d and h are not included in the cost of the work. The Cost of the Work will be referred to as the Work Item Direct Costs. No additional payments will be made for any work included in and/or necessary for completion of the Project unless specifically noted and excluded from the GMP in the assumptions and clarifications of the GMP. Progress payments will be made based on the schedule of values, however, City reserves the right to audit the books of CM@RISK, at any time, to determine actual costs and to modify the schedule of values to better reflect actual costs of the work.

**8.2.2.** A fee to CM@RISK for Overhead and Profit which has been estimated for inclusion in the GMP to be the amount of **One Hundred Thirty Five Thousand Three Hundred Seven dollars (\$135,307)** ("CM@RISK's Fee"). This fee shall be determined by multiplying the agreed upon percentages listed in the GMP by the Work Item Direct Costs less the amounts listed for Contractor's General Conditions. This CM@RISK's Fee shall be the CM@RISK's sole and exclusive compensation for all costs not included in Subsections 8.2.1 or 8.2.3 herein and for those costs and expenses listed in Subsection 12.4 B and 12.5 of the City's General Conditions for Construction Projects, and is inclusive of all overhead and profit arising out of or relating to the CM@RISK's Work.

**8.2.3.** Reimbursement to CM@RISK by CITY for the cost of insurance, bonds and taxes actually incurred by CM@RISK for this Project.

**8.2.4.** The Guaranteed Maximum Price is further broken down into line items and categories on Exhibit A attached hereto.

**8.3. Quantities.** The quantities set forth in the GMP are used only for the purpose of substantiating and demonstrating the basis for the GMP submitted by CM@RISK and are not a part of this Contract nor any guarantee by CITY. CM@RISK shall install and perform such quantities as necessary to complete the Project in accordance with the Project description and the Contractor agrees to perform all of the Work for costs plus fees and reimbursements described herein, not to exceed the Guaranteed Maximum Price, regardless of whether or not the items or units are decreased or increased.

**8.4. Cost Overruns.** CM@RISK shall be solely liable and responsible for and shall pay any and all costs, fees and other expenditures in excess of the Guaranteed Maximum Price for and/or relating to the Work, without entitlement to reimbursement from CITY. CM@RISK is not entitled to any fee, payment, compensation or reimbursement under this Agreement or relating to the Work or Project other than as expressly provided in this Article 8.

**8.5. Inferable Work (intent of the Project).** CM@RISK agrees that the scope of the Guaranteed Maximum Price includes Work not expressly indicated on the Contract Documents, but which is reasonably inferable from the Project description and/or Contract Documents, or consistent therewith, and such Work shall be performed by CM@RISK without any increase in the Guaranteed Maximum Price.

**8.6. Allowances.** The GMP includes some work items with the cost listed as an allowance. Allowances are to be used specifically for the areas of work defined in the Contract Documents; provided however,

**8.6.1.** If the designated work is completed for less than the allowance, the surplus will revert to the project construction contingency.

**8.6.2.** If the designated work requires more than the allowance, the additional funds will be allocated by the CITY with assistance from CM@RISK within the GMP by transferring excess from other allowance items, value engineering or using less expensive means, methods or components or as a last resort reducing the scope of the Project.

**8.6.3.** A running balance sheet will be kept concerning the various allowances so that monies can be floated among the allowances to maintain the integrity of the overall GMP. Thus, savings in one area of work will be available to offset overruns in another area of work specifically associated with these allowances.

**8.7. Construction Contingency.** This GMP includes a dollar amount listed as a Construction Contingency which shall be readily available for increased costs for subcontractors, material and equipment subject to prior approval of City, which approval will not be withheld unreasonably. The Construction Contingency may also be used, at the discretion of CITY, to reimburse CM@RISK for unexpected costs due to (a) scope gaps between trade subcontractors; (b) contract default by trade subcontractors; (c) unforeseen field conditions but only as defined in Subsection 4.3 of the City's General Conditions for Construction Projects; (d) work completed to meet the intent of the design, but which was not indicated on the plans; (e) costs overruns not covered by allowances; (f) costs of corrective work not provided for elsewhere and (g) implementation of any Recovery Plan. Cost for which CM@RISK desires to be paid from the Construction Contingency shall be documented by CM@RISK on a time and materials basis and are subject to verification by the CITY. If agreed to by CITY, a "Use of Contingency" form shall be executed by both parties authorizing the actual cost of the work to be paid and included in the Work Item Direct Costs. The Construction Contingency is not allocated to any particular item of the Project but may be used for any portion of the work as determined above. Any amount not used in the Construction Contingency shall belong to the CITY and shall reduce the GMP.

**8.8. Owner's Contingency.** This GMP also includes a dollar amount listed as an Owner's Contingency which may be used only by the CITY (owner department) for upgrades and changes in scope or other changes not already included within the intent of the Project Program. CITY shall provide CM@RISK with a Work Change Directive authorizing CM@RISK to perform the additional work and to transfer funds from the Owner's Contingency to the Work Item Direct Costs category to be paid with such direct costs. These additional costs shall be in amount mutually agreed upon by CM@RISK and CITY or shall be documented by CM@RISK on a time and materials basis and are subject to verification by the CITY. Any amount not used in the Owner's Contingency shall belong to the CITY and shall reduce the GMP.

**8.9. Reduction of the Work.** If CITY elects to have a party other than CM@RISK, or one of CM@RISK's Subcontractors, perform the Work related to an Allowance Item or other portion of the Work, or otherwise eliminates or reduces the scope of an Allowance Item or other portion of the Work, the Guaranteed Maximum Price shall be reduced by the Allowance Amount for any such Allowance Item or the budgeted amount in the Guaranteed Maximum Price for such item, and such amount shall be excluded from the Work Item Direct Costs upon which the CM@RISK's Fee is calculated.

**8.10. Taxes.** CM@RISK shall pay all existing and future applicable Federal, State and local sales, consumer, use and similar taxes, whether direct or indirect, relating to, or incurred in connection with the performance of the Work. In the event CM@RISK is obligated to pay any new or increased taxes or duties arising after the date hereof, the amount of such new or increased taxes shall increase the Guaranteed Maximum Price pursuant to the Change Order provisions of this Agreement as set forth in the General Conditions. In the event CM@RISK receives the benefit of a tax exemption or tax reduction taking effect after the date hereof, the amount of such exemption or reduction shall decrease the Guaranteed Maximum Price pursuant to the Change Order provisions of this Agreement.

## **9. ARTICLE NINE - PAYMENT PROCEDURES**

**9.1. Schedule of Values.** Before the first application for Payment, CM@RISK shall submit to CITY, and the parties shall agree upon, a Schedule of Values, setting forth the various portions of the Work, and the costs listed in the Guaranteed Maximum Price allocated to each such portion of the Work. The Schedule shall be used as a basis for reviewing the contractor's applications for payment and as a basis for progress payments. The Schedule of values shall be updated as actual costs become known to accurately reflect the cost of the work. City reserves the right to audit the books of CM@RISK, at any time, to determine actual costs and to modify the schedule of values to better reflect actual costs of the work. At Project completion and prior to final payment the parties will reconcile the schedule of values with the actual costs in accordance with provisions in Article Eight herein to determine the final payment.

**9.2. Applications for Payment.** CM@RISK shall submit completed Applications for Payment in accordance with the Contract Documents. No payment application will be considered complete unless it is accompanied by an updated Construction Progress Schedule and a certification that the on-site, red lined, as-built drawings are up to date. Completed Applications for Payment will be processed by CITY REP as provided in the Contract Documents.

**9.3. Waiver of Claims at Final Payment.** Acceptance of Final Payment by CM@RISK shall constitute a waiver of affirmative claims by CM@RISK except those previously made in writing and identified as unsettled at the time of Final Payment.

**9.4. Retention.** Prior to Substantial Completion, progress payments will be made in the amount equal to the percentages indicated below, but in each case less the aggregate of payments previously made and less such amounts as CITY'S REPRESENTATIVE may determine, in accordance with the General Conditions or other provisions of the Contract Documents.

**9.4.1.** To insure the proper performance of the contract CITY shall retain ten per cent (10%) of the amount of each approved progress payment until the Work is fifty percent (50%) complete.

**9.4.2.** When the Work is fifty percent (50%) complete as measured by the schedule of values and approved by CITY REP, one-half of the amount retained under the ten percent (10%) retention provision, shall be paid to CM@RISK, provided CM@RISK is on schedule for project completion and is making satisfactory progress on the Work and there is no specific cause or claim requiring a greater amount to be retained. After fifty percent (50%) completion, CITY shall retain five percent (5%) of each approved progress payment providing CM@RISK is on schedule for project completion, is making satisfactory

progress on the Work, except that if at any time CITY determines satisfactory progress is not being made, ten percent (10%) retention shall be reinstated for all progress payments made under the contract subsequent to such determination

**9.4.3.** In lieu of retention, CITY will, at the option of CM@RISK, accept security as provided in ARS § 34-221.

**9.5.** CITY may withhold and deduct from each progress payment and final payment an amount equal to CITY'S estimate of the liquidated damages then due, or that would become due based on CITY'S estimate of late completion of the Work, provided CM@RISK fails to submit and implement a written schedule recovery plan describing the cause of schedule slippage or delayed progress and the actions proposed and taken to recover schedule slippage.

**9.6.** Final Payment: Upon final completion and acceptance of the Work and upon compliance with all other terms and conditions of the Contract Documents, CITY shall pay the remainder of the Contract Price, including retainage withheld, less such deductions as may be withheld to cover claims in accordance with state law and the Contract Documents, and to cover liquidated and special damages and other charges owing to CITY.

## **10. ARTICLE TEN – CHANGES TO CONTRACT GMP**

**10.1. Changes to Scope.** CITY reserves the right to change the scope of the Project by adding or deducting work to be performed by CM@RISK under this Contract. Increases to the scope of work to be paid for out of the Owner's Contingency shall be documented by a Work Change Directive. If deductions from the work and additions after the Owner's Contingency has been exhausted shall be documented by a Change Order executed by both parties.

## **11. ARTICLE ELEVEN - CM@RISK'S REPRESENTATIONS**

As part of the inducement for CITY to enter into this Contract, CM@RISK makes the following representations:

**11.1.** CM@RISK was a member of the Design Team for this Project and participated in and provided recommendations concerning the Contract Documents and Project Design.

**11.2.** CM@RISK has examined and carefully studied the Contract Documents (including any Addenda) and other related data identified in the Bidding Documents, including "technical data" and all federal, state and local laws, ordinances, standards, rules and regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

**11.3.** CM@RISK has obtained and carefully studied (or assumes responsibility for having done so) the reports of investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) and the drawings of physical conditions in or relating to existing surface or subsurface structures, at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing all the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CM@RISK and safety precautions and programs incident thereto. The reports and drawings available to CITY are listed in the Supplementary Conditions. CM@RISK acknowledges that such reports and drawings are not Contract Documents and may not be complete for CM@RISK's purposes. CM@RISK acknowledges that CITY and CITY'S REP do not assume responsibility for the accuracy or completeness of information and data shown or indicated therein with respect to Underground Facilities at or contiguous to the site. CM@RISK acknowledges full responsibility for locating and resolving any conflicts with any Underground Facilities.

**11.4.** CM@RISK has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

**11.5.** CM@RISK has made or caused to be made examinations, investigations, tests, studies and related data as he deems necessary, and CM@RISK does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

**11.6.** CM@RISK has correlated the information known to CM@RISK, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies, reports, and data, with the terms and conditions of the Contract Documents.

**11.7.** CM@RISK has given CITY REP written notice of all conflicts, errors, or discrepancies that CM@RISK has discovered in the Contract Documents, and the written resolution thereof by CITY is acceptable to CM@RISK, and the Contract Documents are sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work. CM@RISK assumes full responsibility and liability for any conflicts, errors or discrepancies in the Contract Documents, including, but not limited to, the specifications, design and engineering for the project, for which written notice has not been provided and which a reasonable Contractor, participating in the Design Process as the Construction Manager at Risk would have discovered.

## **12. ARTICLE TWELVE – CONTRACT DOCUMENTS, DRAWINGS AND ADDENDA**

The Contract Documents which comprise the entire agreement between CITY and CM@RISK concerning the Work consist of those listed below. There are no Contract Documents other than the following:

**12.1.** This Contract

**12.2.** The project Design, Engineering and Specifications entitled: Chandler Heights Community Facilities Phase III - Offsite Improvements Project No. WW0401-403

**12.3.** The Drawings, comprised of a set entitled: Chandler Heights Community Facilities Phase III - Offsite Improvements Project No. WW0401-403

**12.4.** Performance Bond and Payment Bond.

**12.5.** The approved Construction Schedule (CPM).

**12.6.** General Conditions (pages 1 to 55, inclusive).

**12.7.** Notice to Proceed.

**12.8.** Approved Construction GMP and attached Assumptions

**12.9.** CM@RISK'S Schedule of Manufacturers and Suppliers of Major Equipment and Material Items.

**12.10.** The following which may be delivered or issued after the Effective Date of this Contract and are not attached hereto:

- A. Written Amendments;
- B. Work Change Directives;
- C. Change Order(s).

### 13. ARTICLE THIRTEEN – INSURANCE

#### 13.1. General Requirements:

- A. CM@RISK, at its own expense, shall purchase and maintain insurance of the types and amounts required in this section, with companies possessing a current A.M. Best, Inc. rating of B++6, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY.
- B. Policies written on a “Claims made” basis are not acceptable.
- C. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of CITY, constitute a material breach of this Agreement and may result in termination of this contract.
- D. If any of the insurance policies are not renewed prior to expiration, payments to the CM@RISK may be withheld until these requirements have been met, or at the option of the City, the City may pay the Renewal Premium and withhold such payments from any monies due the CM@RISK.
- E. All insurance policies, except Workers’ Compensation and Professional Liability required by this Agreement, and self-insured retention or deductible portions, shall name, to the fullest extent permitted by law for claims arising out of the performance of this contract, the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
- F. CM@RISK’s insurance shall be primary insurance over any insurance available to the CITY and as to any claims resulting from this contract, it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
- G. The insurance policies, except Workers’ Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against CITY, its agents, representatives, officers, directors, officials and employees for any claims arising out of CM@RISK’s acts, errors, mistakes, omissions, work or service.
- H. The insurance policies may provide coverage which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall be assumed by and be for the account of, and at the sole risk of CM@RISK. CM@RISK shall be solely responsible for the deductible and/or self-insured retention. The amounts of any self-insured retentions shall be noted on the Certificate of Insurance. CITY, at its option, may require CM@RISK to secure payment of such deductibles or self-insured retentions by a Surety Bond or an irrevocable and unconditional letter of credit. Self-insured retentions (SIR) in excess of \$25,000 will not be accepted except with permission of the Management Services Director/designee.
- I. All policies and certificates shall contain an endorsement providing that the coverage afforded under such policies shall not be reduced, canceled or allowed to expire until at least thirty (30) days prior written notice has been given to CITY.
- J. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the CM@RISK with reasonable promptness in accordance with the CM@RISK’s information and belief.
- K. In the event that claims in excess of the insured amounts provided herein, are filed by reason of any operations under this contract, the amount of excess of such claims, or any portion thereof, may be

withheld from payment due or to become due the CM@RISK until such time as the CM@RISK shall furnish such additional security covering such claims as may be determined by the CITY.

### **13.2. Proof of Insurance - Certificates of Insurance**

- A. Prior to commencing work or services under this Agreement, CM@RISK shall furnish to CITY Certificates of Insurance, issued by CM@RISK's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect and obtain from the City's Risk Management Division approval of such Certificates.
- B. If a policy does expire during the life of this Agreement, a renewal certificate must be sent to the City of Chandler five (5) days prior to the expiration date.
- C. All Certificates of Insurance shall identify the policies in effect on behalf of CM@RISK, their policy period(s), and limits of liability. Each Certificate shall include the job site and project number and title. Coverage shown on the Certificate of Insurance must coincide with the requirements in the text of the contract documents. Information required to be on the certificate of Insurance may be typed on the reverse of the Certificate and countersigned by an authorized representative of the insurance company.
- D. CITY reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. CITY shall not be obligated, however, to review same or to advise CM@RISK of any deficiencies in such policies and endorsements, and such receipt shall not relieve CM@RISK from, or be deemed a waiver of CITY's right to insist on, strict fulfillment of CM@RISK's obligations under this Agreement.

### **13.3. Required Coverage**

Such insurance shall protect CM@RISK from claims set forth below which may arise out of or result from the operations of CM@RISK under this Contract and for which CM@RISK may be legally liable, whether such operations be by the CM@RISK or by a Sub-consultant or subCM@RISK or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Coverage under the policy will be at least as broad as Insurance Services Office, Inc., policy form CG00011093 or equivalent thereof, including but not limited to severability of interest and waiver of subrogation clauses.

- A. Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- B. Claims for damages because of bodily injury, occupational sickness or disease, or death of the CM@RISK's employees;
- C. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the CM@RISK's employees;
- D. Claims for damages insured by usual personal injury liability coverage;
- E. Claims for damages, other than to Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- F. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; Coverage will be at least as broad as Insurance Service Office, Inc., coverage Code "I" "any auto" policy form CA00011293 or equivalent thereof.

- G. Claims for bodily injury or property damage arising out of completed operations;
- H. Claims involving contractual liability insurance applicable to the CM@RISK's obligations under the Indemnification Agreement;
- I. Claims for injury or damages in connection with one's professional services;
- J. Claims involving construction projects while they are in progress. Such insurance shall include coverage for loading and off loading hazards. If any hazardous material, as defined by any local, state or federal authorities are to be transported, MCS 90 endorsement shall be included;

**13.3.1. Commercial General Liability - Minimum Coverage Limits:**

The Commercial General Liability insurance required herein shall be written for not less than \$1,000,000 limits of liability or ten percent (10%) of the Contract Price, whichever coverage is greater. Any combination between general liability and excess general liability alone amounting to a minimum of \$1,000,000 per occurrence (or 10% per occurrence) and an aggregate of \$2,000,000 (or 20% whichever is greater) in coverage will be acceptable. The Commercial General Liability additional insured endorsement shall be as broad as the Insurance Services, Inc's (ISO) Additional Insured, Form B, CG 20101001, and shall include coverage for CM@RISK's operations and products, and completed operations.

**13.3.2. General Liability - Minimum Coverage Limits**

- A. The General Liability insurance required herein, including, Comprehensive Form, Premises-Operations, Explosion and Collapse, Underground Hazard, Products/Completed Operations, Contractual Insurance, Broad Form Property Damage, Independent CM@RISKS, and Personal Injury shall be written for Bodily Injury and Property Damage Combined shall be written for not less than \$1,000,000 or 10% of the contract cost and with a \$2,000,000 aggregate.
- B. Automobile Liability: CM@RISK shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any owned, hired, and non-owned vehicles assigned to or used in performance of the CM@RISK's work. Coverage shall be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof). Such insurance shall include coverage for loading and off loading hazards if hazardous substances, materials or wastes are to be transported and a MCS 90 endorsement shall be included with coverage limits of \$5,000,000 per accident for bodily injury and property damage.

**13.3.3. Worker's Compensation and Employer's Liability:**

CM@RISK shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over CM@RISK's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease coverage for each employee, and \$1,000,000 disease policy limit. In case any work is subcontracted, CM@RISK will require the Subcontractor to provide Workers' Compensation and Employer's Liability to at least the same extent as required of CM@RISK.

**13.3.4. Builders' Risk (Property) Insurance:**

CM@RISK shall purchase and maintain in force on a replacement cost basis, Builders' Risk insurance in the amount of the initial Contract Amount as well as subsequent modifications thereto for the entire work at the site. Such Builders' Risk insurance shall be maintained until final payment has been made or until no person or entity other than the City of Chandler has an insurable interest in the property required to be covered,

whichever is earlier. The insurance shall, at a minimum, cover the perils insured under the Insurance Services Office, Inc. (ISO) special causes of loss form CP1030, and shall be endorsed as needed to provide full coverage for loss or damage from collapse, including collapse resulting from design error. CM@RISK shall provide and maintain Builder's Risk insurance covering construction activities including but not limited to fire, extended coverage, vandalism and malicious mischief, theft, collapse, flood, with the coverage limit of not less than the contract value, less site preparation.

**13.3.5. Construction Insurance:**

CM@RISK shall provide and maintain construction insurance coverage listed below until the project is accepted by the City of Chandler which shall be written for 100% of the completed value covering the City of Chandler as the insured.

- A. For construction of new buildings: "Builders Risk Form" - all risk forms with an extension of buildings coverage to include personal property of others in the care, custody and control of the insured.
- B. For additions or repairs of existing buildings or structures: "Builders Risk Completed Value Form", covering CM@RISKs' interest in improvements, repairs, additions, alteration to completed buildings, and subject the coverages described in item A above.
- C. For construction of bridges, viaducts or similar structures: "Bridge Builders Risk Form", All Risk Contract.

**14. ARTICLE FOURTEEN - INDEMNIFICATION**

To the fullest extent permitted by law, CM@RISK shall defend, indemnify and hold harmless the City of Chandler, its agents, representatives, officers, directors, officials and employees, individually and collectively, (hereinafter CoC) from and against all losses, claims, damages, suits, actions, payments, judgments, demands, expenses and costs, including, but not limited to, attorney's fees, defense costs, court costs, and the cost of appellate proceedings, or actions of any kind and nature, wages or overtime compensation due employees in rendering service under this Contract and whether to any person or property, including natural resources and any claim made under the Fair Labor Standards Act or any other federal or state laws, related to, arising out of, or alleged to have resulted from acts, errors, mistakes, omissions, work or services of CM@RISK, its employees, agents, or any tier of subcontractors in the performance of this Contract or of any other person for whose acts, errors, mistakes or omissions CM@RISK may be legally liable, and from any claims or amounts arising or recovered under Workers' Compensation laws or any other law, bylaw, or ordinance, order or decree or any failure on the part of CM@RISK, its agents, employees or representatives to fulfill CM@RISK'S obligations under this Contract. This indemnity shall not be construed to include losses, claims, damages, suits, or actions of any kind and nature, to the extent arising from or alleged to have resulted from the errors, mistakes or omissions of CoC, (other than CM@RISK, its employees, agents, or any tier of subcontractors). The provisions of this paragraph shall survive termination of this Contract.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

## **15. ARTICLE FIFTEEN - MISCELLANEOUS**

**15.1.** Terms used in this Contract which are defined in the General Conditions, shall have the meanings indicated in the General Conditions.

**15.2.** The failure of any party to enforce against another party any provision of this Contract shall not constitute a waiver of that party's right to enforce such a provision at a later time, and shall not serve to vary the terms of this Contract.

**15.3.** CITY and CM@RISK each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in these Contract Documents.

## **16. ARTICLE SIXTEEN – CONFLICT OF INTEREST**

CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Contract.

Pursuant to A.R.S. Section 38-511, the City may cancel this contract within three (3) years after its execution without penalty or further obligation by the City if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City of Chandler is, at any time while the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

## **17. ARTICLE SEVENTEEN - TERMINATION WITHOUT CAUSE**

CITY may at any time and for any or no reason, at its convenience, terminate this Agreement or any part of the services to be rendered pursuant thereto by ten (10) day written notice to CONTRACTOR specifying the termination date. Immediately after receiving such notice, CONTRACTOR shall discontinue advancing the work under this Agreement and shall deliver to CITY all drawings, notes, calculations, sketches and other materials entirely or partially completed, together with all unused materials supplied by CITY.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day and year first written above.

This Contract will be effective on \_\_\_\_\_ of \_\_\_\_\_, 200\_\_\_\_\_.

CITY OF CHANDLER

CONSTRUCTION MANAGER AT RISK

\_\_\_\_\_  
MAYOR Date

By: \_\_\_\_\_  
Signature

ADDRESS FOR NOTICE

\_\_\_\_\_  
Printed or Typed

City of Chandler  
P.O. Box 4008, Mail Stop 407  
Chandler, AZ 85244-4008  
480-782-3307

ADDRESS FOR NOTICE  
M. A. Mortenson Company  
3100 W. Ray Road, Ste. 101  
Chandler, AZ 85226  
Phone: (480) 839-5944

ATTEST:

ATTEST: If Corporation

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney by: *phr*

SEAL

**EXHIBIT A  
GMP**

	<i>System Qty</i>		<i>Unit Cost System</i>	<i>Total Cost</i>
Surveying	150,210	SF	0.32	\$47,940
Earthwork/Paving/Concrete	150,210	SF	5.03	\$754,928
Traffic Control	150,210	SF	0.67	\$100,000
Site Utilities	2,940	LF	194.70	\$572,431
Electrical	7,656	LF	15.99	\$122,385
Testing and Inspection	0	SF	\$ -	\$ 10,000
<b>Subtotal Direct Construction Cost</b>				\$ 1,607,684
<b>Subtotal</b>				\$ 1,607,684
<b>Construction Contingency</b>			5.000%	\$ 80,384
<b>Subtotal</b>				\$ 1,688,068
<b>Contractor's Liability Insurances</b>			0.823%	\$ 16,058
<b>Builder's Risk Insurances</b>			0.213%	\$ 4,156
<b>Payment/Performance Bond</b>			0.690%	\$ 13,463
<b>Subtotal</b>				\$ 1,721,746
<b>Contractor's Overhead</b>			3.500%	\$ 60,261
<b>Contractor's Fee</b>			4.000%	\$ 75,046
<b>Total Construction Cost before tax</b>				\$ 1,857,053
<b>Arizona State Privilege Tax (65% contract value)</b>			7.800%	\$ 94,153
<b>Total Construction Cost with tax</b>				\$ 1,951,206

**Surveying**

Description	Qty	U/M	Unit Cost	
Surveying	150,210	SF	\$	0.32
INCLUSIONS				
CERTIFY BUILDING PAD				
VERIFY HORIZONTAL AND VERTICAL LOCATIONS				
OFFSETS TO MAIN BUILDING				
OFFSETS TO GRID LINES				
OFFSETS FOR BACK OF CURB @ 25' INTERVALS				
UTILITIES - 25' INTERVALS AND ALL CHANGE OF DIRECTION				
ELECTRICAL LIGHT POLES				
ELECTRICAL MAIN SERVICE - 25' INTERVALS 10' OFFSETS				
BLUE TOPS FINISH GRADE 25' GRID				
BLUE TOPS PARKING LOT 25' GRID				
BLUE TOPS SITE FINISH GRADE 50' GRID				
LINE AND GRADE FOR SCREEN WALLS AND TRASH ENCLOSURE				
STAKE CENTERLINE FOR DRIVEWAYS, SIDEWALK RAMPS, AND SCUPPERS				

**Earthwork/Paving/Site Concrete**

Description	Qty	U/M	Unit Cost	
INCLUSIONS				
<b>Earthwork/Demo</b>				
<b>SITE PREP AND DEMO</b>				
SITE CLEARING	113418	SF	\$	0.16
SAW CUT ASPHALT	2484	LF	\$	3.82
REMOVE EXISTING ASPHALT & HAUL OFF - NOT SHOWN	5294	SY	\$	4.91
[01] REMOVE EXISTING CONCRETE LINED IRRIGATION DITCH 8' WIDE (INCLUDES BACKFILL)	2731	LF	\$	9.82
[02] REMOVE EXISTING STRUCTURE (HEADWALL, MANHOLE, AND SALVAGE GRATE, FLAP, GATE, BOLTHS ETC) AND BACKFILL W/ NATIVE SOIL	4	EA	\$	709.50
[03] REMOVE EXISTING IRRIGATION PIPE AND BACKFILL W/ NATIVE SOIL	87	LF	\$	9.82
[33] SAW CUT ASPHALT	288	LF	\$	3.82
[33] REMOVE EXISTING ASPHALT & HAUL OFF	52	SY	\$	13.10
<b>EARTHWORK</b>				
STREET GRADING (CUT TO FILL 2' AVG) WITHIN 1/10' (12,602 SY)	8400	CY	\$	8.19
SUB GRADE FILL W/ IMPORTED SOIL	4200	CY	\$	9.28
SCARIFY AND RECOMPACT 12" SUBGRADE	4200	CY	\$	4.91
MEDIAN AND SHOULDER GRADING (CUT TO FILL) WITHIN 1/10' - NOT REQUIRED		NIC		
DISPOSAL OF AND STOCKPILING OF EXCESS MARERIALS		INCL		
STREET CUT PERMITS		INCL		
EXCAVATION AND DIRT MOVING PERMIT & DUST CONTROL		INCL		

BACKFILL EXISTING DITCH W/ IMPORTED SOIL (2,731 LF)	4552 CY	\$	9.28
SOFTSPOTS IN ROAD (ALLOWANCE)	1 LS	\$	25,000.00
PREMIUM FOR ROAD CLOSURES	96 HRS	\$	40.00
<b>PAVING/BASE</b>			
[40] 2 1/2" A.C. / 10" ABC PAVEMENT	9304 SY	\$	27.29
[61] TEMP 2" A.C. / 7" ABC PAVEMENT	3129 SY	\$	24.01
[63] 2" AC / NATIVE SOIL DRIVEWAY	169 SY	\$	21.83
WIDEN ROAD WITH 2 1/2" A.C. / 10" ABC PAVEMENT - NOT SHOWN	4017 SY	\$	27.29
[33] PATCH BACK ASPHALT PAVEMENT	52 SY	\$	43.66
TEMPORARY ROAD (600 LF 30 FT WIDE)	2000 SY	\$	8.00
<b>PRESERVATIVE SEAL</b>			
<b>TEMP EROSION &amp; SEDIMENT CONTROL</b>			
EROSION AND SEDIMENT CONTROL MEASURES	1 LS	\$	9,278.03
<b>PAVEMENT MARKINGS</b>			
8" SOLID WHITE (1,394 LF)	929 SF	\$	1.31
6" SOLID WHITE (2,706 LF)	1353 SF	\$	1.31
4" DOUBLE YELLOW (2,126 LF)	708 SF	\$	1.31
6", 2'6" BROKEN WHITE (483 LF)	241 SF	\$	1.09
12" SOLID WHITE @ 45° (641 LF)	641 SF	\$	1.31
LEFT TURN ARROW MARKING	6 EA	\$	49.12
WATER BLASTING CONFLICTING PAVEMENT MARKING	1 LS	\$	545.77
ADJUST STRIPING AS NECESSARY	1 LS	\$	1,091.53
<b>CURB AND GUTTER</b>			
[44] VALLEY GUTTER & APPRON	2479 SF	\$	7.10
[42] 6" VERTICAL CURB AND GUTTER	3437 LF	\$	13.64
6" VERTICAL CURB - MEDIAN	1988 LF	\$	13.64
[61] SCUPPER	4 EA	\$	9,278.03
<b>Earthwork/Demo</b>			
<b>SIDEWALK</b>			
[46] SIDEWALK RAMP W/ DETECTABLE RAMP (NO COLOUR)	1633 SF	\$	7.10
<b>UNIT PAVERS</b>			
PAVERS - MEIDIAN ENDS	1111 SF	\$	8.73
<b>SITE FURNISHINGS</b>			
[39] SAFETY POSTS PER MAG 1140	4 EA	\$	1,364.42
<b>STREET SIGNS</b>			
R8-3A SIGN (24"X24") - LIGHT POLE MOUNTED	4 EA	\$	311.09
R3-5R SIGN (24"X30") - LIGHT POLE MOUNTED	1 EA	\$	311.09
R2-1 (24"X30", 45 MPH) - LIGHT POLE MOUNTED	2 EA	\$	311.09
R1-1 SIGN (30"X30") - W/ POLE AND CONCRETE FOOTING	2 EA	\$	600.34
R6-2 SIGN (36"X12") W/ POLE AND CONCRETE FOOTING	1 EA	\$	600.34
R3-5R SIGN (24"X30") W/ POLE AND CONCRETE FOOTING	2 EA	\$	600.34
OMI -3 (YELLOW) SIGN 18"X18" W/ POLE AND CONCRETE FOOTING	2 EA	\$	600.34
TYPE D RAISED PAVEMENT MARKERS (25' O.C.)	210 EA	\$	19.65
TYPE D RAISED PAVEMENT MARKERS (40' O.C.)	85 EA	\$	19.65
REMOVE AND REINSTALL EXISTING SIGNS W/ ABOVE	INCL		
ADJUST SIGNING AS NECESSARY - ALLOWANCE	1 LS	\$	2,728.83
SALVAGE CONFLICT SIGNS (PERMANENTE REMOVED) AND RETURN TO CITY W/ ABOVE	INCL		
STREET NAME SIGNS AND POLES - BY OTHERS	EXCL		
DUST CONTROLWATER TRUCKS (4 HRS/DAY FOR 1.5 MO)	132 HR	\$	59.00
PERIODIC SITE CLEANUP	2 MO	\$	1,771.00
DUMPSTER	2 LDS	\$	475.00

FINAL STREET CLEANING	30 HRS	\$ 75.00
REMOVE BARRICADES/POLICE OFFICER/ETC.	1 LS	\$(100,000.00)

**Site Utilities**

Description	Qty	U/M	Unit Cost
INCLUSIONS			
<b>WATER DISTRIBUTION SYSTEM</b>			
[37] MANHOLE PROTECTION (2EA) 2X4s	12	EA	40.13
[38] PROTECT PRIVATE IRRIGATION DITCH	75	LF	13.74
[21] HEADWALL W/TRASHRACK	1	EA	14,735.69
[30] NEW RWCD DITCH PER DET 6 / SHEET 3 (INCLUDES EXCAVATION )	93	LF	147.36
[22] HEADWALL PER DET 8 / SHEET 4	1	EA	14,735.69
[36] 12" IRRIGATION VALVE	1	EA	4,911.90
IMPORT SOIL FOR PIPE TRENCH BACKFILL - NOT REQUIRED		NIC	
[07] 24" WATER VALVE, BOX AND COVER PER SECTION IN PLAN 11 OF 17	1	EA	9,278.03
[09] 8" BALL VALVE - FLUSHING PIPE ASSEMBLY	1	EA	2,401.37
[11] REMOVE FLUSHING PIPE ASSEMBLY AND CONNECT NEW RECLAIMED 8" WATER LINE	1	EA	5,457.66
[15] DIP RECLAIMED 8" WATER LINE - FLUSHING PIPE ASSEMBLY	21	LF	103.70
[17] 24" DIP SECTION PER SECTION IN PLAN 11 OF 17 (45 LF)	1	EA	13,644.16
[17] 24" DUCTILE IRON VALVE (BUTTERFLY, GLOBE, GATE, CHECK VALVE?)	1	EA	8,732.26
[19] DIP 18" FIRE LINE PIPE	21	EA	201.93
[19] DIP 12" FIRE LINE PIPE	22	EA	180.10
[19] DIP 6" FIRE LINE PIPE	23	LF	87.32
[22] FIRE HYDRANT ASSEMBLY	1	EA	10,369.56
[22] FIRE HYDRANT ASSEMBLY ALONG CHANDLER HEIGHTS ROAD - ALLOWANCE	2	EA	21,830.65
[24] 8" BALL VALVE - FLUSHING PIPE ASSEMBLY	2	EA	2,401.37
[25] REMOVE FLUSHING PIPE ASSEMBLY AND CONNECT WATER LINE	3	EA	5,457.66
[56] FIRE HYDRANT MARKER	3	EA	382.04
CONNECT TO EXISTING RECLAIM WATER LINE PER SECTION IN PLAN 11 OF 17	2	EA	4,366.13
RWCD PERMIT (ROOSELVET WATER CONSERVATION DISTRICT)		INCL	
LOCATE UTILITIES - BY BLUE STAKE		INCL	
D-LOAD TEST ON 1% OF PIPE LENGHT		INCL	
[01] 36" RGRCP CL V (INCLUDES TRENCH BACKFILL)	312	LF	169.19
[02] 36" RGRCP CL III (INCLUDES TRENCH BACKFILL)	2425	LF	70.95
[03] 12" PVC SDR-35 (INCLUDES PIPE FITTINGS)	107	LF	43.66
[05] 24" RGRCP CL III	96	LF	60.03
[11] 4 SIDE MANHOLE 10'-12' DEEP	1	EA	16,372.99
[11] 4 SIDE MANHOLE 8'-10' DEEP	6	EA	13,644.16
[12] 4 SIDE PRESSURE MANHOLE	3	EA	13,644.16
[13] 5 SIDE MANHOLE 8'-10' DEEP	2	EA	13,644.16
[15] DELIVERY STRCUTURE 10' - 12' DEEP	1	EA	49,118.96
<b>SANITARY SEWER SYSTEM</b>			
[02] 8" PVC SEWER LINE W/ BEDDING	67	LF	60.03
[04] REMOVE PLUG AND CONNECT TO EXISTING SEWER LINE	2	EA	2,728.83
[05] 8" SEWER PIPE PLUG PER MAG DET 427	2	EA	491.19
[48] ADJUST SEWER MANHOLE FRAME AND COVER	3	EA	2,728.83
P.V.C. PER CITY OF CHANDLER SPEC SEC 10		INCL	
BEDDING MATERIAL (A.B.C.)		INCL	

TRENCH EXCAVATION, BACKFILLING AND COMPACTION PER MAG SPEC SEC 601	INCL	
MANHOLE PROTECTION AND IDENTIFICATION	INCL	
CATCH BASIN ACCESS COVER PER CITY OF CHANDLER	INCL	
[49] ADJUST EXISTING SANITARY MANHOLE FRAME AND COVER TO GRADE IN PAVED AND UNPAVED AREAS	12 EA	4,911.90

**TRAFFIC CONTROL**

Description	Qty	U/M	Unit Cost
DUST CONTROL (4 HRS PER DAY FOR ONE MONTH)		88 HRS	\$60.00
MULTIPLE MOBILIZATIONS		2 EA	\$2,500.00
RAILS/BARRICADES TRENCHING		2500 LF	\$5.58
PERIODIC SITE CLEANUP		1.5 MO	\$1,771.00
DUMPSTER		1 LD	\$475.00

**Electrical**

Description	Qty	U/M	Unit Cost
INCLUSIONS			
[51] 30,000 LUMEN (250 WATT) STREET LIGHT WITH 35' MOUNTING HEIGHT W/ SINGLE-ARM POLE (PER CHANDLER STREET LIGHTING STANDARDS, INCLUDES CONCRETE BASE, EXCAVATION & BACKFILL)	19 EA		3,492.90
2 1/2 " PVC EMPTY CONDUIT RUN FOR LIGHITING POLES (INCLUDES BOXES, TRENCHING AND BACKFILL) - NOT SHOWN IN PLANS	3830 LF		7.10
[52] 4" DIAM SCH 40 PVC SIGNAL CONDUIT WITH A No.14 TRACER WIRE (INCL TRENCHING AND BACKFILL) - CHANDLER HEIGHTS (NOT SHOWN IN DRAWINGS)	2600 LF		10.92
[52] 4" DIAM SCH 40 PVC SIGNAL CONDUIT WITH A No.14 TRACER WIRE (INCL TRENCHING AND BACKFILL)	1226 LF		10.92
[53] No. 9 PULLBOX PER ADOT	4 EA		4,911.90
[57] No. 7 PULLBOX W/ EXTENSION PER ADOT	1 EA		4,366.13
[60] 4" DIA, SCH 40 PVC SIGNAL CONDUIT ( INCL TRENCHING & BACKFILL)	118 LF		17.46
[62] No. 5 PULLBOX PER ADOT	1 EA		3,820.36
STREET LIGHT POLES - CHANDLER HEIGHTS RD MEDIAN	EXCL		
OVERHEAD UTILITY LINE / POLE RELOCATION - BY OTHERS	EXCL		
SRP CONNECTION FEES - BY OTHERS	EXCL		

## EXHIBIT B CLARIFICATIONS

### **GENERAL INFORMATION**

Our full estimate detail has been provided in an "open book" format in an effort to facilitate team member review.

#### **Contingency**

CM@Risk have carried a 5% CM@Risk contingency applied to the construction cost. CM@Risk has not included any Owner contingency at this time.

#### **Escalation**

CM@Risk have not included any cost escalation.

Normal cost escalations for material, equipment and labor are anticipated and included within the estimate. Due to the recent volatility in market conditions, fuel costs, material availability and labor shortages, it is difficult if not impossible to predict costs for extraordinary escalation. It is not in the client's best interest to carry excessive cost allowances within the estimate to cover this potential risk. Should events occur that create extraordinary cost escalations, the project team should address the cost and schedule impact outside of the boundaries of this estimate. Extraordinary escalations include those precipitated by acts of god, war or unprecedented conditions of supply and demand.

#### **Testing, Insurances, Bonds**

Special inspection services, plan check fees, tap fees, impact fees etc. are all excluded and assumed provided by the owner.

Builder's Risk and Liability Insurances are included at 0.213% and 0.823% respectively.

Payment and Performance Bond is included at a rate of \$6.90/\$1,000.

### **DOCUMENT SUMMARY**

The GMP estimate is based primarily on the following documents:

- Drawings – *Offsite Improvements with Street Lighting for Chandler Heights Recharge Project* Dated October 2006 by Sage Engineering.
- Drawings – *RWCD Irrigation Pipe Design for Chandler Heights Recharge Project* Dated June 6, 2006 by HEC Engineering.
- Drawings - *Offsite Improvements with Street Lighting for Chandler Heights Recharge Project* Dated October 2006 with revisions dated November 6, 2007 by Sage Engineering.

## **SCHEDULE OF ALLOWANCES**

Allowances are direct construction costs only and do not include markups such as contingency, insurances, bond, general conditions and overhead and profit.

The following is a list of allowances included within the Schematic Design estimate:

- |                                 |           |
|---------------------------------|-----------|
| 1. Soft Spots Under Water Ditch | \$25,000  |
| 2. Traffic Control              | \$100,000 |

## **General Exclusions**

1. Design and Engineering Fees
2. Handling, Surveying, and/or disposal of contaminated materials such as lead, asbestos or petroleum contaminated soil.
3. Public Utility Connection Fees.
4. Rock Excavation.
5. Permit & Plan Check Fees
6. A/E/ Construction Administration
7. Utility Company Excess Facility Charges.
8. Connection Fees, Tap Fees, Inspection Fees, Impact Fees, or Similar Charges
9. All SRP, Qwest and Other Utility Company Construction Costs
10. General Conditions are excluded. They are being covered by the onsite project.
11. Traffic Lights (CM@Risk have included conduits per the drawings)

## **Specific Inclusions**

1. Arizona Privilege / Sales Tax
2. Payment & Performance Bond
3. Contractor's Liability Insurances
4. Builder's Risk Insurance
5. Proposal Based Street lights attached to light pole bases
6. Excavation of Lindsay Road for new base and asphalt only. No existing or projected grades shown on the drawings. After a site visit assumed road is level and no over excavation is necessary
7. CM@Risk have included pavers and curb at the median @ Gemstone Rd where shown, but no other finishes inside the median, or any other medians (i.e. irrigation, landscape hardscape etc)
8. From the start of the median @ Gemstone Rd going east CM@Risk have included all asphalt north and south of the median.
9. Independent Testing and Inspection
10. CM@Risk have included conduit only for the streetlights along Chandler Heights Road.
11. CM@Risk have included 2 weekends of premium time for any road closures.
12. Unit prices enclosed are for construction costs only. No contractor markups have been included. (ie insurances, bonds, fees, contingency etc.)

**PERFORMANCE BOND**

ARIZONA STATUTORY PERFORMANCE BOND  
PURSUANT TO TITLES 28, 34, AND 41, ARIZONA REVISED STATUTES  
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS THAT: \_\_\_\_\_

(hereinafter "Principal"), and \_\_\_\_\_ (hereinafter "Surety"), a corporation organized and existing under the laws of the State of \_\_\_\_\_ with its principal office in the City of \_\_\_\_\_, holding a certificate of authority to transact surety business in Arizona issued by the Director of Insurance pursuant to Title 20, Chapter 2, Article 1, as Surety, are held and firmly bound unto \_\_\_\_\_ (hereinafter "Obligee") in the amount of \_\_\_\_\_ (Dollars) (\$ \_\_\_\_\_), for the payment whereof, Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated

the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ for construction of **Chandler Heights Community Facilities Phase III - Offsite Improvements CITY PROJECT NO. WW0401-403** which contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal faithfully performs and fulfills all the undertakings, covenants, terms, conditions and agreements of the contract during the original term of the contract and any extension of the contract, with or without notice of the Surety, and during the life of any guaranty required under the contract, and also performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of all duly authorized modifications of the contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, the above obligation is void. Otherwise it remains in full force and effect.

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

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

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

\_\_\_\_\_  
AGENT OF RECORD

\_\_\_\_\_  
PRINCIPAL SEAL

By \_\_\_\_\_

\_\_\_\_\_  
AGENT ADDRESS

\_\_\_\_\_  
SURETY SEAL

**PAYMENT BOND**

ARIZONA STATUTORY PAYMENT BOND  
PURSUANT TO TITLES 28, 34, AND 41, OF THE ARIZONA REVISED STATUTES  
(Penalty of this Bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS THAT: \_\_\_\_\_

(hereinafter "Principal"), as Principal, and \_\_\_\_\_ (hereinafter "Surety"), a corporation organized and existing under the laws of the State of \_\_\_\_\_ with its principal office in the City of \_\_\_\_\_, holding a certificate of authority to transact surety business in Arizona issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, as Surety, are held and firmly bound unto \_\_\_\_\_ (hereinafter "Obligee") in the amount of \_\_\_\_\_ (Dollars) (\$ \_\_\_\_\_), for the payment whereof, the Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ for construction of Chandler Heights Community Facilities Phase III - Offsite Improvements CITY PROJECT NO.: WW0401-403 which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal promptly pays all moneys due to all persons supplying labor or materials to the Principal or the Principal's subcontractors in the prosecution of the work provided for in said contract, this obligation is void. Otherwise it remains in full force and effect.

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

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

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

\_\_\_\_\_  
AGENT OF RECORD

\_\_\_\_\_  
PRINCIPAL SEAL

By \_\_\_\_\_

\_\_\_\_\_  
SURETY SEAL

\_\_\_\_\_  
AGENT ADDRESS

**CITY OF CHANDLER, ARIZONA**  
**CERTIFICATE OF INSURABILITY**

**CITY OF CHANDLER PRIVILEGE TAX LICENSE**

(Refer to Article 6.9, General Conditions; CONTRACTOR'S RESPONSIBILITIES)

**PROJECT NAME: Chandler Heights Community Facilities Phase III - Offsite Improvements**

**PROJECT NUMBER: WW0401-403**

Please attach current certificate per Article 6.9 General Conditions.



CITY OF CHANDLER, ARIZONA  
PUBLIC WORKS DEPARTMENT

CERTIFICATE OF COMPLETION

Project Name: Chandler Heights Community Facilities Phase III - Offsite Improvements  
Project No.: WW0401-403

(TO BE COMPLETED BY CONTRACTOR)

I HEREBY CERTIFY THAT ALL GOODS AND/OR SERVICES REQUIRED BY CITY OF CHANDLER PROJECT NO. WA0320-402 HAVE BEEN DELIVERED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AND BID SPECIFICATIONS AND ALL ACTIVITIES REQUIRED BY THE CONTRACTOR UNDER THE CONTRACT HAVE BEEN COMPLETED AS OF \_\_\_\_\_.

(Date)

FIRM NAME: \_\_\_\_\_

PRINCIPAL: \_\_\_\_\_

(Name)

\_\_\_\_\_  
(Signature)

DATE: \_\_\_\_\_

\_\_\_\_\_  
(Title)

CERTIFIED BY ENGINEER/CONSULTANT:

\_\_\_\_\_  
(Signature)

DATE: \_\_\_\_\_

\_\_\_\_\_  
(Firm Name)

---

**PROJECT ACCEPTED BY USER DEPARTMENT**

\_\_\_\_\_  
(Signature)

DATE: \_\_\_\_\_

\_\_\_\_\_  
(Dept./Div.)

\_\_\_\_\_ Date of Final Walk-Through

**15.4.**

\_\_\_\_\_ Date As-Built Received

\_\_\_\_\_ City As-Built Number