Chandler · Arizona Where Values Make The Difference	PURCHASING ITEM FOR COUNCIL AGENDA Memo No. CA10-015	1. Agenda Item Number: 29
		2. Council Meeting Date: August 13, 2009
TO: MAYOR & COUNCIL		3. Date Prepared: July 14, 2009
THROUGH: CITY MANAGER		4. Requesting Department: Transportation

5. SUBJECT: Award a Construction Manager at Risk contract to Valley Rain Construction Company for Queen Creek Basin Phase III, Project No. ST0601-405, in an amount not to exceed $943,395.33.

6. RECOMMENDATION: Staff recommends that Council award a Construction Manager at Risk contract to Valley Rain Construction Company for Queen Creek Basin Phase III, Project No. ST0601-405, in an amount not to exceed $943,395.33.

7. BACKGROUND/DISCUSSION: In 2003, the City of Chandler and the Flood Control District of Maricopa County (FCDMC) each purchased one-half of approximately 70 acres of land at the southeast corner of Queen Creek Road and McQueen Road. The property was purchased as a retention basin that is one part of the recommended regional drainage plan identified in the Higley Area Drainage Master Plan. The parcel purchased is known as the Queen Creek Road Basin and is intended to retain 154 acre-feet of storm water runnoff from the 100 year storm.

In October 2007 Council approved a combined CM@R preconstruction services contract for Queen Creek Basin, and the Paseo Vista Recreation Area. Due to their proximity to one another City staff believed that by combining the preconstruction services contract, the City will receive greater value in the work being provided. Valley Rain was selected as the contractor for both projects through separate selections based on their strong track record with the City and expertise in such projects

In February 2008 Council approved a CM@R for Phase I to provide no more than 55,000 cubic yards (CY) of excavated material from the retention basin to the Chandler Airport Property Managers (CAPI) parcel as part of an approved land swap of 44.48 acres.

In August 2008 Council approved a CM@R for Phase II of the Queen Creek Basin which covered the majority of the excavation of the basin and dirt haul to the Paseo Vista Recreation Area located across McQueen Road. In addition to the excavation, the Phase II contract also allowed for trees to be salvaged to be used in the Paseo Vista Recreation Area and the future Nozomi Park to be located at the basin site.

Phase III was originally to be the finalization of the retention basin work, which includes some final grading and equalization pipes between basins and the construction of Nozomi Park that would provide soil stabilization (dust control) to the entire site. Due to budget revisions, Community Services has had to postpone construction of Nozomi Park. Phase III will now include soil stabilization that does not incur the ongoing maintenance costs associated with a full publicly used park.

Staff reviewed several options to provide soil stabilization to the site until the time that the park may be constructed. Some of these included leasing the land to be farmed, installing a partial irrigation system, or several types of one-time applications (chemical, hydro seed, or decomposed granite). The site was deemed unusable for farming operations. A partial irrigation system would carry a large capital cost and on-going costs for operation and maintenance. Staff recommends using a native seed mix that does not require on-going irrigation for the majority of the site. On steeper slopes within the basin, decomposed granite will be used to provide erosion control.

8. EVALUATION: The consultant selection process was conducted in accordance with established City policies and procedures. On June 5, 2007, staff received statements of qualifications from three (3) firms to provide pre-construction services for Queen Creek Basin and Nozomi Park. The selection committee consisted of:

Chris Lamm, Project Manager
Dave Verhelst, Storm Water Program Coordinator
Don Tolle, Park Planning Superintendent
Bill Fay, Public Works Engineer
Tom Harrison, Registered Contractor

Roju Shah, Maricopa County
Arend Van Gemmert, Resident

9. FINANCIAL IMPLICATIONS:

Cost:	$943,395.33
Savings:	N/A
Long Term Costs:	N/A

Fund Source:

Acct. No.:	Fund Name:	Program Name:	CIP Funded:	Amount:
412.3310.0000.6511.7ST533	Storm sewer bond fund	Queen Creek Rd Basin	FY06/07	$336,710.37
217.3310.0000.6517.7ST533	Grants In Aid	Queen Creek Road Basin	FY 06/07	$197,755.62
421.4580.0000.6611.7PR435	Community Park Impact Fees	Nozomi Park	FY 06/07	$408,929.34

10. PROPOSED MOTION: Move that Council award a Construction Manager at Risk contract to Valley Rain Construction Company for Queen Creek Basin Phase III, Project No. ST0601-405, in an amount not to exceed $943,395.33 and authorize the Mayor to sign the contract documents.

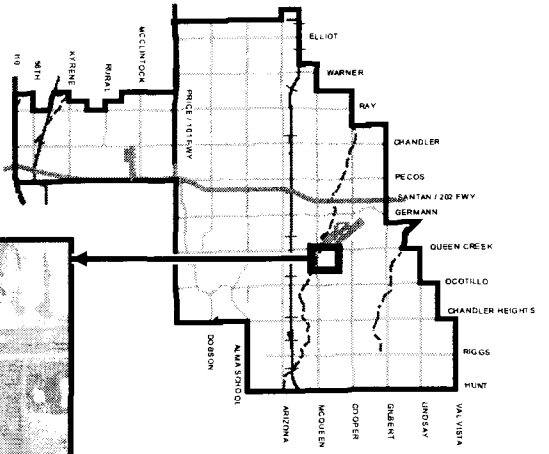
ATTACHMENTS: Location Map, Contract

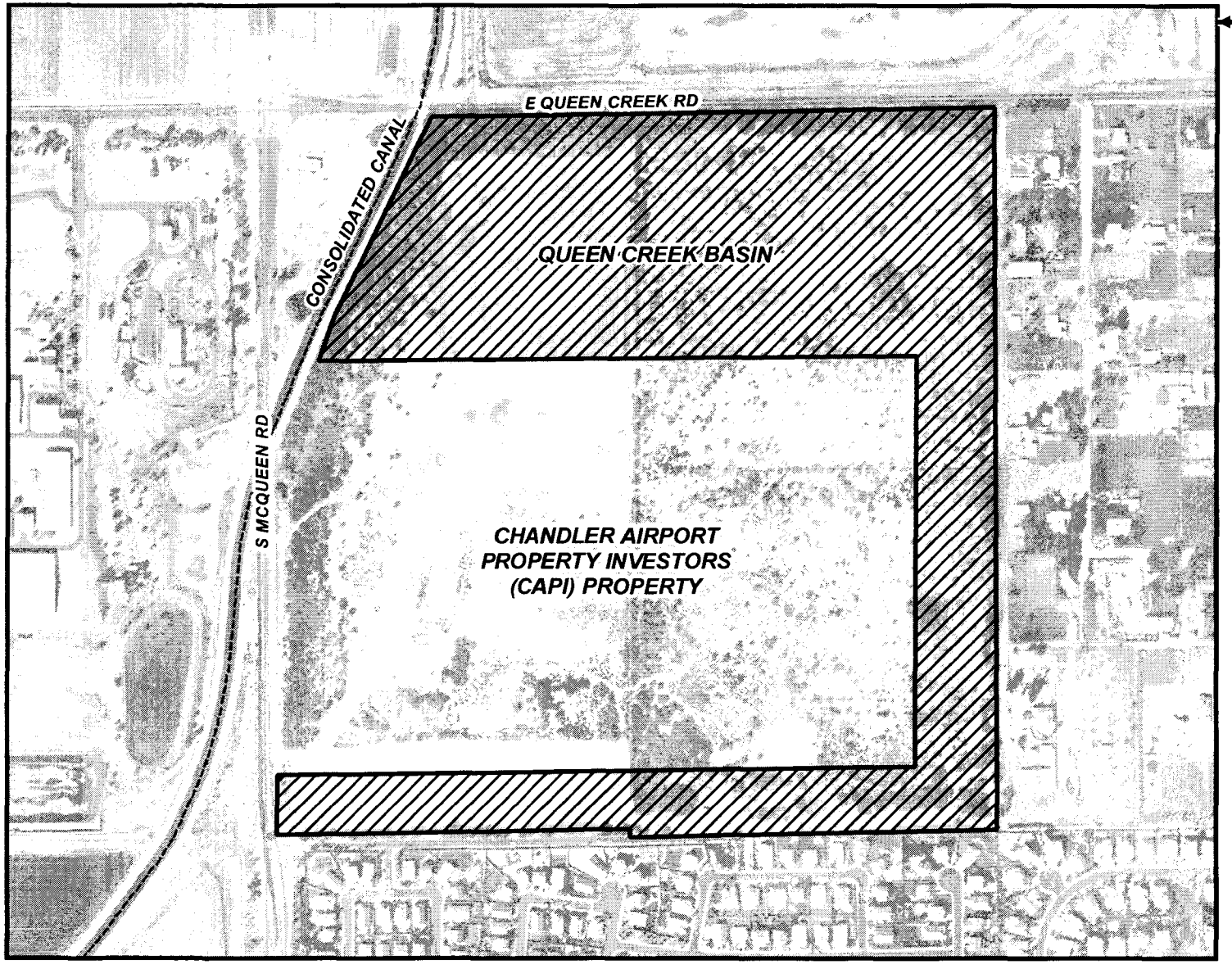
APPROVALS

11. Requesting Department Daniel W. Cook, Deputy Public Works Director	**12. Department Head** R.J. Zeder, Public Works Director
13. City Engineer Sheina Hughes, Assistant Public Works Director/City Engineer	**14. Department Head** Mark M. Eynatten, Community Services Director
15. City Manager W. Mark Pentz	

Chandler · Arizona

QUEEN CREEK BASIN PHASE III
PROJECT NO. ST0601-405





MEMO NO. CA10-015

QUEEN CREEK BASIN

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CONSTRUCTION MANAGER AT RISK
CONSTRUCTION CONTRACT

PROJECT TITLE: Queen Creek Basin Phase III
PROJECT NO: ST0601-405

This CONTRACT is made this day of , 2009, by and between the City of Chandler, 215 E. Buffalo Street, Chandler, Arizona 85225, (hereinafter referred to as "CITY,") and **Valley Rain Construction Corporation**, incorporated 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 contract 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. **ST0601-405** and is described as follows: construction of Queen Creek Basin Phase III described in Exhibit A attached hereto and incorporated herein and 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 Russ Slotnick

6. ARTICLE SIX - CONTRACT TIME

6.1. Completion time. The Work shall be substantially complete within **Ninety** (**90**) days after the date when the Contract Time commences 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 Twenty** (**120**) days after the date when the Contract Time 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 **Five Hundred Seventy** dollars and no cents (**$570**) 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 **Two Hundred Eighty Five** dollars and no cents (**$285**) 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 **Nine Hundred Forty Three Thousand Three Hundred Ninety Five dollars Thirty Three cents ($943,395.33)** ("Guaranteed Maximum Price"), as set forth in Exhibit B, attached hereto and incorporated herein by reference. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the CM@RISK without reimbursement by CITY. The GMP Assumptions and Clarifications are attached hereto as Exhibit B1.

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 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 Fifty Two Thousand Two Hundred Sixty Nine dollars Thirty-Two cents ($52,269.32) ("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 B 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 of the Guaranteed Maximum Price includes Work not expressly indicated in 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. 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: Queen Creek Basin Phase III Project No. ST0601-201

12.3. The Drawings, comprised of a set entitled: Queen Creek Basin Phase III Project No. ST0601-201

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 – BONDS

CM@RISK shall furnish Payment and Performance bonds, each in an amount at least equal to the Contract Price, as security of the faithful performance and payment of all CM@RISKS obligations under the contract documents. Exhibit C and Exhibit D attached hereto and incorporated in by reference.

14. ARTICLE FOURTEEN – INSURANCE

14.1. 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. With the exception of professional liability policies, policies written on a "Claims made" basis are not acceptable without written permission from the City's Risk Manager.

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.

14.2. 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.

14.3. 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;

14.3.1. 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.

14.3.2. 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.

14.3.3. 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.

14.3.4. 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.

14.3.5. 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.

15. ARTICLE FIFTEEN - 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.

16. ARTICLE SIXTEEN - MISCELLANEOUS

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

16.2. 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.

16.3. 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.

17. ARTICLE SEVENTEEN – 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.

18. ARTICLE EIGHTEEN - 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.

19. ARTICLE NINETEEN - COMPLIANCE WITH ARIZONA STATE PROCUREMENT LAW

Compliance with A.R.S. § 41-4401. Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.

The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.

The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verifications.

The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the offeror does not have scrutinized business operations in Iran.

In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the offeror does not have scrutinized business operations in Sudan."

Contractor Immigration Warranty
To Be Completed by Contractor Prior to Execution of Contract

A.R.S. § 41-4401 requires as a condition of your contract verification of compliance by the contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form and attached Employee Verification Worksheet the contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

Project Number/Division: ST0601-405 Queen Creek Basin Phase III
Name (as listed in the contract): Valley Rain Construction Company
Street Name and Number: 1614 E. Curry Road
City: Tempe State: AZ Zip Code: 85281

I hereby attest that:

1. The contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this contract;

2. All subcontractors performing work under this contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees; and

3. The contractor has identified all contractor and subcontractor employees who perform work under the contract and has verified compliance with Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214.

Signature of Contractor (Employer) or Authorized Designee:

Printed Name: Daniel K. Kuwitsky

Title: V.P. Construction

Date (month/day/year): 6-08-09

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 , 2009.

CITY OF CHANDLER

MAYOR Date

ADDRESS FOR NOTICE

City of Chandler
P.O. Box 4008, Mail Stop 407
Chandler, AZ 85244-4008
Phone: 480-782-3307
Fax: 480-782-3355

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney by: SEAL

CONSTRUCTION MANAGER AT RISK

By: Signature

Daniel K. Kuwitzky
Printed or Typed

ADDRESS FOR NOTICE
Valley Rain Construction Company
1614 E. Curry Road
Tempe, AZ
Phone: (480) 894-2835
Fax: (480) 966-1450

ATTEST: If Corporation

Secretary

EXHIBIT A
SCOPE OF WORK

The CM@RISK Contractor shall complete the third phase of grading work at the Queen Creek Basin. Equalizer pipes between retention basins shall be furnished and installed with one bubbler and dry-well at each location. 12" thick rip-rap is to be furnished and in installed between basins C and D. Soil stabilization is to be implemented across the entire 70-acre site. Basins to receive hydro-seed soil stabilization include the slopes of basin B, C, and D as well as slopes of basins B and D. Basins to receive decomposed granite soil stabilization include the slopes of basins A and C as well as the bottom of basin C. The site is to be fenced at the completion of construction.

Prior to commencement of work the contract shall obtain or renew a dust control permit for the site. The CM@RISK Contractor shall ensure the Storm Water Pollution Prevention Plan (SWPPP) is maintained through the duration of construction.

EXHIBIT B
GMP

	Item	Description	Quantity	Unit	Unit Price	Total Price
General and Preparation	1	Construction Survey	1	LS	$13,120.00	$13,120.00
	2	SWPPP Controls	1	LS	$5,000.00	$5,000.00
	3	Dust Control Permit	98	ACRE	$80.57	$7,895.86
Grading and Drainage	4A	Earthmoving	68,622	CY	$3.06	$209,983.32
	4B	Finish Grading	40	ACRE	$1,199.73	$47,989.20
	4C	Place Imported Fill	15,441	CY	$2.48	$38,293.68
	5	(deleted)	0	CY	$3.08	$0.00
	6	(deleted)	0	CY	$0.00	$0.00
	7	12" Thick Rip Rap	6,200	SF	$2.88	$17,856.00
	8	Storm Bubbler and Drywell	2	EACH	$14,300.00	$28,600.00
	9	(deleted)	0	LF	$0.00	$0.00
	10	24" Storm Drain HDPE	495	LF	$71.90	$35,590.50
	11	12" Storm Drain HDPE	20	LF	$69.96	$1,399.20
	12	Headwall at Spillway	1	EACH	$1,198.39	$1,198.39
	13	Headwall Per MAG	2	EACH	$2,197.43	$4,394.86
Fence and Gate	14	6' Ht. Chain Link Fence	8,800	LF	$10.85	$95,480.00
	15	24' Wide Double Swing Chain Link Gate	2	EACH	$1,320.00	$2,640.00
	16	6' Ht. Metalaco Twinbar Fence	2,414	LF	$29.10	$70,247.40
	17	12' Wide Metalaco Twinbar Gate	1	EACH	$2,800.00	$2,800.00
Hydroseed and Granite	18	2" DG 1-1/2" Minus - Slope & Bottom of BasinA	154,000	SF	$0.12	$18,480.00
	20	Hydroseed - Bottom of Basin B and Parking	16,300	CSF	$4.16	$67,808.00
	21	2" DG 1-1/2" Minus - Slope of Basin C	240,000	SF	$0.12	$28,800.00
	22	Hydroseed - Bottom of Basin C	3,060	CSF	$4.16	$12,729.60
	23	Hydroseed - Bottom and slope of Basin D	3,200	CSF	$4.16	$13,312.00
Subtotal 1 - Direct Costs						**$723,618.01**
Contingencies & Allowances	24	Construction Contingency	1	LS	$28,944.72	$28,944.72
	25	Owner Contingency	1	LS	$21,708.54	$21,708.54
Subtotal 2 - Subtotal 1 plus Contingency						**$774,271.27**
General Conditions and Fees	26	General Conditions	1	LS	$57,862.41	$57,862.41
	27	Fee and Overhead	1	LS	$52,269.32	$52,269.32
	29	General Liability Insurance	1	LS	$3,964.26	$3,964.26
	30	Bond	1	LS	$9,505.90	$9,505.90
Subtotal 3 - Subtotal 2 plus GC's, Fees, Bond and Insurance						**$897,873.16**
	31	Chandler Sales Tax	1	LS	$45,522.17	$45,522.17
TOTAL						**$943,395.33**

General Conditions

Description	Quantity	Unit	Rate	Amount
Dust Control, Extra Water Truck	2	mo	$4,400.00	$6,600.00
Portable Toilets	6	ea-mo	$70.00	$420.00
Final Clean	24	hr	$180.32	$4,327.68
Project Supervision	528	hr	$58.08	$30,666.24
General Supt.	59	hr	$100.10	$5,905.90
Project Manager	103	hr	$96.53	$9,942.59
Unit Price Cost for all of the above	3	mo	$19,287.47	$57,862.41

EXHIBIT B1
GMP ASSUMPTIONS AND CLARIFICATIONS

No.	Sheets/Specs	Category	Item Description
1		Earthwork	Earthwork will be cut to final subgrades.
2		Earthwork	Dust control permits have already been extended for the duration of this project and will be billed under GMP 3.
3		Earthwork	A portion of the cost for finish grade was included in GMP2. GMP3 includes the cost of completing the finish grade. GMP 2 grading allowance for finish grade will be billed in its entirety upon completion of this grading phase.
4		Plans	All work is based on plans and specs dated 12-18-09 prepared by EPG. 95% CD's for Phase 2 Nozomi Park and as modified by discussions with Chandler staff and itemized in the proposal dated 4/29/09.
5		Earthwork	Basin D will be balanced to be level at the existing grade.
6		Scope	The scope of work will be only those items listed in the v4 proposal dated 4/29/09. All other items will be future phases.
7		Earthwork	Prewet water will be supplied by RWCD.
8		Clearing	Clearing is not included in this GMP and has been completed
9		Fuel Costs	Fuel adjustments, if needed, will be per ADOT specs section 109.12.
10		Testing	Testing is excluded from this scope.
11		Erosion Repair	Erosion Repair after NTP may be charged to Construction Contingency.
12		Notes	All notes on the proposal of 4/29/09 are incorporated herein.
13		Unit Prices	All Unit Prices in the Cost of Work are deemed as actual cost. Adjustments will not be made for cost variations, but only for variations in quantity billed at the contract unit price.

EXHIBIT C
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 _____, 2009 for construction of **Queen Creek Basin Phase III CITY PROJECT NO. ST0601-405** 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 _____, 2009.

_____
PRINCIPAL SEAL

_____
AGENT OF RECORD

By _____

_____
SURETY SEAL

_____
AGENT ADDRESS

EXHIBIT D
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 _____, 2009 for construction of Queen Creek Basin Phase III **CITY PROJECT NO.: ST0601-405** 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 _____, 2009.

_____
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: Queen Creek Basin Phase III

PROJECT NUMBER: ST0601-405

Please attach current certificate per Article 6.9 General Conditions.

CITY OF CHANDLER, ARIZONA
DEPARTMENT OF PUBLIC WORKS

CONTRACTOR'S AFFIDAVIT REGARDING SETTLEMENT OF CLAIMS

_____, Arizona

Date _____

Project Name: **Queen Creek Basin Phase III**
Project No.: **ST0601-405**

To the City of Chandler, Arizona

Gentlemen:

This is to certify that all lawful claims for materials, rental of equipment and labor used in connection with the construction of the above project, whether by subcontractor or claimant in person, have been duly discharged.

The undersigned, for the consideration of $_____, as set out in the final pay estimate, as full and complete payment under the terms of the contract, hereby waives and relinquishes any and all further claims or right of lien under, in connection with, or as a result of the above described project. The undersigned further agrees to indemnify and save harmless the City of Chandler against any and all liens, claims or liens, suits, actions, damages, charges and expenses whatsoever, which said City may suffer arising out of the failure of the undersigned to pay for all labor performances and materials furnished for the performance of said installation.

Signed and dated at _____, this _____ day of _____ 20_____.

_____
CONTRACTOR

By _____

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)

The foregoing instrument was subscribed and sworn to before me this _____ day of _____ 20 _____.

_____
Notary Public

_____
My Commission Expires

CITY OF CHANDLER, ARIZONA
PUBLIC WORKS DEPARTMENT

CERTIFICATE OF COMPLETION

Project Name: **Queen Creek Basin Phase III**
Project No.: **ST0601-405**

(TO BE COMPLETED BY CONTRACTOR)

I HEREBY CERTIFY THAT ALL GOODS AND/OR SERVICES REQUIRED BY CITY OF CHANDLER PROJECT NO. ST0601-405 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:

_____ DATE: _____
(Signature)

_____
(Firm Name)

PROJECT ACCEPTED BY USER DEPARTMENT

_____ DATE: _____
(Signature)

_____
(Dept./Div.)

_____ Date of Final Walk-Through

_____ Date As-Built Received

_____ City As-Built Number

City of Chandler
GENERAL CONDITIONS