

**NOTICE OF JOINT MEETING OF THE BOARD OF DIRECTORS OF
THE TOWN OF CAREFREE, AZ UTILITIES COMMUNITY FACILITIES DISTRICT
AND THE BOARD OF DIRECTORS OF THE CAREFREE WATER COMPANY, INC.**

WHEN: TUESDAY, NOVEMBER 2, 2021

WHERE: ZOOM ONLINE*

TIME: 4:00 P.M.

Pursuant to A.R.S. § 10-822, notice is hereby given of the time, place and purposes of a meeting of the Board of Directors of the Town of Carefree Utilities Community Facilities District and the Board of Directors of the Carefree Water Company, Inc., an Arizona corporation.

Members of the Board of Directors are participating by technological means or methods pursuant to A.R.S. §10-708.

CALL TO ORDER

SILENT ROLL CALL

AGENDA

ITEM #1 Approval of the August 3, 2021, UCFD/CWC meeting minutes

ITEM #2 Recognition of new Board Member, Michael Johnson.

ITEM #3 Review, discussion, and possible action to approve Resolution 2021-16 authorizing the Chairman of the Board of Directors to enter into Engineering Services Contract No. C2021-05 with Coe and Van Loo II L.L.C. for Construction Administration and Inspection (CA&I) Services for the Carefree Water Consolidation Project.

ITEM #4 Review, discussion, and possible action to approve Resolution 2021-17 authorizing the acquisition of properties necessary for the construction the Carefree Water Consolidation Project.

ITEM #5 Review, discussion and possible action to approve Resolution 2021-18 authorizing the Chairman of Board of Directors to enter into Construction Services Contract No. C2021-06 with Achen-Gardner Construction, LLC for Guaranteed Maximum Price (GMP) A1, Tom Darlington Water Storage Reservoir - Site Preparation Work associated with the Carefree Water Consolidation Project.

ITEM #6 Adjournment.

DATED this 25th day of October, 2021.

UCFD/CWC

By: *Kandace French Contreras*

Kandace French Contreras, District Clerk/Secretary

Items may be taken out of order



FOR SPECIAL ACCOMMODATIONS

Please contact the Town Clerk, 8 Sundial Circle (PO Box 740), Carefree, AZ 85377; (480) 488-3686, at least three working days prior to the meeting if you require special accommodations due to a disability.

**MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS OF
THE TOWN OF CAREFREE, AZ UTILITIES COMMUNITY FACILITIES DISTRICT
AND THE BOARD OF DIRECTORS OF THE CAREFREE WATER COMPANY, INC. 1**

WHEN: TUESDAY, AUGUST 3, 2021

WHERE: ZOOM WEB

TIME: 4:00 P.M.

Attending

Chairman Les Peterson

Absent

None

Board Members:

John Crane

Vince D'Aliesio

Tony Geiger

Stephen Hatcher

Cheryl Kroyer

Also Attending:

Greg Crossman, District Manager and Water Company General Manager; Gary Neiss, Carefree Town Administrator; Michael Wright, District and Water Company Attorney; Kandace French Contreras, District Clerk and Water Company Secretary.

Chairman Peterson opened the meeting at 4:00 p.m.

AGENDA

ITEM #1 Approval of the June 1, 2021 UCFD/CWC meeting minutes.

Chairman Peterson announced the agenda item and asked if there were any questions or changes to the minutes. There were none.

Vice Chairman Crane moved to approve the minutes as presented. There was a **second** by Board Member Kroyer. The motion **carried** unanimously.

ITEM #2 Review, discussion, and possible action on Water Company Resolution 2021-13 which authorizes the execution of Subcontract Agreement No. 21-XX-30-W0693 with the Central Arizona Water Conservation District (CAWCD) and the United States Bureau of Reclamation (USBOR) for 112 acre-feet (AF) of Non-Indian Agricultural (NIA) Priority Central Arizona Project (CAP) water and authorizes the execution of required documents.

Chairman Peterson announced the agenda item and introduced Greg Crossman. Chairman Peterson commented that at he remembered discussing this topic a number of years ago. It has taken a long time, but he was excited that the matter was now before them now in final form.

General Manager Crossman agreed the matter was a long time coming. He explained to the Board that the matter before them was a new CAP water contract. Carefree's original municipal and industrial (M&I) allocation contract was for 400-acre feet in 1983 with a subsequent purchase of 900-acre feet in 2007 for a total CAP/M&I allocation of 1,300-acre feet annually from the Colorado River via the CAP canal. Additionally, with the acquisition of the Carefree service area, neighborhoods A, B&C another 378 acre feet are added for a total of 1,678 acre feet of water. The current demand for water through the Carefree Water System, including the Carefree Service Area, is about 1,300-acre feet. As seen, with the current 1678-acre feet of M&I water combined with our ground water, we have a fairly robust water portfolio to service our residents and businesses.

Mr. Crossman then summarized the presentation and the Resolution reminding the Board that the Resolution has been modified from the original Resolution presented in the council packet. Resolution 2021-13 authorizes the execution of a Subcontract Agreement with the Central Arizona Water Conservation District (CAWCD) and the United States Bureau of Reclamation (USBOR) for 112 acre-feet (AF) of Non-Indian Agricultural (NIA) Priority Central Arizona Project (CAP) water and authorizes the execution of required documents. The modification of the Resolution was amending it to include both the Carefree Water Company Board and the Utilities Community Facilities District Board. He stated the subcontract is with the United States of America and the CAWCD with an upfront capital cost of \$1,961.50 acre feet or \$219,688.00.

Mr. Crossman went over the background of the 2013 opening for reallocation of water by the Arizona Department of Water Resources and its process for reallocating just under 47,000-acre feet of CAP agricultural water. The Carefree Water Company applied for 118-acre feet in 2013 and in 2014 the Carefree Water Company received notice it would be recommended to receive 112-acre feet. It was expected that the environmental review process for the approval would be a 2-year process. It unfortunately turned into an 8-year review and approval process. But now they are ready to contract for this water.

Board Member Kroyer asked Mr. Crossman how he determined to request the 118-acre feet in 2013.

Mr. Crossman responded and explained his analysis and the future demand along with the current CAP allocation and the estimate of needed water at build out.

Mayor Peterson asked how it was possible that the agency is granting additional water in one area and pulling back in another, i.e., farmers and agriculture.

Mr. Crossman responded and explained that agricultural entities found the CAP water to be too expensive for their needs so they turned it back in to the CAP. Many have gone back to using ground water. Mr. Crossman then went into areas of note and he outlined the priorities of CAP and the Water Banking Authority and drought management. He explained the available use of the agricultural water.

Board Member Hatcher also asked for more information on the allocation of Native American water and why there appeared to be a discrepancy in who was being allotted CAP water.

Mr. Crossman explained location as it relates to the distance from the CAP canal. There was additional discussion regarding water availability to various Native American communities.

Mr. Crossman then broke down the capital investment of \$291, 668.00. Fortunately, the Carefree Water Company has been setting aside funds for the allocation of the water since the FY14-15 and has a current balance of \$144,000.00, leaving about \$76,000 unfunded. The CAWCD is offering a 5-year payment option at 2.5%. It is anticipated the Carefree Water Company will use that payment option for the unfunded \$76,000.00. He stated that this is one of the last reminding allocations of water available and it is unknown when or if other allocations will become available in the future.

Board Member Hatcher asked if it was possible to reserve the water and not spend the money until it wasn't needed? He questioned if it was a future asset available to us?

Mr. Crossman responded that either the water is purchased or released to sell to someone else. There is no way to defer the purchase.

Mr. Crossman, Vice Chair Crane and Board Member Hatcher entered into a discussion of the past costs and capital charge as well as the NIA water cost and the delivery charge and O&M charge.

Vice Chairman Crane asked if there was an ability to recharge at this time.

Mr. Crossman responded that there was not. He has been investigating some of the CAP allocations to recharge with Scottsdale as Scottsdale has a recharge site in the Carefree Basin in the Desert Mountain area. Up to this point there have been roadblocks because of non-lease provisions in the contracts and he is trying to work through that with the assistance of Mike Pearce, our water attorney. He is working on innovative ways to use this newly allocated CAP NIA water.

Vice Chairman Crane commented the water could also be used to supplement the CAP M&I water orders and asked if this water cost less or why would it be done? Mr. Crossman explained the process and thoughts behind this matter and explained that they need to perfect the use of this water.

There was additional discussion regarding the M&I water and supplementing the CAP water.

Board Member Hatcher asked about the pricing difference in the water. Mr. Crossman explained the pricing is the same.

Chairman Peterson asked about possible cutback in CAP water and questioned if this water would be any better or worse as to future cutbacks?

Mr. Crossman discussed the thoughts and speculations for future cutbacks. There was additional discussion regarding future use and possible increased density of the Town, increased development and the assurance and strength of the water portfolio. There was additional discussion that this is a recharge opportunity.

Vice Chairman Crane **moved** to **approve** the District and Water Company Resolution as presented. There was a **second** by Board Member Hatcher. The motion **carried** unanimously.

ITEM #3 **Review, discussion, and possible action on District Resolution 2021-14 which authorizes the execution of an Addendum to the Advance in Aid of Construction Water Facilities Agreement dated June 7, 2006, modifying the Payoff Schedule for District payments to the Town of Carefree.**

Chairman Peterson announced the agenda item and asked Mr. Greg Crossman to walk the Board through the matter.

Mr. Crossman presented a Power Point and provided background on the agenda item with the subject being the Capital Advance. He explained that the 2006 the Town and the District entered into a repayment agreement. This Agreement, shortened to the title, "Capital Advance" was used to fund improvements funded by the Town at a time that the Water Company did not have a lot of funds in 1998. Originally the capital advance was set up to pay back \$2.3 million but revised two times, once in 2011 and once in 2012 for a total of \$3.2 million. The repayment is for principal only without interest. The original bond debt repayment of \$414,000 a year began being redirected for the "Capital Advance" repayment in December, 2018 which was anticipated to be paid off in June, 2026. To date, \$1.24 million has been repaid. The reason for the modification is the bonding effort for the Water Consolidation Project approved on July 27, 2021. The bonds will go to sale soon and the bond rating agencies and investors prefer to see "debt coverage" at 1.2 or 20% more than the debt that is to be repaid. If the full \$414,000 is paid to the Town in early years, it pulls the coverage below the 1.2 level. What is being requested is a modification of the payment schedule to keep the debt coverage at the 1.2 amount.

Mr. Crossman provided a Power Point slide showing the "pay by" date, the original payment amount, and the revised payment amount to comply with the 1.2 ratio. He addressed questions by Board Member Kroyer and explained the columns and payment schedule, showing a payment every 6 months and extending it from the original date of June 30, 2026 and adding payments to extend to December 31, 2028. The repayment amounts would be reduced for a certain period of time during the new bond repayment timeframe. As revenues increase, so will the payment to the Town, repaying the full \$3.2 million dollars.

Mr. Crossman reiterated the requested modification and explained it would be approved by Resolution 2021-14 and the total repayment amount remains the same while the repayment period would be extended 2 ½ years. It provides the District with a continuous 1.2 debt coverage and allows for the highest bond rating as well and provides the highest in investor appeal. He stated that if the Board approved the Resolution, the Carefree Town Council would also review and address acceptance of its portion under the Town Council meeting agenda item 12.

Chairman Peterson asked Mr. Crossman to confirm that the payment schedule has been worked out and agreed upon by the Town Administrator, Gary Neiss and Town accounting, Jim Keen, for the Town. Mr. Crossman affirmed that had been done. He stated it has also been reviewed and approved by Dan Jackson of Wildan Consulting.

Chairman Peterson spoke to the benefit of extending the debt to all the Carefree Water Company citizens.

Board Member Hatcher asked if there was any impact to covenants prior to the modification, if approved. He was assured there was none.

Council/Board Member Kroyer **moved** to **approve** Resolution 2021-014 as presented by approved. There was a **second** by Vice Chair John Crane. The motion **carried** unanimously.

ITEM #4 Adjournment

Board Member Kroyer **moved** to **adjourn**. There was a **second** by Board Member Geiger. The motion **carried** unanimously.

Meeting adjourned at 4:54 p.m.

DATED this 3th day of August, 2021.

UTILITIES COMMUNITY FACILITIES DISTRICT
CAREFREE WATER COMPANY

By: Kandace French Contreras
Kandace French Contreras, District Clerk/Secretary

Items may be taken out of order

**CAREFREE WATER COMPANY AND
CAREFREE UTILITIES COMMUNITY FACILITIES DISTRICT****BOARD COMMUNICATION**

TO: CHAIRMAN AND BOARD MEMBERS
FROM: GREG CROSSMAN, GENERAL MANAGER GC
DATE: OCTOBER 25, 2021
SUBJECT: NOVEMBER 2, 2021, BOARD AGENDA ITEM NO. 3

Attached for your review prior to the November 2, 2021, Board meeting are the following documents covered under Agenda Item No. 3:

- 1) Resolution No. 2021-16 authorizing the Chairman to enter into the following contract;
- 2) Contract No. C2021-05 with Coe and Van Loo II, L.L.C for Construction Administration and Inspection (CA&I) Services for the Carefree Water Consolidation Project in an amount not to exceed \$708,146.00.

BACKGROUND

On March 2, 2021, the Board approved two contracts to begin moving the Carefree Water Consolidation Project forward into the construction phase. The two approved contracts included final engineering design services and pre-construction services provided by a Construction Manager at Risk (CMAR). The CMAR is anticipated to perform the construction work on the project. The designer hired on March 2nd was the engineering firm of Coe and Van Loo (CVL), and the CMAR was the construction firm of Achen-Gardner.

The goal of the Water Consolidation project is to transition those portions of Carefree served potable water by the Town of Cave Creek over to the Carefree Water Company.

CONSTRUCTION ADMINISTRATION AND INSPECTION (CA&I) SERVICES

The Water Consolidation Project is quickly moving into the construction phase. The resolution and contract covered under this agenda item provide for CA&I services in support of project construction. The firm providing CA&I services is a critical part of the overall project delivery team and will provide the following:

- Overall Project Management
- Stakeholder Meeting Coordination
- Contractor Review
 - Guaranteed Maximum Price (GMP) Submittals
 - Pay Applications
 - Contingency and Allowance Usage
 - Change Orders
 - Construction Schedule
 - Phasing, Maintenance of Plant Operations (MOPOs), and Flushing Plans
- Shop Drawing Review
- Requests for Information (RFIs)
- Operation and Maintenance (O&M) Manual Review
- Construction Inspection
- Quality Assurance Testing
- Project Close-Out Monitoring

SELECTION PROCESS

Coe and Van Loo (CVL), who is also the final design firm for the Water Consolidation project, was selected to provide CA&I services using a two-step competitive, qualifications based process. The first step in the selection process was the submittal of a written Statement of Qualifications (SOQs). Four firms submitted written SOQs. A review panel of three staff members from both the Water Company and the Town reviewed and ranked the SOQs.

As a second step in the process, a “shortlist” of firms was prepared for oral interviews based on the SOQ review and ranking process. This shortlist was comprised of two firms that were interviewed by a four member panel comprised of staff members from the Water Company and the Town. CVL was recommended by the panel as the most qualified firm to provide CA&I services for the project based on the results of the oral interviews.

RECOMMENDATION

Staff recommends the approval of Resolution 2021-16 which authorizes the Chairman of the Board to enter into an Engineering Services Contract with CVL for CA&I services in an amount not to exceed \$708, 146.00. Approval of this CA&I services contract will complete the professional team necessary to support the implementation of the Carefree Water Consolidation Project through construction.

Please contact Greg Crossman (480-488-9100; greg@carefreewaterco.com) with any questions.

RESOLUTION 2021-16

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE TOWN OF CAREFREE, ARIZONA UTILITIES COMMUNITY FACILITIES DISTRICT (UCFD) AUTHORIZING THE CHAIRMAN OF THE BOARD OF DIRECTORS TO EXECUTE ENGINEERING SERVICES CONTRACT NO. 2021-05 WITH COE & VAN LOO II, L.L.C. FOR CONSTRUCTION ADMINISTRATION AND INSPECTION (CA&I) SERVICES ASSOCIATED WITH THE CAREFREE WATER CONSOLIDATION PROJECT

WHEREAS, providing adequate water service to the public is an important, proper, and necessary public purpose; and

WHEREAS, the UCFD has acquired the right to serve those portions of Carefree currently served potable water by the Town of Cave Creek, also known as the Carefree Service Area (CSA) and Neighborhoods A, B, and C; and

WHEREAS, the transition of the water provider for the CSA requires a significant construction effort to disconnect, reconnect, and reintegrate portions of the Town of Cave Creek and Carefree Water Company potable water systems; and

WHEREAS, the significant construction process to be undertaken requires Construction Administration and Inspection (CA&I) services; and

WHEREAS, through a competitive, qualifications based selection process the firm of Coe and Van Loo II, L.L.C. was determined to be the most qualified firm to perform these services.

NOW, THEREFORE, IT IS RESOLVED by the Board of Directors of the UCFD that the Chairman of the Board is hereby authorized to execute Engineering Services Contract No. C2021-05 with Coe & Van Loo II, L.L.C. for Construction Administration and Inspection (CA&I) services facilitating the acquisition, disconnection, reconnection, and reintegration efforts in support of the Carefree Water Consolidation Project No. 2021-W01; and further authorizing the disbursement of funds for these purposes.

PASSED AND ADOPTED BY the Board of Directors of the Town of Carefree, Arizona Utilities Community Facilities District this 2nd day of November, 2021.

AYES ___ NAYS ___ ABSTENTIONS ___ ABSENT ___

TOWN OF CAREFREE, ARIZONA
UTILITIES COMMUNITY FACILITIES
DISTRICT

ATTESTED TO:

Les Peterson, Chairman of the
Board of Directors

Kandace French Contreras
District Clerk

APPROVED AS TO FORM:

Michael W. Wright
Attorney for the District

**TOWN OF CAREFREE, ARIZONA UTILITIES COMMUNITY FACILITIES DISTRICT
CAREFREE WATER CONSOLIDATION PROJECT**

**CONSTRUCTION ADMINISTRATION AND
INSPECTION SERVICES CONTRACT**

**PROJECT NO. 2021-W01
CONTRACT NO. C2021-05**

**TOWN OF CAREFREE, ARIZONA UTILITIES COMMUNITY FACILITIES DISTRICT
ENGINEERING SERVICES CONTRACT**

**CAREFREE WATER CONSOLIDATION PROJECT
CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES**

THIS CONTRACT, entered into this 2nd day of November, 2021, between the Town of Carefree, Arizona Utilities Community Facilities District, a special purpose tax levying district and a municipal corporation and a political subdivision of the State of Arizona, the "UCFD" and Coe and Van Loo II L.L.C., an Arizona limited liability company, the "ENGINEER."

RECITALS

A. The UCFD intends to contract for Construction Administration and Inspection (CA&I) Services for the acquisition of the portion of Carefree served potable water by the Town of Cave Creek known as the "Carefree Service Area". This area is comprised of three neighborhoods known as "Neighborhoods A, B, and C" (also generally known as west side of Carefree). This CA&I effort will be used to administer and inspection the disconnection of these three neighborhoods from the Cave Creek water system and reconnect them to the Carefree Water system. This effort is being designed by the engineering firm of Coe & Van Loo II L.L.C. and will be constructed through the Construction Manager at Risk (CMAR) process by the firm of Achen-Gardner Construction.

CA&I services will be provided by the ENGINEER for the work encompassed in the following plan sets:

- Southwest Carefree Water Improvements (Neighborhood A)
- West Carefree Water Improvements (Neighborhood B)
- Northwest Carefree Water Improvements (Neighborhood C)
- Tom Darlington (Boulders) Water Storage Reservoir
- Booster Pump Station Site Improvements
- Tom Darlington to Carefree Highway – 12" Water Main Plans
- Scottsdale Interconnect and Transmission Main
- Silver Saddle Improvement Plans
- Black Mountain Foothills Improvement Plans

CA&I services may also be provided by the ENGINEER for the work encompassed in the following plan sets at the discretion of the UCFD:

- Leisure Lane Box Culvert

The UCFD may expand, at its discretion, the Scope of Work to include other water system improvements funded by water revenue bond proceeds and by various other Carefree Water Company programs and budgets such as the annual Capital

Improvement Program (the "CIP"), collected development or impact fees (Water Capacity Fees), and Replacement and Maintenance (R&M) budgets.

The UCFD may also expand the Scope of Work to include other infrastructure improvements funded by the Town of Carefree (the "Town") when, at the discretion of the Town and the UCFD, it is in the best interest of the Town to include such work. Town work may include drainage and flood control, roadway, and other public infrastructure improvements.

B. The Engineer is qualified to render the CA&I services desired by the UCFD.

FOR AND IN CONSIDERATION of the parties' mutual covenants and conditions, it is agreed between the UCFD and the Engineer as follows:

1.0 Description, Acceptance, Documentation

1.1 Scope of Services

The Engineer will act under the authority and approval of the Contract Administrator to provide the Engineering services required by this Contract.

The Engineer is assigned the tasks specified in the attached Exhibit A, Scope of Work, "Carefree Water System Acquisition – Construction Administration and Inspection Services", which is incorporated by reference and made a part of this Contract. All survey and engineering drawings prepared as part of this Engineering Services Contract shall include right-of-way, easement, and property boundaries.

The Engineer must obtain all necessary information to complete the tasks specified herein and in Exhibit A, Scope of Work, "Carefree Water Consolidation Project – Construction Administration and Inspection Services".

1.2 Acceptance and Documentation

- A. Each task will be reviewed and approved by the Contract Administrator to determine acceptable completion.
- B. The UCFD will provide information to the Engineer for timely completion of the tasks in Section 1.1 above.
- C. All documents, including but not limited to, drawings, special provisions, data compilations, studies, field survey notes, reports, and estimates which are prepared in the performance of this Contract are to be and remain the property of the UCFD and are to be delivered to the Contract Administrator before final payment is made to the Engineer.

2.0 Fees and Payments

2.1 Fee Schedule

Engineer will perform the services outlined herein for a not-to-exceed fee of \$708,146.00 unless exceedances are authorized in writing. Engineer will prepare a monthly invoice based on the percentage of work complete and submit the invoice to the UCFD. A breakdown of the costs is shown in the attached Exhibit B which summarizes the entire project.

2.2 Payment Approval

The time spent for each task must be recorded and submitted to the Contract Administrator. The Engineer must maintain all necessary documents and accounting records pertaining to time billed and to costs incurred and make these materials available at all reasonable times during the contract period.

Monthly payments will be made to the Engineer on the basis of a progress report submitted by the Engineer for work completed through the last day of the preceding calendar month; however, not more than 90% of the total contract price will be paid before UCFD's final acceptance of all completed work. Each task is subject to review and approval by the Contract Administrator to determine acceptable completion.

The Contract Administrator reserves the exclusive right to determine the amount of work performed and payment due the Engineer on a monthly basis.

All charges must be approved by the Contract Administrator before payment.

2.2.1 Payment Terms

The UCFD's payment terms for engineering work is 30 days after invoice submittal by the engineer and the work is approved by the UCFD Contract Administrator.

2.3 Price Adjustment – Not Used

3.0 General Terms and Conditions

3.1 Contract Administrator

The Contract Administrator for the UCFD will be Greg Crossman, District Manager of the UCFD, or designee. The Contract Administrator will oversee the performance of this Contract, assist the Engineer in accessing the organization, audit billings, and approve payments. The Engineer must submit all drawings, special provisions, field survey notes, reports, and estimates, and any special requests through the Contract Administrator. The Contract Administrator has the authority to authorize Change Orders up to the limits permitted by the UCFD.

3.2 Term of Contract

The term of this contract shall begin on the date that Notice to Proceed is issued, and all work under this contract shall be completed within 1-1/2 years (548 calendar days) unless extensions are issued in writing.

If any tasks remain incomplete after the Term of the Contract, the Contract Administrator must give written approval to continue the Contract.

This Contract is in full force and effect when it is signed by the UCFD and the Engineer.

3.3 Termination or Cancellation of Contract

The UCFD may terminate this Contract or abandon any portion of the project that has not been performed by the Engineer.

Termination for Convenience: The UCFD has the right to terminate this Contract or any part of it for its sole convenience with 30 days written notice. If terminated, the Engineer must immediately stop all work and will immediately cause any of its suppliers and Subcontractors to stop all work. As payment in full for services performed to the date of the termination, the Engineer will receive a fee for the percentage of services actually completed. This fee will be in the amount mutually agreed upon by the Engineer and the UCFD, based on the Scope of Work. If there is no mutual agreement, the Contract Administrator will determine the percentage of completion of each task detailed in the Scope of Work and the Engineer's compensation will be based on this determination. The UCFD will make this final payment within 60 days after the Engineer has delivered the last of the partially completed items. The Engineer will not be paid for any work done after receipt of the notice of termination or for any costs incurred by the Engineer's suppliers or Subcontractors, which the Engineer could reasonably have avoided.

Cancellation for Cause: The UCFD may also cancel this Contract or any part of it with 7 days notice if the Engineer defaults, or if the Engineer fails to comply with any of the terms and conditions of this Contract. Unsatisfactory performance as determined by the Contract Administrator and failure to provide the UCFD, upon request, with adequate assurances of future performance are all causes allowing the UCFD to terminate this Contract for cause. Upon cancellation for cause, the UCFD will not be liable to the Engineer for any amount, and the Engineer will be liable to the UCFD for all damages sustained by the default which caused the cancellation.

If the Engineer is in violation of any Federal, State, County or Town law, regulation or ordinance, the UCFD may terminate this Contract immediately after giving notice to the Engineer.

If the UCFD cancels this Contract or any part of the Contract services, the UCFD will notify the Engineer in writing, and upon receiving notice, the Engineer must discontinue advancing the work and proceed to close all operations.

Upon cancellation, the Engineer must deliver to the UCFD all drawings, special provisions, field survey notes, reports, and estimates, entirely or partially completed, in any format, including but not limited to written or electronic media, together with all unused materials supplied by the UCFD. Use of incomplete data will be the UCFD's sole responsibility.

The Engineer must appraise the work it has completed and submit its appraisal to the UCFD for evaluation.

If the Engineer fails to fulfill in a timely and proper manner its obligations, or if the Engineer violates any of the terms of this Contract, the UCFD may withhold any payments to the Engineer for the purpose of setoff until the exact amount of damages due the UCFD from the Engineer is determined by a court of competent jurisdiction.

If the UCFD improperly cancels the Contract for cause; the cancellation for cause will be converted to a termination for convenience in accordance with the provisions of this Section 3.3.

3.4 Funds Appropriation

If the UCFD Board of Directors does not appropriate funds to continue this Contract and pay for charges hereunder, the UCFD may terminate this Contract at the end of the current fiscal period. The UCFD agrees to give written notice of termination to the Engineer at least thirty (30) days prior to the end of its current fiscal period and will pay to the Engineer all approved charges incurred through the end of such period.

3.5 Audit

The UCFD may audit all of the Engineer's records, calculations, and working documents pertaining to this work at a mutually agreeable time and place.

The Engineer's records (hard copy, as well as computer readable data), and any other supporting evidence necessary to substantiate any claims related to this Contract must be open to inspection and subject to audit and reproduction by the UCFD's authorized representative as necessary to permit evaluation and verification of the cost of the work, and any invoices, change orders, payments or claims submitted by the Engineer or any of his payees. The UCFD's authorized representative must be afforded access, at reasonable times and places, to all of the Engineer's records and personnel throughout the term of this Contract and for a period of 3 years after the final payment.

The Engineer must require all Subcontractors and material suppliers (payees) to comply with the provisions of this section by insertion of these requirements in a written contract between the Engineer and payee. These requirements will apply to all Subcontractors.

If an audit discloses overcharges by the Engineer to the UCFD in excess of 1% of the total contract billings, the actual cost of the UCFD's audit must be reimbursed to the UCFD by the Engineer. Any adjustments and payments made

as a result of the audit or inspection of the Engineer's invoices and records will be made within a period of time not to exceed 90 days from presentation of the UCFD's findings to the Engineer.

This audit provision includes the right to inspect personnel records as required by Section 3.22.

3.6 Ownership of Project Documents

All documents, including but not limited to, drawings, tracings, design notes and calculations, special provisions, data compilations, studies, field notes, reports, and estimates, in any format, including but not limited to, written or electronic media, prepared in the performance of this Contract will remain the property of the UCFD and must be delivered to the Contract Administrator before final payment is made to the Engineer.

When the work detail covers only the preparation of preliminary reports or plans, there will be no limitations upon the UCFD concerning use of the plans or ideas in the reports or plans for the preparation of final construction plans. The UCFD will release the Engineer from any liability for the preparation of final construction plans by others.

3.7 Completeness and Accuracy

The Engineer will be responsible for the completeness and accuracy of its work, including but not limited to, survey work, drawings and sketches, design calculations, special provisions, data compilations, studies, field notes, reports, and estimates, and will correct, at its expense, all errors or omissions which may be disclosed. The cost to correct those errors will be chargeable to the Engineer. Additional construction added to the project will not be the responsibility of the Engineer unless the need for additional construction was created by any error, omission, or negligent act of the Engineer. The UCFD's acceptance of the Engineer's work will not relieve the Engineer of any of its responsibilities.

3.8 Dispute Resolution

All disputes and controversies of every kind and nature between the parties hereto arising out of or in connection with this Contract as to the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance, or termination thereof shall, if the dispute or controversy cannot be settled through negotiation, be submitted to binding private arbitration. Any settlement agreement signed by the parties pursuant to the arbitration shall be binding. The prevailing party in the arbitration shall be entitled to receive from the other party reasonable attorneys' fees and reasonable expenses as determined by the arbitrator.

3.9 Successors and Assigns

This Contract will be binding upon the Engineer, its successors and assigns, including any individual, or other entity with or into which the Engineer may

merge, consolidate, or be liquidated, or any individual or other entity to which the Engineer may sell or assign its assets.

3.10 Assignment

Services covered by this Contract must not be assigned or sublet in whole or in part without first obtaining the written consent of the Contract Administrator.

3.11 Subcontractors

The Engineer may engage any additional Subcontractors as required for the timely completion of this Contract. If the Engineer subcontracts any of the work required by the Contract, the Engineer remains solely responsible for fulfillment of all the terms of this Contract.

The Engineer will pay its Subcontractors within 7 calendar days of receipt of each progress payment from the UCFD. The Engineer will pay for the amount of the Work performed by each Subcontractor as accepted and approved by the UCFD with each progress payment. In addition, any reduction of retention, if any, by the UCFD will result in a corresponding reduction to Subcontractors who have performed satisfactory work. The Engineer will pay Subcontractors the reduced retention within 14 calendar days of the payment of the reduction of the retention to the Engineer. No Contract between the Engineer and its Subcontractors may materially alter the rights of any Subcontractor to receive prompt payment and retention reduction as provided in this Contract.

If the Engineer fails to make payments in accordance with these provisions, the UCFD may take any of one or more of the following actions and the Engineer agrees that the UCFD may take these actions:

- A. To hold the Engineer in default under this Contract;
- B. Withhold future payments including retention until proper payment has been made to Subcontractors in accordance with these provisions;
- C. Reject all future offers to perform work for the UCFD from the Engineer for a period not to exceed 1 year from the completion date of this project; or
- D. Terminate this Contract.

3.12 Alterations or Additions to Scope of Services

The total Scope of the Engineering Services to be performed is stated in this Contract. Any services requested outside the scope of work are additional services. The Engineer will not perform these additional services without a written Change Order approved by the UCFD. If the Engineer performs additional services without a Change Order, the Engineer will not receive any additional compensation.

3.13 Modifications

Any amendment or modification of the terms of this Contract must be in writing and will be effective only after approval of all parties to this Contract.

3.14 Conflict of Interest

The Engineer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Engineer, to solicit or secure this Contract, and that it has not paid or agreed to pay any person or persons, other than a bona fide employee working solely for the Engineer any fee, commission, percentage, brokerage fee, gifts or any consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, UCFD will have the right to annul this Contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of any fee, commission, percentage, brokerage fee, gift or contingent fee, together with costs and attorney's fees.

The UCFD may cancel any Contract or Agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the UCFD's departments or agencies is, at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party to the Contract with respect to the subject matter of the Contract. The cancellation will be effective when written notice from the UCFD is received by all other parties to the Contract, unless the notice specifies a later time (A.R.S. 38-511).

The Engineer will fully reveal in writing any financial or compensatory agreement which it has with a prospective bidder before the UCFD's publication of documents for bidding.

3.15 Force Majeure

Neither party will be responsible for delays or failures in performance resulting from acts beyond their control. These acts will include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, or power failures.

3.16 Taxes

The fee listed in this Contract includes all taxes applicable to the services authorized. The UCFD will have no obligation to pay additional amounts for taxes of any type.

3.17 Advertising

No advertising or publicity concerning the UCFD's use of the Engineer's services will be undertaken without first obtaining written approval of the Contract

Administrator. Use of the project in future Statements of Qualifications and/or Proposals is acceptable and does not require written approval from the Contract Administrator.

3.18 Counterparts

This Contract may be executed in one or more counterparts, and each executed duplicate counterpart will possess the full force and effect of the original.

3.19 Entire Agreement

This Contract contains the entire understanding of the parties and no representations or agreements, oral or written, made before its execution will vary or modify the terms of this Contract.

3.20 Arizona Law

This Contract must be governed and interpreted according to the laws of the State of Arizona.

3.21 Equal Employment Opportunity

The Engineer will comply with Executive Order No. 11245, entitled "Equal Employment Opportunity", as amended by Executive Order No. 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60). The Engineer will include the terms of this provision in all contracts and subcontracts for work performed under this Contract, including supervision and oversight.

No Preferential Treatment or Discrimination:

In accordance with the provisions of Article II, Section 36 of the Arizona Constitution, the UCFD will not grant preferential treatment to or discriminate against any individual or group on the basis of race, sex, color, ethnicity or national origin.

3.22 Compliance with Federal and State Laws

The Engineer accepts the applicability to it of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. In addition, the Engineer accepts the applicability to it of A.R.S. §34-301 and 34-302. The Engineer will include the terms of this provision in all contracts and subcontracts for work performed under this Contract, including supervision and oversight.

Under the provisions of A.R.S. §41-4401, the Engineer warrants to the UCFD that the Engineer and all its subcontractors will comply with all Federal Immigration laws and regulations that relate to their employees and that the Engineer and all its subcontractors now comply with the E-Verify Program under A.R.S. §23-214(A).

A breach of this warranty by the Engineer or any of its subcontractors will be considered a material breach of this Contract and may subject the Engineer or

Subcontractor to penalties up to and including termination of this Contract or any subcontract.

The UCFD retains the legal right to inspect the papers of any employee of the Engineer or any subcontractor who works on this Contract to ensure that the Engineer or any subcontractor is complying with the warranty given above.

The UCFD may conduct random verification of the employment records of the Engineer and any of its subcontractors to ensure compliance with this warranty. The Engineer agrees to indemnify, defend and hold the UCFD harmless for, from and against all losses and liabilities arising from any and all violations of these statutes.

The UCFD will not consider the Engineer or any of its subcontractors in material breach of this Contract if the Engineer and its subcontractors establish that they have complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A). The "E-Verify Program" means the employment verification pilot program as jointly administered by the United States Department of Homeland Security and the Social Security Administration or any of its successor programs.

The provisions of this Article must be included in any contract the Engineer 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. The Engineer will take appropriate steps to assure that all subcontractors comply with the requirements of the E-Verify Program. The Engineer's failure to assure compliance by all its' subcontractors with the E-Verify Program may be considered a material breach of this Contract by the UCFD.

3.23 Compliance with Americans with Disabilities Act

Engineer acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Engineer will provide the services specified in this Contract in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Engineer agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Engineer, its employees, agents or assigns will constitute a material breach of this Contract.

3.24 Evaluation of Engineer's Performance

The Engineer may be evaluated regarding its performance of this Contract. This evaluation will include, but not be limited to, the following consideration for:

- Completeness
- Accuracy
- Utility Coordination
- Technical Expertise
- Organization
- Appearance of plans (linework, lettering, etc.)
- Working relationship with UCFD staff and others
- Availability
- Communication skills (meetings, correspondence, etc.)

This evaluation will be prepared by the staff and used to evaluate the desirability to proceed with negotiations for additional services.

3.25 Notices

All notices or demands required by this Contract must be given to the other party in writing, delivered by hand or by registered or certified mail at the addresses stated below, or to any other address the parties may substitute by giving written notice as required by this section.

On behalf of the Engineer:
 Ryan Weed, P.E., President
 Coe and Van Loo II L.L.C.
 4550 N. 12th Street
 Phoenix, AZ 85014
 602-264-6831

On behalf of the UCFD:
 Greg Crossman, District Manager
 Town of Carefree, AZ UCFD
 P.O. Box 702
 Carefree, AZ 85377
 480-488-9100

If hand delivered, Notices are received on the date delivered. If delivered by certified or registered mail, Notices are received on the date indicated on the receipt. Notice by facsimile or electronic mail is not adequate notice.

3.26 Independent Contractor

The services the Engineer provides to the UCFD are that of an Independent Contractor, not an employee, or agent of the UCFD. The UCFD will report the value paid for these services each year to the Internal Revenue Service (I.R.S.) using Form 1099.

UCFD will not withhold income tax as a deduction from contractual payments. As a result of this, Contractor may be subject to I.R.S. provisions for payment of estimated income tax. Contractor is responsible for consulting the local I.R.S. office for current information on estimated tax requirements.

3.27 Ineligible Bidder

The preparer of bid specifications is not eligible to submit a bid or proposal on the solicitation for which they prepared the specification, nor is the preparer eligible to supply any product to a bidder or offeror on the solicitation for which they prepared the specification.

3.28 Indemnification

To the fullest extent permitted by law, the Engineer must defend, indemnify and hold harmless the UCFD, the Carefree Water Company, and the Town of Carefree, its agents, representatives, officers, directors, officials and employees against all allegations, demands, suits, actions, claims, damages, losses, expenses, attorney fees, court costs, cost of appellate proceedings, and all claim adjusting and handling expense arising out of any negligent or intentional acts, actions, errors, or omissions to the extent caused by the Engineer. The Engineer is defined as the Engineer, its successors, assigns and guarantors, any subcontractor or anyone directly or indirectly employed by the Engineer or subcontractor or anyone for whose acts the Engineer or subcontractor may be liable and any injury or damages claimed by any of the Engineer's and subcontractor's employees.

Insurance provisions in this Contract are separate and independent from the indemnity provisions of this section and will not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this section must not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

4.0 Insurance

A current Acord Certificate is acceptable.

Failure to provide an appropriate Certificate of Insurance will result in rejection of your certificate and delay in Contract execution.

4.1 Insurance Representations and Requirements

- A. General: The Engineer agrees to comply with all applicable Town ordinances and state and federal laws and regulations.

Without limiting any obligations or liabilities of the Engineer, the Engineer must purchase and maintain, at its own expense, the required minimum insurance with insurance companies duly licensed or approved to conduct business in the State of Arizona and with an A.M. Best's rating of B++6 or above with policies and forms satisfactory to UCFD. Failure to maintain insurance as required may result in cancellation of this Contract at the UCFD's option.

- B. No Representation of Coverage Adequacy: By requiring insurance, UCFD does not represent that coverage and limits will be adequate to

protect the Engineer. The UCFD reserves the right to review any and all of the insurance policies and endorsements cited in this Contract but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements in this Contract or failure to identify any insurance deficiency will not relieve the Engineer from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Contract.

- C. Coverage Term: The Engineer must maintain all required insurance in full force and effect until all work or services are satisfactorily performed and accepted by the UCFD, unless specified otherwise in this Contract.
- D. Claims Made: If any required insurance policies are written on a "claims made" basis, coverage must extend for 3 years past completion and acceptance of the work or service. The Engineer must annually submit Certificates of Insurance citing that the applicable coverage is in force and contains the required provisions for the 3 year period.
- E. Policy Deductibles and or Self Insured Retentions: The required policies may provide coverage which contain deductibles or self-insured retention amounts. The Engineer is solely responsible for any deductible or self-insured retention amount and the UCFD, at its option, may require the Engineer to secure payment of the deductible or self-insured retention by a surety bond or irrevocable and unconditional Letter of Credit.
- F. Use of Subcontractors: If any work is subcontracted in any way, the Engineer must execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the UCFD requires of the Engineer in this Contract. The Engineer is responsible for executing the Contract with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.
- G. Evidence of Insurance: Before commencing any work or services under this Contract, the Engineer must furnish the Contract Administrator with Certificate(s) of Insurance, or formal endorsements issued by the Engineer's insurer(s) as evidence that policies are placed with acceptable insurers and provide the required coverages, conditions, and limits of coverage and that the coverage and provisions are in full force and effect. If a Certificate of Insurance is submitted as verification of coverage, the UCFD will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Contract. If any of the required policies expire during the life of this Contract, the Engineer must forward renewal Certificates to the UCFD within 10 days after the renewal date containing all the necessary insurance provisions.

Certificates shall specifically cite the following provisions:

1. The UCFD, Carefree Water Company, and Town of Carefree, its agents, representatives, officers, directors, officials and employees are named as Additional Insureds under the following policies:
 - a) Commercial General Liability
 - b) Auto Liability
 - c) Excess Liability - Follow Form to underlying insurance as required.
2. The Engineer's insurance must be primary insurance for all performance of work under this Contract.
3. All policies, except Professional Liability insurance if applicable, waive rights of recovery (subrogation) against the UCFD, Carefree Water Company, and Town of Carefree, its agents, representatives, officers, directors, officials and employees for any claims arising out of work or services performed by the Engineer under this Contract.
4. If the Engineer receives notice that any of the required policies of insurance are materially reduced or cancelled, it will be Engineer's responsibility to provide prompt notice of same to the UCFD, unless such coverage is immediately replaced with similar policies.

4.2 Required Coverage

- A. Commercial General Liability: The Engineer must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate, and a \$2,000,000 General Aggregate Limit. The policy must cover liability arising from premises, operations, independent contractors, products-completed operations, and personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this section, the Excess insurance must be "follow form" equal or broader in coverage scope than the underlying insurance.
- B. Professional Liability: The Engineer must maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed by the Engineer, or anyone employed by the Engineer, or anyone for whose acts, mistakes, errors and omissions the Engineer is legally liable, with a liability insurance limit of \$2,000,000 each claim and \$5,000,000 all claims. If the Professional Liability insurance policy is written on a "claims made" basis, coverage must extend for 3 years past completion and acceptance of the work or services, the Engineer must annually submit Certificates of Insurance citing that the applicable coverage is in force and contains the required provisions for a 3 year period.
- C. Vehicle Liability: The Engineer must maintain Business Automobile Liability insurance with a limit of \$1,000,000 each accident on the Engineer's owned, hired, and non-owned vehicles assigned to or used in

the performance of the Engineer's work or services under this Contract. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than the underlying insurance.

- D. Workers Compensation Insurance: The Engineer must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of the Engineer's employees engaged in the performance of work or services under this Contract, and must also maintain Employers' Liability Insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee and \$500,000 disease policy limit.

5.0 Software Licenses – Not Used

6.0 Severability and Authority

6.1 Severability

If any term or provision of this Contract is found to be illegal or unenforceable, then notwithstanding such illegality or unenforceability, this Contract will remain in full force and effect and the term or provision will be considered to be deleted.

6.2 Authority

Each party warrants that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each party has been properly authorized and empowered to enter into this Contract. Each party acknowledges that it has read, understands, and agrees to be bound by the terms and conditions of this Contract.

7.0 Request For Taxpayer I.D. Number & Certification I.R.S. W-9 Form

Upon request, the Contractor shall provide the required I.R.S. W-9 FORM which is available from the IRS website at www.IRS.gov under their forms section.

AUTHORIZATION

In witness whereof, the parties hereto have executed this Contract, the effective date of which is indicated at the beginning of this document.

COE AND VAN LOO II, L.L.C
4550 N. 12th Street
Phoenix, AZ 85014

TOWN OF CAREFREE, ARIZONA
UTILITIES COMMUNITY
FACILITIES DISTRICT
7181 Ed Everett Way
P.O. Box 702
Carefree, AZ 85377

by: **CVL Consultants, Inc., Member**

by: Ryan Weed, P.E.
President

Greg Crossman
Contract Administrator

Les Peterson
Chairman of the Board

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
	PHONE (A/C. No. Ext):	Fax (A/C. No):
	E-MAIL ADDRESS:	
	PRODUCER CUSTOMER ID#:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
INSURED	INSURER A:	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

THIS MUST MATCH EXACTLY TO THE CONTRACTOR NAME AND INFORMATION AS LISTED IN THE CONTRACT OR SCOPE OF WORK.

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INS LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> CCUR	<input type="checkbox"/>	<input type="checkbox"/>				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea Occurrence) \$ MEDICAL EXP (Any One Person) \$ PERSONAL & ADV INSURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	<input type="checkbox"/>	<input type="checkbox"/>				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per Accident) \$
	Umbrella Liab <input type="checkbox"/> OCC Excess Liab <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYER'S LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N <input type="checkbox"/> (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS BELOW:	N/A	<input type="checkbox"/>				WC STATU-TORY LIMITS OTHER EL EACH ACCIDENT \$ EL DISEASE . POLICY LIMIT \$ EL DISEASE . EA EMPLOYEE \$

Description of Operations/Locations/Vehicles(Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 The Town of Carefree, Arizona Utilities Community Facilities District (the UCFD), the Carefree Water Company (the Water Company), and the Town of Carefree (the Town), its representatives, agents and employees, are Additional Insureds under Commercial General Liability and Auto Liability. All cited insurance shall be primary coverage and waive rights of recovery (subrogation), including Workers Compensation, against the UCFD, the Water Company, and the Town.

CERTIFICATE HOLDER Town of Carefree, Arizona Utilities Community Facilities District Attn: Greg Crossman, District Manager P.O. Box 702 Carefree, AZ 85377	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

EXHIBIT A

SCOPE OF WORK CAREFREE WATER CONSOLIDATION PROJECT CONSTRUCTION ADMINISTRATION AND INSPECTION (CA&I) SERVICES

The Engineer shall perform Construction Administration and Inspection (CA&I) Services for the Carefree Water Consolidation Project No. 2021-W01 which will extend water service to "Neighborhoods A, B, and C" (also known as the Carefree Service Area or "CSA"). These neighborhoods are within the Town of Carefree limits but are currently served potable water by Cave Creek. Engineering plans will consist of improvements needed to disconnect these areas from the Cave Creek water system and reconnect them to the Carefree Water Company system, and all supplemental and appurtenant systems that are required to provide an acceptable level of potable service and fire protection, as applicable, to these neighborhoods.

The firm performing CA&I services will be an integral member of a team-based approach for delivery of this project. Team members will include the UCFD, the Carefree Water Company, the Town of Carefree (all three generally referred to as "Carefree"), the design engineer, the Construction Manager at Risk (CMAR), the independent cost estimator, and other stakeholders as appropriate. Being a team-based delivery approach, the CA&I firm will support the efforts of others on the team in a coordinated manner.

Coe and Van Loo II L.L.C. is pleased to provide this proposal to perform Construction Administration and Inspection (CA&I) services for water system improvements to serve The project consists of improvements needed to disconnect A, B and C areas from the Cave Creek water system and reconnect them to the Carefree Water Company system.

As the CA&I, CVL will provide construction administration, construction observation and quality control services during the course of construction to ensure the overall technical correctness of the construction phase services and specified procedures are being followed, and that schedules are being met.

The work under this Contract will consist of performing the following generalized tasks as outlined below for Neighborhoods A, B, and C, and for the Scottsdale Interconnect and Transmission Main, the Tom Darlington & Carefree Highway Transmission Main, the Silver Saddle Pipeline Project, the Black Mountain Foothills Pipeline Project, and the Tom Darlington Water Storage Reservoir:

Task 1 – Construction Administration

- Project Management
- Project Meetings
 - Construction Progress Meetings
 - Public Outreach Meetings
 - City of Scottsdale Meetings
 - Town of Cave Creek Meetings
 - Town of Carefree Meetings
 - Guaranteed Maximum Price (GMP) Meetings
 - Opinion of Probable Construction Cost (OPCC) Meetings
- Coordination
 - Town of Carefree Coordination
 - CMAR Coordination
- Pay Application Review
- Contractor Change Order Review
- Schedule - Administer & Monitor
- GMP Reviews
- Construction Phasing MOPOs & Flushing Plans

Task 2 - Post Design Services

- Shop Drawings, RFIs and O&M Manuals

Task 3 - Construction Inspection

- Construction Observation & Site Visits

Task 4 - Testing, Record Drawings & Permitting

- Testing and Commissioning
- Punchlist Review
- Record Drawings
- Engineer of Record and AOC

Task 5 - Subconsultant Services

- Water Storage Reservoir - B&N
- Electrical – Jensen Engineering
- Structural – Heerup Engineering
- Q/A Testing – Speedie & Associates
- Public Outreach – MakPro Services
- Landscape - CVL Landscape Architecture Group
- Sound Study – Acoustical Consulting Services

The following is a detailed description of the Scope of Work by Tasks and Subtasks:

TASK 1 – MEETINGS, COORDINATION & MANAGEMENT

General Task Description

CA&I Representative services include close coordination and cooperation partnering with Carefree and the CMAR contractor to ensure that the project is completed in a timely manner and within budget. Services will include coordination/communication among the Team members and significant stakeholders, including the Carefree Water Company and Town of Carefree, CMAR Contractor, Independent Cost Estimator, Engineering team, Town of Cave Creek and City of Scottsdale. The CA&I will receive and review CMAR pay applications, change orders, construction schedule with updates, GMPs, MOPOs and flushing plans. In coordination with Carefree and the CMAR, a schedule will be established for CMAR submittal of these items that allows adequate time for reviews, possible revisions and processing of these items. It is anticipated weekly recurring construction progress meetings, along with other meetings specific to various stakeholders, will be necessary. The CA&I will keep detailed and organized documentation of all meetings, coordination, and management throughout the project and shall deliver final electronic copies of all files to Carefree at the end of the project.

Task 1.001 Project Management

Lump Sum \$11,700

Provide overall internal and external project management, administration, and coordination of the CA&I and design teams, including any subconsultants. Specific work items include the management and maintenance of the CA&I schedule, records, correspondence and communication with Town and Water Company staff, and accurate/timely billing.

Task 1.002 Project Meetings

Lump Sum \$85,954

CA&I will lead project meetings identified below throughout the duration of the project. The following project meetings are anticipated:

- **Construction Progress Meetings**
 - Construction progress meetings will be held throughout the duration of the project, which consists of 60 (sixty) meetings beginning in November and running through December of 2022. Construction progress meetings will be virtual. Work items include preparation of agenda and minutes documenting the discussion. CVL will distribute minutes and action items for morning meetings the same day of the meeting. Minutes and action items for afternoon meetings shall be distributed the next day.
- **Public Outreach Meetings**
 - It is anticipated up to 6 (six) one hour meetings will be conducted with Carefree and the MakPro, the public outreach subconsultant, to evaluate ongoing outreach and make adjustments as needed. These meetings will be virtual.
- **City of Scottsdale Meetings**
 - Up to 6 (six) hours of virtual or onsite meetings will be conducted with Carefree and the City of Scottsdale.
- **Town of Cave Creek Meetings**
 - Up to 6 (six) hours of virtual or onsite meetings will be conducted with Carefree and the Town of Cave Creek.
- **Town of Carefree Meetings**
 - Up to 6 (six) hours of virtual or onsite meetings will be conducted with the Town of Carefree.
- **GMP Meetings**
 - Up to 4 (four) two hour virtual meetings will be conducted with Carefree and ICE.
- **OPCC Meetings**
 - Up to 4 (four) three hour virtual meetings will be conducted with Carefree, CMAR and ICE.

Task 1.003 Coordination

Lump Sum \$54,450

CVL will provide close coordination with the key stakeholders identified below throughout the duration of the project. Coordination efforts will primarily be focused on timely communication and information dissemination.

- **Town of Carefree Coordination**
 - Coordination with Carefree to provide communication and information regarding construction, outreach, schedule and ongoing coordination with other stakeholders. Provide point of contact for the timely relay of information to and from Carefree.
- **CMAR Coordination**
 - Coordinate with the CMAR to gather and distribute critical project communication that is in addition to weekly progress meeting coordination.

Task 1.004 Pay App Review

Lump Sum \$4,680

The CA&I will review, prepare comments, and reach agreement with the CMAR on the progress represented in the CMAR's pay application. The measured quantities, in combination with the CA&I's field inspections and the progress schedule, shall be used by the CA&I to determine the appropriateness of the CMAR's request for payment.

The CA&I, on review of application for payment and the accompanying data and schedules, will verify the amounts owed to CMAR and recommend in writing to Carefree payments to CMAR. Recommendations of payment will constitute a representation to Carefree, based on such inspections and review, that;

- The work has progressed to the point indicated;
- To the best of CA&I's knowledge, information and belief, the quality of such work is in accordance with the Contract Documents (subject to an evaluation of such work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Construction Documents, and to any qualifications stated in the recommendation); and
- Payment of the amount recommended is due and owed to the CMAR.

Task 1.005 Contractor Change Order Review

Lump Sum \$6,372

The CA&I, without Carefree's prior approval, may authorize or direct minor changes in the work which are consistent with the intent of the construction contract documents and which do not involve a change in project cost, time for construction, project scope, aesthetics, or approved design elements. Any such minor changes shall be implemented by written field order. The CA&I shall not have authority to direct or authorize changes in the Work without Carefree's prior written approval that will result in a change in project cost, time for construction, project scope, aesthetics, or approved design elements.

The CA&I will promptly consult with and advise Carefree concerning, and shall administer and manage, all change order requests and change orders.

The CA&I will prepare, when requested by Carefree, required drawings, specifications and other supporting data regarding minor changes, change order requests and change orders. Significant effort, in the opinion of the CA&I, to prepare these drawings, specifications or other supporting data may necessitate a change order for the CA&I's services.

The CA&I will prepare and submit change order requests explaining the merits for the change and a recommendation for Carefree's approval and acceptance.

The CA&I will negotiate an agreement with the CMAR as to scope of work and cost, time or both associated with the change in work. The change order shall include a written justification prepared by the CMAR for the cost of the work.

The CA&I will administer and manage minor changes, change order requests, and change orders on behalf of Carefree. Change orders shall be prepared on a standard form provided by Carefree or the CA&I.

Should a change order request be accepted by Carefree in the absence of an agreement with the CMAR as to cost, time, or both, the CA&I will;

- Receive and maintain all documentation pertaining to the change order request required of the CMAR;
- Examine such documentation on Carefree's behalf;
- Take such other action as may be reasonably necessary or as Carefree may request; and
- Make a recommendation to Carefree concerning any appropriate adjustment in the construction cost and/or time and prepare a change order for CMAR's acceptance and Carefree approval.

Changes and substitutions shall be limited to the scope of the project as defined by the Construction Documents or additional work as may be requested by Carefree.

Task 1.006 Schedule - Administer & Monitor

Lump Sum \$10,890

The CA&I's opinions concerning the various scheduling documents produced or used by the CMAR are for information and are not controlling on the CMAR. It is the CMAR's responsibility to continue to exercise its independent judgment concerning means, methods and sequences of construction it employs. The CMAR remains solely responsible for meeting contract time(s) given in the Construction Documents.

- Review Progress Schedule
 - The CA&I will review and critique the CMAR's progress schedule in accordance with the Construction Documents. The CA&I will examine the work sequence, durations, interim milestones, and other appropriate scheduling features in accordance with the requirements of the Construction Documents. The CA&I will prepare a summary of the review comments and will meet and discuss the schedule comments with the CMAR and Carefree.
- Review Progress Schedule Updates

The CA&I will review the CMAR's progress schedule updates to the construction schedule in accordance with the Construction Documents. The CA&I will perform a review of progress accomplished during the period and compare that progress to the planned schedule, and discuss significant discrepancies with the CMAR and Carefree.

Task 1.007 GMP Reviews

Lump Sum \$11,536

Conduct up to four (4) meetings with Carefree, CMAR Contractor and ICE to review any GMP proposals and all supporting documentation. All CMAR Assumptions and Clarifications shall be provided, as well as a description and breakdown of all contingencies and allowances. After the meeting and subsequent review, provide Carefree with an evaluation of the CMAR contractor GMPs.

Task 1.008 Construction Phasing MOPOs & Flushing

Lump Sum \$20,484

Review CMAR prepared MOPOs and assist in developing Carefree flushing plans for the acquired Cave Creek service areas. Ensure stakeholder review and input on MOPOs as appropriate. MOPOs are anticipated for all locations where there is a transfer of service from Cave Creek to Carefree, all connections to existing water service mains, facility connections including pump stations, interconnects and storage facilities. CMAR MOPOs must be provided in a timely manner to allow for adequate review, coordination and revision. The CMAR shall provide a list of MOPO locations prior to commencement of any work. In coordination with Carefree and the CMAR, the CA&I shall establish a MOPO submittal schedule.

TASK 2 – POST DESIGN SERVICES

General Task Description

The CA&I will receive, review, evaluate, and distribute shop drawings, RFIs and Operations and Maintenance Manuals, which the CMAR is required to submit. The CA&I will maintain a submittal log showing dates of all submittals, transmittal action to other subconsultants, dates of return and review action. Copies of the log shall be furnished to Carefree and the CMAR weekly. The CA&I will promptly review and respond to submittals. The CA&I will not approve any proposed substitution unless such substitution is approved by Carefree. Submittal review efforts are based upon a maximum of two (2) reviews per submittal and that no more than fifty percent (50%) of the total number of first submittals will require two (2) reviews. The CA&I will keep detailed and organized documentation of all shop drawings, RFIs, and Operations and Maintenance Manuals submitted and developed throughout the project and shall deliver final electronic copies of all files to Carefree at the end of the project.

Task 2.001 Shop Drawings, RFIs and O&M Manuals

Lump Sum \$42,428

- Shop Drawings
 - Prior to procuring materials and commencing construction, and with sufficient time for CA&I review and CMAR resubmittal if needed, the CMAR shall provide a list of all shop drawings to be submitted that includes the anticipated submittal date. The CA&I review shall be for conformance with the design concept of the Project and compliance with the Construction Documents. Such review or other action shall not extend to means, methods, sequences, techniques or procedures of construction selected by Contractor(s), or to safety precautions and programs associated thereto.
- Request for Information (RFI)
 - CA&I will answer Request for Information (RFI) and prepare any necessary field order. Up to twenty (20) RFIs are assumed.
- Operations & Maintenance Manuals (O&Ms)
 - The CA&I will receive and review (for general contents) maintenance and operating schedules and instructions, operation and maintenance manuals, guarantees, and certificates of inspection which are to be assembled by CMAR. O&M manuals are to be comprehensive for use by the system operators.

TASK 3 – CONSTRUCTION OBSERVATION

General Task Description

Coordinate and perform observation work to assure that the work is constructed in accordance with the Contract documents and accepted standards of the construction industry. The CA&I will keep detailed and organized documentation of construction observation performed (e.g., inspection logs, meeting minutes, photographic records, video records, contractor communications, etc.) throughout the project and shall deliver final electronic copies of all files to Carefree at the end of the project.

Task 3.001 Construction Observation & Site Visits

T&M NTE W/O Prior Approval \$157,464

Conduct a preconstruction meeting for each project plan set or project phase. Identify field services to be provided by the CA&I and discuss appropriate coordination procedures. CVL will prepare an agenda for the meeting and will prepare and distribute the meeting minutes. The CA&I will conduct the meeting.

Prepare daily inspection reports recording CMAR 's work performed on the job site, major construction equipment on-site, weather conditions, data relative to questions of extras or deductions, daily activities, decisions, on-site equipment and subcontractors on-site. Maintain a digital photographic file of the progress of the construction activities throughout the duration of the Project.

The CMAR shall consult with CA&I in advance of scheduled major tests, inspections or start of important phases of the work. Approved MOPOs shall be in place before commencing associated construction.

- Observation Frequency – Maintain a presence at the Project site(s) with sufficient frequency to be knowledgeable about the progress and quality of the work.
 - Pipeline - Half-day inspections, four days a week for 40 weeks.
 - Pump Stations - Half-day inspections, two days a week for 36 weeks.
 - Water Storage Reservoir inspections - Quarter-day inspections, two days a week for 36 weeks.

Construction observers shall report to CA&I whenever it is believed that any work is unsatisfactory, faulty or defective or does not conform to the Construction Documents, or does not meet the requirements of inspections, tests or approval required to be made, or has been damaged prior to final payment. CA&I shall advise Carefree when it is believed work should be corrected or rejected or should be uncovered for inspection, or requires special testing, inspection or approval.

TASK 4 – TESTING, RECORD DRAWINGS & PERMITTING

General Task Description

The CA&I shall coordinate and witness all field testing and commissioning procedures, verify that all testing reports are completed, reviewed, and pass, develop punchlists required for acceptance of construction and ensure all punchlist items are completed prior to final acceptance, ensure accurate record drawings have been received from the CMAR, and obtain final Approvals of Construction (AOCs) for various plan sets. The CA&I will keep detailed and organized documentation of all items covered under this task (e.g., testing/commissioning reports and results, project punchlist and completion records, record drawing submittals, AOCs, etc.) and shall deliver final electronic copies of all files to Carefree at the end of the project.

Task 4.001 Testing & Commissioning

Lump Sum \$10,752

Verify that tests, equipment and systems start-up are conducted and witnessed in accordance with the Construction Documents. Verify all associated reports, tests and documents including the operation and maintenance manuals, are maintained and provided as required by the Construction Documents. Construction Observer(s) shall witness all tests and equipment startups and report to CA&I appropriate details relative to the test procedures and start-ups.

Task 4.002 Punch List Review

Lump Sum \$16,416

Following notice from the CMAR, the CA&I and Carefree will conduct an inspection to determine the status of completion. If the work is substantially complete, the CA&I will deliver to Carefree a tentative certificate of Substantial Completion that includes the date of Substantial Completion. Attached will be a preliminary list of punch list items to be completed or corrected before final payment. After Carefree reviews and approves the tentative certificate of Substantial Completion, the CA&I will deliver to Carefree and the CMAR a Certificate of Substantial Completion and preliminary punch list.

Upon completion of the preliminary punch list items, the CMAR, CA&I and Carefree will make a final inspection to determine if the finished work has been completed to the standard required by the Construction Documents. Once all punch list items are addressed and the CMAR has fulfilled their contractual obligations, the CA&I will determine whether the work is fully complete and will give written notice to Carefree and the CMAR that the work is acceptable subject to any conditions therein expressed and may recommend, in writing, final payment to the CMAR.

Task 4.003 Record Drawings

Lump Sum \$44,016

The ENGINEER will prepare a set of Record Drawings showing those changes made during construction. Record drawing information shall be based on marked-up prints, drawings, and other data furnished by Contractor(s) to CA&I which CA&I will review for accuracy and completeness. Use the original cover sheet with all the signatures and ENGINEER'S seal for the Record Drawings.

- The CA&I will prepare the following:
 - CD with the CADD and pdf files of Record Drawings -- 1 copy
 - Full Size Sets -- 1 copy
- The CA&I will review and coordinate work associated with the Record Drawings. The Record Drawings shall be available to Carefree within thirty (30) days of receipt of all data in its entirety from the CMAR.

Task 4.004 Engineer of Record and AOC

Lump Sum \$5,292

Obtain approvals of the work from Carefree and obtain Approvals of Construction from MCESD for the various plan sets.

TASK 5 – SUBCONSULTANT SERVICES

General Task Description

Subconsultant services include discipline specific services for the following: submittal reviews, RFIs, O&M manual reviews, site visits, special inspections, meetings, testing, start-up and outreach. All subconsultants, under the direction of the CA&I, shall keep detailed and organized documentation of the services provided throughout the project as listed above and shall deliver final electronic copies of all files to Carefree via the CA&I at the end of the project.

The following subconsultants are expected to perform work under this Scope of Work:

- Burgess and Niple -- Civil & Mechanical – Tom Darlington Water Storage Reservoir
- Jensen Engineering – Electrical – Booster Pump Station Sites and Tank Site
- Heerup Engineering – Structural – Booster Pump Station Sites and Tank Site
- Speedie & Associates – Q/A Testing
- MakPro Services -- Public Outreach
- CVL Landscape Architectural Group – Landscape Architecture (included in this subconsultant section for convenience only)
- Acoustical Consulting Services – Sound Study

Task 5.001 Water Storage Reservoir (Burgess & Niple)

Lump Sum \$65,549

Burgess & Niple will provide construction phase services for the new water storage reservoir consisting of the following:

- Attend a preconstruction meeting with CWC, CVL, the CMAR and other contractors.
- Review and approve shop drawing submittals. Electrical and structural (retaining wall) shop drawing submittals will be reviewed by the electrical and structural subconsultants.
- Interpret contract documents in response to CMAR RFIs.
- Attend up to 40 weekly progress meetings held virtually between CWC, CVL, the CMAR, and other contractors.
- Perform periodic site visits during the course of construction. This proposal assumes that B&N will make four (4) site visits.
- Prepare a punch-list based on a final walk-through of the completed project. The final walk-through will be performed with appropriate CWC and CVL representatives.
- Prepare As-Constructed drawings based on CMAR and field representative's red-line markups.
- Provide project management and coordination.

Task 5.002 Electrical (Jensen Engineering)

Lump Sum \$22,750

Jensen Engineering will provide electrical engineering services for the construction of the booster pump station upgrades and the new water storage reservoir consisting of the following Construction administration services:

- Answer RFI's during construction. Estimate 4 hours.
- Review Shop drawing submittals for compliance with contract documents. Estimate 5 shop drawings for each site, which includes one original and one resubmittal. Estimate 25 hours.
- Two construction progress inspections and one final inspection for each site. Estimate 1-1/2 hours each which includes travel time and inspection report generation, total of 23 hours.
- Provide as-built drawings in electronic format of the completed facilities. Estimate for total of 41 drawings. Estimate 30 hours.
- Participate construction meetings or phone conferences during construction. Estimate 48 hours.

Task 5.003 Structural (Heerup Engineering)

Lump Sum \$25,573

Heerup Engineering will provide structural professional services for submittal reviews, answers to requests for information, special inspections, review of structural aspects of the work, pre-construction meeting, up to 8 additional meetings, review test reports, and prepare record drawings. Efforts will include:

1. Sentinel Rock Booster Pump Station
 - Extension of perimeter wall, including retaining wall and one sliding gate.
 - Concrete foundations for emergency generator and hydropneumatic tank.
 - Concrete foundation and pads for electrical, pumps and miscellaneous equipment.
 - Light pole foundation.
2. Peaceful Place Booster Pump Station
 - Extension of perimeter wall, including retaining wall and one sliding gate.
 - Concrete foundations for emergency generator and hydropneumatic tank.
 - Concrete foundation and pads for electrical, pumps and miscellaneous equipment.
 - Light pole foundation.
3. Hawksnest #2 Booster Pump Station
 - Concrete foundations for hydropneumatic tank.
4. Tom Darlington Water Storage Reservoir
 - Pre-stressed storage tank.
 - Concrete discharge/overflow box.
 - Concrete retaining walls.
 - Concrete foundation and pads for electrical and miscellaneous equipment.
 - Wrought iron-type fence.

Task 5.004 Q/A Testing (Speedie & Associates)

T&M NTE W/O Prior Approval \$47,500

All scheduled construction material testing will be performed on an on-call basis. Personnel will perform tests and specimen preparation and will prepare a Daily Field Report for each day spent at the site. These reports, together with all test data, will be transmitted on a timely basis to those parties designated by the Owner. It is assumed QA testing will be performed no more than two visits per week. Rates on Sundays and holidays will be increased by 20 percent. This proposal excludes coring of asphalt and concrete, patching of core holes, pavement smoothness testing, and asphalt binder testing.

SITework AND ASSOCIATED IMPROVEMENTS - Materials Testing

SOILS, AGGREGATE, AND ASPHALT TESTING

Field density testing:

- 400 hours
- 100 trips

Laboratory testing:

- 20 Standard Proctor
- 20 Sieve Analysis
- 20 Plasticity Index (wet prep)
- 20 Extraction/Gradation/Rice

CONCRETE TESTING

Concrete sampling and field testing:

- 40 hours
- 20 trips

Laboratory testing:

- 20 sets of four cylinders

Task 5.005 Public Outreach (MakPro Services)

Lump Sum \$36,740

It is expected that the construction to complete the consolidation project will take approximately one year. These public outreach services are therefore based on a one-year (12-month) of public outreach duration.

As part of this public outreach effort, the following activities are proposed:

Project Notifications: MakPro will develop, provide for review, and send out notifications via mail in advance of work taking place to inform impacted residents and property owners of upcoming work, how they may be impacted, and how to contact the project team. Expenses for postage/printing of notifications are included based on a 2-up, color mailer. Based on our experience, the distribution area would be to homes/properties impacted by the replacements or by construction very near them, so they'll understand why they are impacted by the work. (30 hrs + printing/postage costs). Included in project notifications are individual notifications (door hangers) for planned water shutdowns during tie-over's and connections. (40 hrs + cost of door hangers)

On some occasions, it may be necessary to provide additional notifications for longer-term activities or greater impacts, such as access restrictions or property impacts. We do our best to be prudent with the time and costs associated with these notices, when determining they are needed, so these notifications may be via mailed postcard or door hanger, dependent on activity and timing. MakPro will work with Achen-Gardner, the project CMAR, to develop and provide door hangers to crews to better facilitate their work.

Community Contact: MakPro will connect with community or property managers to coordinate work and provide construction information to be shared with residents. As needed, e-updates will be provided to better inform communities of work progress and schedule. (2.5 hrs/mo = 30 hrs)

Website: Makpro shall develop and maintain a project web presence for the project, which will include information about the construction schedule and how to contact the project team. The site will be updated with any new information on a regular basis. (16 hrs set-up + 1.5 hrs/mo maintenance = 34 hrs)

Hotline: MakPro shall maintain a 24-hour project hotline to respond to inquiries or complaints, maintain a call log and coordinate with the project team to respond to calls. (\$300/mo hotline; calls requiring research or follow-up are billed at hourly rates) (24 hrs)

Progress Meetings: MakPro will prepare for and attend approximately 50 project progress meetings during construction, as well as participate in ongoing team communications throughout the project. (2 hrs/mtg = 100 hrs)

Project Administration: MakPro will maintain regular contact with the team for needed administrative functions, such as contract preparation, insurance, billing, and management of the public outreach effort. (1 hr/mo = 12 hrs)

The total cost for public outreach services includes an allowance of \$1,760.00 for printing and distribution costs associated with notifications.

Task 5.006 Landscape Architecture (CVL Landscape Architectural Group) Lump Sum \$6,600

CVL will provide landscape architecture related construction administration as outlined in the tasks below.

- Contractor Support: Services will include interpretation of the plans, written RFI responses, and Shop Drawing Review.
- Site Visits: Upon request meet Client or Contractor on-site to review field conditions and discuss design issues. Scope is limited to 5 visits.
- Meetings: A CVL representative for Landscape Architecture will attend a kick off meeting and construction meetings (Limited to 8 total meetings).
- Substantial and Final Completion: Attend a substantial completion and final completion site wall, and prepare a punch list of corrective items.

Task 5.007 Sound Study (Acoustical Consulting Services) Lump Sum \$6,000

- Conduct acoustical testing and prepared an acoustical report for pre and post construction conditions at the Tom Darlington Water Storage Reservoir (WSR) site. The objective is to document existing sound/noise levels at the site property limits near existing homes under existing conditions and after the WSR construction is completed.

01-900 Reimbursable Expenses T&M

Charges for prints, deliveries, mileage, computer services, reproductions, photo work, fire hydrant flow testing, and other fees not paid directly by the client will be billed on a time and material basis.

ASSUMPTIONS/EXCLUSIONS

In addition to assumptions and exclusions defined within this proposal, the following assumptions/exclusions were made in preparing this proposal:

- The Town of Cave Creek (TOCC) will cooperate with the team in a timely manner by providing documents, site access, sharing staff institutional knowledge, providing utility locations and bluestaking, and attending field/site meetings. Schedule impacts or delays caused by the TOCC or other entities beyond the control of the team may extend the schedule or necessitate scope modification accordingly.
- Permit fees will be passed through by CVL and will be paid by Carefree.
- All items not specifically included within the scope of this proposal are excluded.

- CVL will not be responsible for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s) or the safety precautions and programs associated with the work of Contractor(s).
- CVL shall not have the direct control of the individual workmen and their work. The direct control shall be solely the responsibility of the Contractor.
- Exclusions, Assumptions and Conditions - The services, listed below, can be provided on a time and materials basis upon written request from the owner.
 - Nursery visits to tag, review, determine availability, or any other purpose.
 - Site visits, other than those specifically listed in the above scope of work.
 - Review, assessment, or other construction administration services related to work designed by other consultants.
 - Redesign and value engineering
 - Renderings, sketches and exhibits, beyond basic sketches required for RFI responses.

Exhibit B

Phase	Task Description	Project Director W \$195	Project Manager \$168	Sr. Project Engineer \$147	W/WW EIT IV \$126	Sr. Project Manager \$179	Sr. Const Inspector \$126	Senior Designer \$126	Staff LA \$132	Total Labor Hours	Outside Consultant Fees	Total Fee
01-000	TASK 1 - Construction Administration											
01-001	Project Management	60								60	\$	\$ 11,700
01-002	Project Meetings										\$	\$ -
	Construction Progress Meetings	120	120	120						360	\$	\$ 61,200
	Public Outreach Meetings	6	6							12	\$	\$ 2,178
	City of Scottsdale Meetings	6	12	18						18	\$	\$ 3,186
	Town of Cave Creek Meetings	12	18							30	\$	\$ 5,364
	Town of Carefree Meetings	6	12							18	\$	\$ 3,186
	GMP Meetings	8	8			8				24	\$	\$ 4,336
	OPCC Meetings	12	12			12				36	\$	\$ 6,504
01-003	Coordination										\$	\$ -
	Town of Carefree Coordination	120	120							240	\$	\$ 43,560
	CMAR Coordination	30	30							60	\$	\$ 10,890
01-004	Pay App Review	24								24	\$	\$ 4,680
01-005	Contractor Change Order Review	12	24							36	\$	\$ 6,372
01-006	Schedule - Administrator & Monitor	30	30							60	\$	\$ 10,890
01-007	GMP Reviews	16	16			32				64	\$	\$ 11,536
01-008	Construction Phasing, MOPOs & Flushing Plans	12	80	32						124	\$	\$ 20,484
02-000	TASK 2 - Post Design Services											
02-001	Shop Drawings, RFIs and O&M Manuals		72	84	120	16					\$	\$ 42,428
03-000	TASK 3 - Construction Observation											
03-001	Construction Observation & Site Visits	24	24	288	480	144	160			1,120	\$	\$ 157,464
04-000	TASK 4 - Testing, Record Drawings & Permitting											
04-001	Testing and Commissioning						48			80	\$	\$ 10,752
04-002	Punch List Review	48		48						96	\$	\$ 16,416
04-003	Record Drawings		16				328			344	\$	\$ 44,016
04-004	Engineer of Record and AOC		18		18					36	\$	\$ 5,292
05-000	TASK 5 - Subconsultant Services											
05-001	Water Storage Reservoir - B&N										\$	\$ 65,549
05-002	Electrical - Jensen										\$	\$ 22,750
05-003	Structural - Heerup										\$	\$ 25,573
05-004	Q/A Testing - Speedip										\$	\$ 47,500
05-005	Public Outreach - MakPro	12								12	\$	\$ 34,400
05-006	Landscape Architecture - CVL									50	\$	\$ 6,600
05-007	Sound Study										\$	\$ 6,000
	Total Hours	558	618	604	618	212	208	328	50	3,196		
	TOTAL LABOR FEES	\$ 108,810	\$ 103,824	\$ 88,788	\$ 77,868	\$ 37,948	\$ 26,208	\$ 41,328	\$ 6,600	\$ 491,374	\$ 201,772	\$ 693,146
01-900	Reimbursable Expenses										\$	\$ 15,000
	GRAND TOTAL	\$ 108,810	\$ 103,824	\$ 88,788	\$ 77,868	\$ 37,948	\$ 26,208	\$ 41,328	\$ 6,600	\$ 491,374	\$ 216,772	\$ 708,146

CAREFREE WATER COMPANY AND
CAREFREE UTILITIES COMMUNITY FACILITIES DISTRICT

BOARD COMMUNICATION

TO: CHAIRMAN AND BOARD MEMBERS
FROM: GREG CROSSMAN, GENERAL MANAGER GC
DATE: OCTOBER 25, 2021
SUBJECT: NOVEMBER 2, 2021, BOARD AGENDA ITEM NO. 4

Attached for your review prior to the November 2, 2021, Board meeting are the following documents covered under Agenda Item No. 4:

- Resolution No. 2021-17 authorizing the District Manager to pursue the acquisition of properties necessary to support the Carefree Water Consolidation Project

BACKGROUND

The Carefree Water Consolidation Project is quickly moving into the construction phase. A large majority of the project will be comprised of pipeline construction within existing roadway rights-of-way or facility construction within properties that currently exist, such as existing booster pump station sites. Two pipeline alignments and one booster pump station location will require either new or supplemental property rights in order to accomplish construction. Acquisition of the new 300,000 gallon water storage reservoir site has been processed under a separate action.

CURRENTLY IDENTIFIED NEEDS

Two pipeline alignments will require new waterline easements and temporary construction easements in order to accomplish construction and one booster pump station will require a property exchange as follows (reference attached Figure 1):

- **Spanish Boot to Ocotillo Ridge Pipeline** – This pipeline will connect the existing Silver Saddle Pressure Zone, which is part of the current Carefree Water Company service area, with the upper portion of Neighborhood C and will serve as a secondary water feed into this area. Existing waterline and public utility easements will be utilized for the majority of the alignment. Small segments of new waterline easements will be needed to complete this interconnection as well as temporary construction easements.
- **Black Mountain Foothills to Carefree Foothills Pipeline** - This pipeline will connect the existing Town Center Pressure Zone, which is part of the current Carefree Water Company service area, with the upper portion of Neighborhood A. This is a relatively short segment that will require new waterline easements as well as temporary construction easements.
- **Peaceful Place Booster Pump Station** – This is an existing booster pump station within the current Carefree Water Company service area needing to be upgraded to serve the upper portions of Neighborhood B. The site is jointly utilized by the Water Company and Liberty Utilities dba Black Mountain Sewer Corporation. An exchange of property at the site between the two entities is currently proposed in order for both providers to better utilize the property.

RECOMMENDATION

Staff recommends the approval of Resolution 2021-17 which authorizes the District Manager to pursue the acquisition of properties necessary to support the Carefree Water Consolidation Project. Approval of this Resolution will allow the project to continue to move forward into construction in an expeditious manner.

Please contact Greg Crossman (480-488-9100; greg@carefreewaterco.com) with any questions.

RESOLUTION 2021-17

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE TOWN OF CAREFREE, ARIZONA UTILITIES COMMUNITY FACILITIES DISTRICT (UCFD), AUTHORIZING THE DISTRICT MANAGER FOR THE UCFD TO TAKE ALL ACTIONS NECESSARY OR CONVENIENT TO ACQUIRE REAL PROPERTY IN FEE TITLE OR ANY LESSER INTEREST THEREIN NECESSARY FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF WATER PIPELINES, BOOSTER PUMP STATIONS, WATER STORAGE RESERVOIRS, AND OTHER RELATED FACILITIES ASSOCIATED WITH THE CAREFREE WATER CONSOLIDATION PROJECT NO. 2021-W01 BY DONATION, PURCHASE, OR EXCHANGE, PLUS USUAL AND CUSTOMARY CLOSING COSTS AS MAY BE NECESSARY TO FURTHER THE PURPOSE OF THIS PROJECT; AND FURTHER AUTHORIZING THE DISBURSEMENT OF ALL NECESSARY FUNDS FOR THESE PURPOSES.

WHEREAS, providing adequate water service to the public is an important, proper, and necessary public purpose; and

WHEREAS, the UCFD has acquired the right to serve those portions of Carefree currently served potable water by the Town of Cave Creek, also known as the Carefree Service Area (CSA) and Neighborhoods A, B, and C; and

WHEREAS, the transition of the water provider for the CSA requires a significant construction effort to disconnect, reconnect, and reintegrate portions of the Town of Cave Creek and Carefree Water Company potable water systems that will be undertaken by the Carefree Water Consolidation Project No. 2021-W01; and

WHEREAS, the construction, operation, and maintenance of a water system pipelines, booster pump stations, water storage reservoirs, and related facilities will further that public purpose;

NOW, THEREFORE, IT IS RESOLVED by the Board of Directors of the UCFD that the Chairman of the Board is hereby authorized to instruct the District Manager for the UCFD to take all actions, enter into all agreements, necessary or convenient to acquire the real property and property interests needed to implement the Carefree Water Consolidation Project No. 2021-W01 for the construction, operation, and maintenance of all pipelines, booster pump stations, water storage reservoirs, and related facilities by donation, purchase, or exchange; execute professional services contracts in order to facilitate the acquisition of the property and property interests; and further authorizing the disbursement of funds for these purposes.

PASSED AND ADOPTED BY the Board of Directors of the Town of Carefree, Arizona Utilities Community Facilities District this 2nd day of November, 2021.

AYES ___ NAYS ___ ABSTENTIONS ___ ABSENT ___

TOWN OF CAREFREE, ARIZONA
UTILITIES COMMUNITY FACILITIES
DISTRICT

ATTESTED TO:





Les Peterson, Chairman of the
Board of Directors

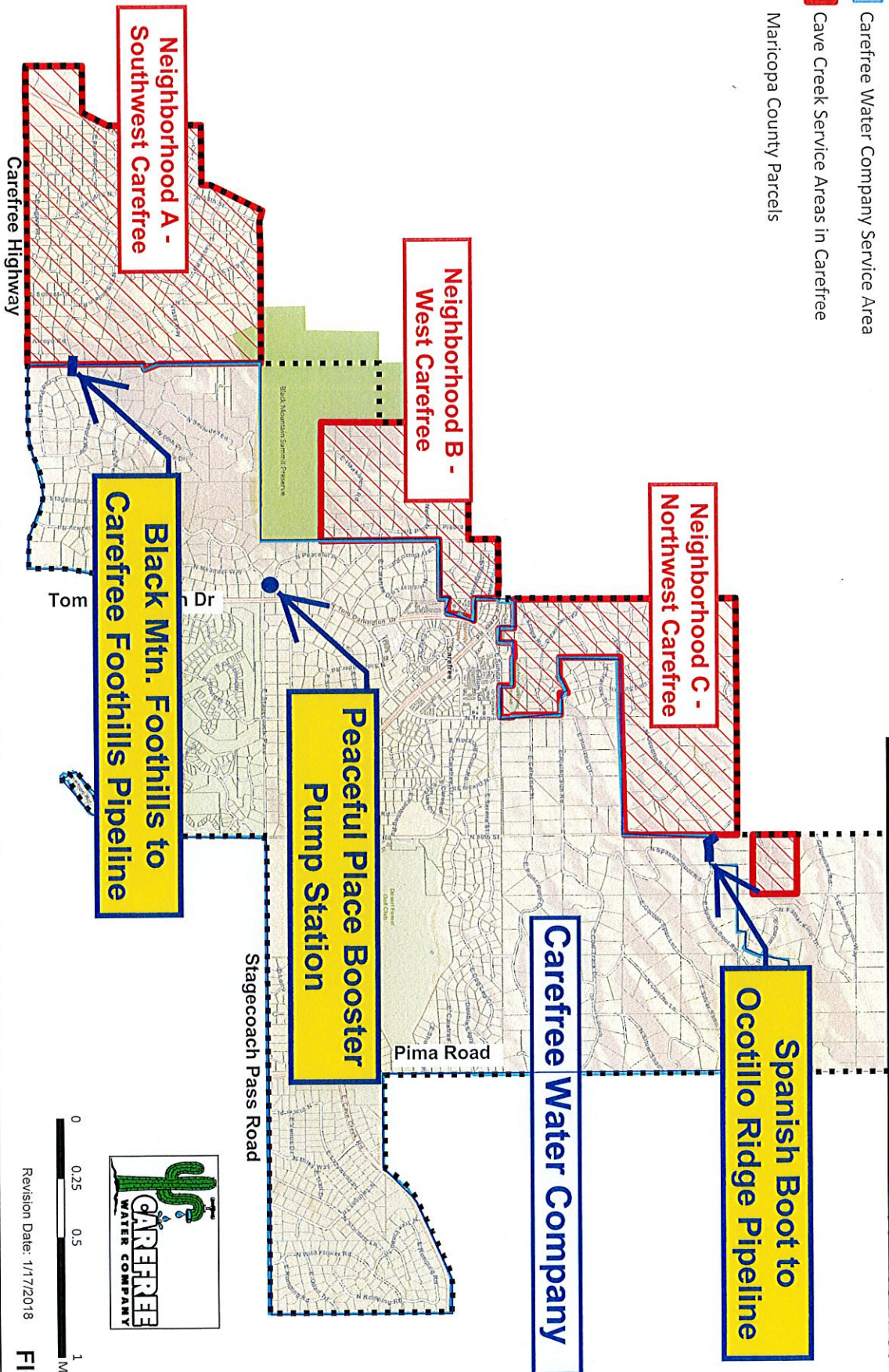
Kandace French Contreras
District Clerk

APPROVED AS TO FORM:

Michael W. Wright
Attorney for the District

**PROJECT AREA
CAREFREE WATER CONSOLIDATION PROJECT**

-  Town of Carefree Boundary
-  Carefree Water Company Service Area
-  Cave Creek Service Areas in Carefree
-  Maricopa County Parcels



Revision Date: 1/17/2018

FIGURE 1

**TOWN OF CAREFREE, ARIZONA UTILITIES
COMMUNITY FACILITIES DISTRICT**

**CONSTRUCTION MANAGER AT RISK
CONSTRUCTION SERVICES**

CAREFREE WATER CONSOLIDATION PROJECT

PROJECT NO. 2021-W01

**CONTRACT NO. C2021-06
GMP A1 – TOM DARLINGTON WATER STORAGE RESERVOIR
SITE PREPARATION**

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**TOWN OF CAREFREE, ARIZONA UTILITIES
COMMUNITY FACILITIES DISTRICT**

**CONSTRUCTION MANAGER AT RISK
CONSTRUCTION SERVICES**

**PROJECT NO. 2021-W01
CONTRACT NO. C2021-06
GMP A1 – TOM DARLINGTON WATER STORAGE RESERVOIR
SITE PREPARATION**

THIS CONTRACT, entered into this 2nd day of November, 2021, between the Town of Carefree, Arizona Utilities Community Facilities District, a special purpose tax-levying district and municipal corporation and political subdivision of the State of Arizona (the "UCFD") and Achen-Gardner Construction, LLC, an Arizona Limited Liability Company, (the "CONSTRUCTION MANAGER AT RISK" or "CMAR").

RECITALS

- A.** The UCFD is authorized by provisions of ARS 48-709 to execute contracts for construction services.
- B.** The UCFD intends to construct the Carefree Water Consolidation Project and other water system improvements, referred to in this Contract as the "Project," located within the current and future service area of the Carefree Water Company (the "Water Company").
- C.** The CMAR has represented to the UCFD the ability to provide construction management services and to construct the Project. Based on this representation the UCFD desires to engage Achen-Gardner Contractors, LLC, to provide these services and construct the Project.
- D.** Contract No. C2021-01 has been executed previously between the UCFD and CMAR for Preconstruction Design services. Those services may continue during the duration of this Contract.

FOR AND IN CONSIDERATION of the parties' mutual covenants and conditions, the UCFD and the CMAR agree as follows:

ARTICLE 1 – CMAR'S SERVICES AND RESPONSIBILITIES

1.0 The CMAR shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to perform all Work for the construction of the Project. The Work must be to the satisfaction of the UCFD and strictly in accordance with all legal requirements and Project Contract Documents as modified. The services may not be required to be performed in the sequence in which they are described. Generally, this project requires the installation of approximately 34,000 lineal feet of 4" to 12" potable water pipe, a 300,000 gallon potable water storage reservoir, and improvements to multiple booster pump stations. The services to be provided under this Contract generally include site preparation work at the Tom Darlington Water Storage Reservoir as prescribed in Exhibit C attached hereto and by reference made part of this contract.

1.1. GENERAL SERVICES

1.1.1. The CMAR's Representative must be reasonably available to the UCFD and must have the necessary expertise and experience required to supervise the Work. CMAR's Representative must communicate regularly with the UCFD but not less than once a week and must be vested with the authority to act on behalf of the CMAR. The CMAR's Representative may be replaced only with the written consent of the UCFD.

1.2. GOVERNMENT APPROVALS AND PERMITS

1.2.1. Unless otherwise provided, the CMAR shall make application for and obtain or assist the UCFD and the Design Team in obtaining all necessary permits, approvals and licenses required for the prosecution of the Work from any government or quasi-government entity having jurisdiction over the Project. The CMAR is specifically required to obtain the necessary environmental permits or file the necessary environmental notices. Any environmental permits and licenses will be paid by the UCFD in accordance with the provisions of Article 2.4.

1.2.2. Copies of all necessary permits and notices must be provided to the Construction Admin Supervisor and Contract Administrator before starting the permitted activity. This provision is not an assumption by the UCFD of an obligation of any kind for violation of the permit or notice requirements.

1.2.3. The CMAR is responsible for making application for and obtaining permit(s) for building and demolition, but the fees will be paid by the UCFD in accordance with Article 2.4. The CMAR will also obtain any necessary regulatory or permitting, reviews for grading and drainage, water, sewer and landscaping, but the fees for the permitting will be paid by the UCFD in accordance with Article 2.4.

- 1.2.4. The CMAR shall be responsible for all other review and permit fees not specifically listed in Article 2.4 below or as qualified in Exhibit B.
- 1.2.5. The CMAR shall be responsible for only metering all construction-related water use from the Carefree Water Company system through Final Acceptance of the Project. The CMAR shall be responsible for the installation cost for all temporary construction water taps, sewer taps, fire lines, and fire line taps. Arrangement for construction water is the CMAR's responsibility. Construction water includes "test water" required to complete new water line pressure tests. Construction water obtained from sources other than the Carefree Water Company shall be the responsibility of the CMAR, the full cost of which shall be paid by the CMAR.
- 1.2.6. For purposes of this Contract, the Maricopa Association of Governments (M.A.G.) Standard Specification 107.12 is modified to read as follows: The CMAR, at its own expense, shall be responsible for the acquisition of any necessary temporary easements for construction purposes, storage, maintenance, and refuge haul-off as indicated upon the plans, which are required in addition to existing easements and right-of-way secured by the UCFD.

1.3. PRECONSTRUCTION CONFERENCE

- 1.3.1. Before beginning any Work, the Contract Administrator will schedule a Preconstruction Conference. The UCFD and the CMAR have entered into a separate written contract for Design Phase services establishing the fee the UCFD will pay the CMAR for all Preconstruction services
- 1.3.2. The purpose of this conference is to establish a working relationship between the CMAR, utility firms, and various affected agencies and staff. The agenda will include critical elements of the work schedule, submittal schedule, cost breakdown of major lump sum items, CMAR Payment Requests and processing, coordination with the involved utility firms and/or utility companies (i.e. APS, SRP, SW Gas, etc.), and emergency telephone numbers for all representatives involved in the construction.
- 1.3.3. The construction Notice to Proceed (NTP) date will be established at the Preconstruction conference.
- 1.3.4. The CMAR will provide a Baseline Project Schedule indicating duration for all work items and activities included. The UCFD and Design Team will review and comment on the Baseline Project Schedule. The CMAR will revise the Baseline Project Schedule to the satisfaction of the Construction Admin Supervisor and Contract Administrator. No Work will begin until the UCFD accepts the Baseline Project Schedule.
- 1.3.5. The CMAR will submit a Schedule of Values based on the work and bids accepted from selected Subcontractors. These Values must reflect the actual labor time, materials, profit and overhead for the Work.
- 1.3.6. At a minimum, CMAR attendees must include CMAR's Representative, who is authorized to sign documents on behalf of the firm, the job superintendent, and the CMAR's safety officer.

1.4. CONTROL OF THE WORK

- 1.4.1.** The CMAR must properly secure and protect all finished or partially finished Work and is responsible for the Work until the entire contract is completed and accepted by the UCFD. Any payment for completed portions of the Work will not release the CMAR from this responsibility; however, it must turn over the entire Work in full accordance with these specifications before final settlement will be made. In case of suspension of the Work for any cause, the CMAR is responsible for the Project and will take all precautions as necessary to prevent damage to the Project and will erect any necessary temporary structures, signs, or other facilities at no cost to the UCFD.
- 1.4.2.** After all Work under the Contract is completed, the CMAR will remove all loose concrete, lumber, wire, reinforcing, debris and other materials not included in the final Work from the Work site.
- 1.4.3.** The CMAR must provide, through itself or Subcontractors, the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit the CMAR to complete the Work consistent with the Contract Documents, unless otherwise provided in the Contract Documents to be the responsibility of the UCFD or a separate contractor.
- 1.4.4.** The CMAR must perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. The CMAR will at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.
- 1.4.5.** Survey stakes and marks required for the completion of the construction shown on the plans and as described in the specifications will be furnished by the CMAR.
- 1.4.6.** The CMAR or the CMAR's Superintendent must be present at the Work at all times that construction activities are taking place.
 1. All elements of the Work, such as concrete work, pipe work, etc., are under the direct supervision of a foreman or his designated representative on the Site who must have the authority to take actions required to properly carry out that particular element of the Work.
 2. In the event of noncompliance with this Contract as defined in Article 8 the UCFD may require the CMAR to stop or suspend the Work in whole or in part.
- 1.4.7.** Where the Contract Documents require that a particular product be installed and applied by an applicator approved by the manufacturer, the CMAR shall ensure the Subcontractor employed for this work is approved.
- 1.4.8.** The CMAR shall take field measurements and verify field conditions and will carefully compare all field measurements and conditions and other information known to the CMAR with the Contract Documents before

commencing activities. Errors, inconsistencies or omissions discovered will be immediately reported to the UCFD.

- 1.4.9.** Before ordering materials or conducting work, the CMAR and each Subcontractor must verify measurements at the Site and are responsible for the correctness and accuracy of these measurements. No extra charge or compensation will be allowed because of differences between actual dimensions and the dimensions indicated on the drawings; differences, which may be found, will be submitted to the UCFD for resolution before proceeding with the Work.
- 1.4.10.** The CMAR must establish and maintain all building and construction grades, lines, levels, and benchmarks, and is responsible for their accuracy and protection. This work will be performed or supervised by an Arizona licensed Surveyor.
- 1.4.11.** Any person employed by the CMAR or any Subcontractor who, in the opinion of the UCFD, does not perform his work in a proper, skillful and safe manner or is intemperate or disorderly shall, at the written request of the UCFD, be removed from the Work by the CMAR or the Subcontractor employing the person, and shall not be employed again in any portion of Work without the written approval of the UCFD. The CMAR or Subcontractor shall hold the UCFD harmless from damages or claims that may occur in the enforcement of this Article.
- 1.4.12.** The CMAR assumes responsibility for the proper performance of the Work of Subcontractors and any acts and omissions in connection with this performance. Nothing in the Contract Documents creates any legal or contractual relationship between the UCFD and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.
- 1.4.13.** The CMAR must coordinate the activities of all Subcontractors. If the UCFD performs other work on the Project or at the Site with separate contractors under the UCFD's control, the CMAR agrees to reasonably cooperate and coordinate its activities with those of the separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.
- 1.4.14.** On a daily basis, the CMAR shall prepare a Contractor's Daily Report. The UCFD's Construction Admin Supervisor or its authorized Inspector will provide a sample report format to the CMAR. The report must detail the activities that occurred during the course of the day, all equipment utilized and the number of hours operated and all personnel on the site inclusive of Subcontractors. The Daily Reports must be submitted to the Construction Inspector and the Contract Administrator on a daily basis, unless otherwise arranged. Failure to provide Daily Reports as arranged or requested above may result in the retention of monthly progress payments until the Reports are brought up to date.
- 1.4.15.** In the event of noncompliance with this Article 1.4, the UCFD may require the CMAR to stop or suspend the construction in whole or in part. Any suspension, due to the CMAR's noncompliance will not be considered a

basis for an increase in the Contract Price or extension of the Contract Time.

1.5. CONTROL OF THE WORK SITE

1.5.1. Throughout all phases of construction, including suspension of the Work, the CMAR must keep the Site reasonably free from debris, trash and construction wastes to permit the CMAR to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, the CMAR will remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work to permit the UCFD to occupy the Project or a portion of the Project for its intended use.

1.5.2. Dust Control. The CMAR will take appropriate steps, procedures or means required to prevent abnormal dust conditions due to its construction operations in connection with this Contract. The dust control measures shall be maintained at all times during construction of the Project to the satisfaction of the UCFD, in accordance with the requirements of the Maricopa County Health Department Air Pollution Control Regulations and UCFD of Scottsdale Supplement to M.A.G. Standard Specifications together with applicable provisions of Federal and State Law.

1.5.3. Dust Control Coordinator. At any UCFD construction site of 5 acres or more of disturbed surface area, subject to a permit issued by a Control Officer requiring control of PM-10 emissions from dust generating operations, the CMAR must have at all times at the Site, at least one Dust Control Coordinator trained in accordance with the requirements of A.R.S. §49-474.05 during primary dust generating operations that is related to the purposes for which the Dust Control Permit was issued. The Dust Control Coordinator must have full authority to ensure that dust control measures are implemented at the Site, including authority to conduct inspections, deploy dust suppression resources, and modify or shutdown activities as needed to control dust. The Dust Control Coordinator must be responsible for managing dust prevention and dust control on the Site, including the use of leaf blowers and street sweeping equipment. The Dust Control Coordinator must have a valid Dust Training Certification Identification Card readily accessible on the Site while acting as the Dust Control Coordinator.

The requirements described in the above paragraph do not apply if all of the following circumstances are present:

1. The area of disturbed surface area is less than 5 acres.
2. The previously disturbed areas are stabilized in accordance with the requirements of any applicable County rules.
3. The CMAR with the Dust Control Permit provides notice of the acreage stabilized to the County Control Officer.

On sites with greater than 1 acre of disturbed surface area, any CMAR holding a Dust Control permit issued by a County Control Officer, who is required to obtain a single permit for multiple noncontiguous sites that is required to control PM-10 emissions from dust generating operations must have, at least 1 individual who is designated as a Dust Control Coordinator. The Dust Control Coordinator must have a valid Dust Training Certification Identification Card readily accessible on the Site while acting as the Dust Control Coordinator. The Dust Control Coordinator must be present on Site at all times during primary dust generating activities that are related to the purposes for which the permit was issued.

A Subcontractor who is engaged in dust generating operations at a Site that is subject to a Dust Control Permit issued by a County Control Officer and that requires the control of PM-10 emissions from dust generating operations must register with the County Control Officer. The Subcontractor must have its registration number readily accessible on the Site while conducting any dust generating operations.

- 1.5.4.** If applicable, the CMAR shall maintain ADA and ANSI accessibility requirements during construction activities in an occupied building or facility. ADA and ANSI accessibility requirements must include, but not be limited to, parking, building access, entrances, exits, restrooms, areas of refuge, and emergency exit paths of travel. The CMAR is responsible for the coordination of all Work to minimize disruption to building occupants and facilities.
- 1.5.5.** Only materials and equipment used directly in the Work may be brought to and stored on the Site by the CMAR. When equipment is no longer required for the Work, it shall be removed promptly from the Site. Protection of construction materials and equipment stored at the Site from weather, theft, damage and all other adversity is solely the responsibility of the CMAR.
- 1.5.6.** The CMAR is responsible for the cost to dispose of all waste products including excess earth material that will not be incorporated into the Work under this Contract. The waste product will become the property of the CMAR. The CMAR shall provide for the legal disposal at an appropriate off-site location for all waste products, debris, etc., and shall make necessary arrangements for its disposal. Any disposal/dumping of waste products or unused materials will conform to applicable Federal, State and Local Regulations.
- 1.5.7.** The CMAR shall supervise and direct the Work. The CMAR is solely responsible for the means, methods, techniques, sequences and procedures of construction. The CMAR shall employ and maintain on the Work a qualified supervisor or superintendent who has been designated in writing by the CMAR as the CMAR's representative at the Site. The representative must have full authority to act on behalf of the CMAR and all communications given to the representative will be as binding as if given to the CMAR. The representative must be present on the Site at all times as required to perform adequate supervision and coordination of the Work. Where appropriate all Provisions of M.A.G., Section 105.5, will be applicable.

- 1.5.8.** In the event of abnormal weather conditions, such as windstorms, rainstorms, etc., the CMAR shall immediately inspect the Work Site and take all necessary actions to ensure public access and safety are maintained.
- 1.5.9. Damage to Property at the Site.** The CMAR is responsible for any damage or loss to property at the Site, except to the extent caused by the acts or omissions of the UCFD or its representatives, employees or agents and not covered by insurance. The costs and expenses incurred by the CMAR under this Article shall be paid as a Cost of the Work to the extent that the costs and expenses are in excess of or are not covered by required insurance, and to the extent of any deductibles, but will not increase the GMP.
- 1.5.10. Damage to Property of Others.** The CMAR shall avoid damage, as a result of the CMAR's operations, to existing sidewalks, curbs, streets, alleys, pavements, utilities, adjacent property, the work of Separate Contractors and the property of the UCFD. The CMAR shall repair any damage caused by the operations of the CMAR, which costs will be paid as a Cost of the Work to the extent that these costs and expenses are in excess of or are not covered by required insurance, and to the extent of any deductible, but shall not increase the GMP.
- 1.5.11. Failure of CMAR to Repair Damage.** If the CMAR fails to begin the repair of damage to property as required in Articles 1.5.9, and 1.5.10 and diligently pursue the repair, the UCFD will give the CMAR 10-days written notice to begin repairs. If the CMAR fails to begin the repairs within the 10-day notice period, the UCFD may elect to repair the damages with its own forces and to deduct from payments due or to become due to the CMAR amounts paid or incurred by the UCFD in correcting the damage.
- 1.5.12.** If applicable, the CMAR shall maintain American with Disabilities Act (ADA) and American National Standards Institute (ANSI) accessibility requirements during construction activities in an occupied building or facility. ADA and ANSI accessibility requirements must include, but not be limited to, parking, building access, entrances, exits, restrooms, areas of refuge, and emergency exit paths of travel. The CMAR is responsible for the coordination of all Work to minimize disruption to building occupants and facilities.

1.6. SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- 1.6.1.** Shop Drawings, Product Data, Samples and similar submittals are to be forwarded to the Construction Admin Supervisor and the Contract Administrator for review. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required, the way in which the CMAR proposes to conform to the information given and the design concept expressed in the Contract Documents.
- 1.6.2.** The CMAR shall review, approve, and verify that all submittals meet the intent of the Contract documents. Six (6) copies of each Shop Drawing, Product Data, Sample, and similar submittal required by the Contract Documents will be delivered to the Construction Admin Supervisor for

review. Submittals made by the CMAR, which are not required by the Contract Documents, may be returned without action.

- 1.6.3. The CMAR shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the necessary submittal has been approved by the UCFD. All Work shall be in accordance with approved submittals. The CMAR shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the UCFD's approval.
- 1.6.4. By approving, verifying and submitting Shop Drawings, Product Data, Samples and similar submittals, the CMAR represents that the CMAR has determined and verified materials, field measurements and related field construction criteria, or will do so, and has checked and coordinated the information contained within the submittals with the requirements of the Work and of the Contract Documents.
- 1.6.5. The CMAR shall not be relieved of responsibility for deviations from requirements of the Contract Documents by UCFD approval of Shop Drawings, Product Data, Samples or similar submittals unless the CMAR has specifically informed the UCFD in writing of the deviation at the time of submittal and the UCFD has given written approval to the specific deviation.
- 1.6.6. Informational submittals upon which the UCFD is not expected to take responsive action may be identified as informational submittals in the Contract Documents.
- 1.6.7. When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the UCFD shall be entitled to rely upon the accuracy and completeness of the calculations and certifications.

1.7. QUALITY CONTROL, TESTING AND INSPECTION

- 1.7.1. **Inspection.** The UCFD's authorized Inspectors may be stationed on the Work Site and report to the Construction Admin Supervisors the progress of the Work, the manner in which Work is being performed, and also to report whenever it appears that material furnished or Work performed by the CMAR fails to fulfill the requirements of the specifications and this Contract. The Construction Inspector may direct the attention of the CMAR to any such failure as described above, but the inspection will not relieve the CMAR from any obligation to furnish acceptable materials or to provide completed construction that is in compliance with the Contract Documents in every particular. The Construction Inspector's purpose is to assist the UCFD's Representative and should not be confused with an inspector associated with any regulatory agency or with an inspector from a Laboratory identified under Article 1.8.
- 1.7.2. In case of any dispute arising between the Construction Admin Supervisor or Construction Inspector and the CMAR as to material furnished or the manner of performing the Work, the Construction Inspector will have the authority to reject materials or suspend the Work until the question and issue can be referred to and decided by the UCFD.

CPM Inspectors are not authorized to revoke, alter, enlarge, relax, or release any requirements of the specifications. Construction Inspectors will in no case act as foremen or perform other duties for the CMAR or interfere with the management of the Work by the CMAR.

- 1.7.3. Inspection or supervision by the Construction Admin Supervisor or Construction Inspector shall not be considered as direct control of the individual workman and his work. Direct control is solely the responsibility of the CMAR.
- 1.7.4. The furnishing of any services for the UCFD shall not make the UCFD responsible for or give the UCFD control over construction means, methods, techniques, sequenced procedures or for safety precautions or programs or responsibility for the CMAR's failure to perform the Work in accordance with Contract Documents.

1.8. MATERIALS TESTING

- 1.8.1. All materials used in the Work must be new and unused, unless otherwise noted, and must meet all quality requirements of the Contract Documents.
- 1.8.2. All construction materials to be used on the Work or incorporated into the Work, equipment, plant, tools, appliances or methods to be used in the Work may be subject to the inspection and approval or rejection of the UCFD. Any material rejected by the UCFD will be removed immediately and replaced in a manner acceptable to the UCFD.
- 1.8.3. The procedures and methods used to sample and test material will be determined by the UCFD. Unless otherwise specified, samples and tests will be made in accordance with the following: The City of Scottsdale Material Testing Manual and the standard methods of American Association of State and Highway Transportation Officials (AASHTO) or American Society for Testing and Materials (ASTM), and Maricopa Association of Governments (MAG) supplements.
- 1.8.4. The CMAR shall be responsible for and shall pay for Quality Control testing, unless specifically exempted by the UCFD from certain testing requirements. The goal of Quality Control testing is to ensure that the Work meets the requirements of the Construction Documents as well as standard and customary construction industry practices within Maricopa County. The CMAR's Quality Control testing program shall be responsible for, but shall not be limited to, all testing required and detailed in the Construction Documents and testing that is standard and customary industry practice within Maricopa County.

The CMAR shall submit to the UCFD for approval a qualified Independent Testing Laboratory to be utilized on the Project. All costs associated with Quality Control testing, both initial and subsequent re-testing, shall be paid by the CMAR. Construction contingency cannot be utilized for the cost of re-testing. All re-testing shall be performed by the same testing laboratory. The results from all Quality Control testing shall be provided to the UCFD at the same time they are provided to the CMAR.

- 1.8.5.** The UCFD shall perform independent Quality Assurance testing throughout the project. The UCFD's Quality Assurance testing will be coordinated and paid for by the UCFD, likely through the firm providing Construction Administration and Inspection (CA&I) services. Quality Assurance testing will be less structured testing intended to validate the results of the Quality Control program and ensure that the goal of the Quality Control program is being met.

The CMAR shall provide the UCFD's Quality Assurance tester(s) access to the Work at all times upon reasonable notice. The cost associated with resolving a noncompliant Quality Assurance test results shall be paid by the CMAR. Construction contingency cannot be utilized for the work necessary to resolve a noncompliant test.

- 1.8.6.** The UCFD shall be responsible for paying for all fees associated with permit issuance including the cost for any initial code compliance testing and inspections. The CMAR shall be responsible for all Work being in compliance with applicable codes and for passing all code compliance testing and inspections. The CMAR shall pay the cost, if any, for code compliance re-testing and re-inspections. Construction contingency cannot be utilized for the cost of code compliance re-testing or re-inspections.

- 1.8.7.** At the option of the UCFD, materials may be approved at the source of supply before delivery is started.

1.9 PROJECT RECORD DOCUMENTS/AS-BUILTS

- 1.9.1** During the construction period, the CMAR shall maintain at the jobsite a set of blueline or blackline prints of the Construction Document drawings and Shop Drawings for Project Record Document purposes.

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

- Dimensional changes to the drawings
- Revisions to details shown on drawings
- Depths of foundations below first floor
- Locations and depths of underground utilities
- Revisions to routing of piping and conduits
- Revisions to electrical circuitry
- Actual equipment locations
- Duct size and routing
- Locations of concealed internal utilities
- Changes made by Contract Amendments
- Details not on original Contract Drawings

2. The CMAR shall mark completely and accurately Project Record Drawing prints of Construction Documents or Shop Drawings, whichever is the most capable of indicating the actual physical condition. Where Shop Drawings are marked, show cross-reference locations on the Construction Documents.
3. The CMAR will mark Project Record Drawing sets with red erasable colored pencil.
4. The CMAR will note Requests for Information (RFI) Numbers, Architects' Supplemental Information (ASI) Numbers and Contract Amendment Proposal Numbers, etc., as required to identify the source of the change to the Construction Documents.
5. The CMAR will at the time of Substantial Completion, submit Project Record Drawing prints and Shop Drawings to the UCFD or its representative for review and comment.

1.9.2 Immediately upon receipt of the reviewed Project Record Drawings from the UCFD, the CMAR will correct any deficiencies or omissions to the drawings and prepare the following for resubmission to the UCFD:

1. A complete set of PDF electronic files of all Project Record Drawings will be prepared by the CMAR in electronic format. Each drawing will be clearly marked with "As-Built Document." Files will be named consistent with the Plan Set Index
2. The PDF files will be converted from the CADD files of the Construction Documents provided by the UCFD under Article 2.0 accurately bearing the CMAR's As-Built information from the Project Record Drawings in red and delivered to the UCFD as part of the Project closeout.
3. The CMAR's original redlined mark-up prints of the Project Record Drawings.

1.10 PROJECT SAFETY

1.10.1 CMAR Safety Program. The site environment in which the CMAR operates may on occasion present a potential safety and health hazard to any who may be on the job site. All Work will be performed in compliance with all applicable federal, state and local laws, ordinances, statutes, rules and regulations including Arizona Division of Occupational Safety and Health (ADOSH) policies and procedures. The CMAR is required to attend a UCFD safety briefing session at the Preconstruction meeting. The Contract Administrator, the designated Risk Management staff and a CMAR's representative will attend the session.

The CMAR will provide a safe jobsite and work environment for the safety and health of employees and members of the general public and will comply with all legal requirements including but not limited to the following:

Occupational Safety and Health Act (OSHA)
Electrical Safe Work Practices Standards
OSHA Personal Protective Equipment Standards
National Fire Protection Association (NFPA) 70E Standard for
Electrical Safety in the Workplace
OSHA Fall Protection Standards
OSHA Confined Space Entry

All other applicable requirements of OSHA and local codes and agencies having jurisdiction.

Contractors that violate these rules and regulations may be subject to job shutdown or removal from UCFD facilities.

- 1.10.2 Contractor Safety Tailgate Meetings.** The CMAR will conduct tailgate safety meetings regularly to ensure that safety on the job is given priority. The Sign-in sheet of the tailgate meeting must be given to the UCFD Inspector within 48 hours after the meeting.
- 1.10.3 Accident/Injury Procedure.** The CMAR will contact the Contract Administrator and Risk Management Department within 24 hours of the occurrence of an accident or injury arising out of the CMAR's work under this Contract.
- 1.10.4 Unsafe Acts.** The CMAR employees are encouraged to abate or remedy any unsafe act or condition which may arise in the course of CMAR's work under this Contract.
- 1.10.5 Safety Audits.** The UCFD reserves the right to conduct safety audits at the job site and stop unsafe acts at any time. In addition, the Construction Admin Supervisor or CPM Inspector must be notified should any OSHA inspections occur at a UCFD job site.
- 1.10.6** The CMAR recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-site or off-site, and (iii) all other property at the Site or adjacent to the Site.
- 1.10.7** The CMAR assumes responsibility for implementing, monitoring, and documenting all safety precautions and programs related to the performance of the Work.
- 1.10.8** The CMAR will, before beginning construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, the CMAR's Safety Representative will be an individual stationed at the Site who may have responsibilities on the Project in addition to safety.

- 1.10.9** The CMAR must provide OSHA 300A Summary log information including total recordable cases, total case rates, and lost workday incident rates for the past 2 calendar years. This information can be compared to Bureau of Labor Statistics (BLS) rates to determine whether a contractor has below average or above average accident/injury rates. Bureau of Labor Statistics information can be obtained through Risk Management. The Safety Representative will make routine daily inspections of the Site and will hold weekly safety meetings with CMAR's personnel, Subcontractors and others as applicable.
- 1.10.10** The CMAR and Subcontractors will comply with all Legal Requirements relating to safety, as well as any UCFD-specific safety requirements found in the Contract Documents, provided that the UCFD-specific requirements do not violate any applicable Legal Requirement.
- 1.10.11** The CMAR will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to the Contract Administrator and, to the extent mandated by Legal Requirements, to all government or quasi-governmental authorities having jurisdiction over safety-related matters involving the Project or the Work.
- 1.10.12** The CMAR's responsibility for safety under this Article 1.10 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the Work.
- 1.10.13** The CMAR and Subcontractors must agree to provide Material Safety Data Sheets for all substances that are delivered to the UCFD, that come under the OSHA Toxic and Hazardous Substances – Hazard Communication Standard, 29 CFR 1910.1200, Hazard Communication (reference Occupational Safety and Health Standards, Subpart Z Toxic and Hazardous Substances – Hazardous Communication Standard).

The CMAR and all Subcontractors using chemicals on UCFD property must use only the safest chemicals, with the least harmful ingredients. These chemicals must be approved for use by a UCFD representative before bringing them on the property.

The CMAR and all Subcontractors will make every attempt to apply approved chemicals with highly volatile organic compounds, outside of working hours. Adequate ventilation must be used at all times during the application of these approved chemicals.

In conjunction with the Occupational Safety and Health Standards, Subpart Z Toxic and Hazardous Substances – Hazard Communication Standard, 29 CFR 1910.1200 Hazard Communication, the CMAR and

Subcontractors are informed of the presence of (or possible presence of) chemicals in the area where the work requested will be performed. It is the responsibility of all selected Contractors to contact the UCFD for specific information relative to the type of chemicals present and location of appropriate Material Safety Data Sheets.

Unless included in the Work, if the CMAR encounters on-site material which he reasonably believes to contain asbestos, polychlorinated biphenyl (PCB), or other hazardous substances or materials regulated by Public Health Laws, he will immediately stop work and report the condition to the UCFD.

If the material is found to contain asbestos, PCB or other hazardous substances or materials regulated by Public Health Laws, the CMAR will not resume work in the affected area until the material has been abated or rendered harmless. The CMAR and the UCFD may agree, in writing, to continue work in non-affected areas on-site. An extension of Contract Time may be granted in accordance with Article 5.

Upon discovery of hazardous materials the CMAR will comply with all applicable laws/ordinances and regulations and take all appropriate health and safety precautions.

1.11 WARRANTY

1.11.1 The provisions of M.A.G. Section 108.8 apply with the following additional requirements:

1. Should the CMAR fail to begin repairs or corrective work within 14 calendar days after receipt of written notice from the UCFD, the UCFD may perform the necessary work and the CMAR agrees to reimburse the UCFD for the actual cost.
2. The warranty period on any part of the work repaired or replaced is extended for a period of 1 year from the date of the repair or replacement.
3. This warranty does not apply to damage caused by normal wear and tear or by acts beyond the CMAR's control.

1.11.2 The CMAR's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work by persons other than the CMAR or anyone for whose acts the CMAR may be liable.

1.11.3 Nothing in this warranty is intended to limit any manufacturer's warranty which provides the UCFD with greater warranty rights than provided in this Article 1.11 or the Contract Documents. The CMAR will provide the UCFD with all manufacturers' warranties upon Substantial Completion.

1.11.4 The CMAR's warranty obligation will be the maximum allowed by the Arizona Registrar of Contractors

1.12 CORRECTION OF DEFECTIVE WORK

- 1.12.1** The CMAR agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Article 1.11 above within a period of 1 year from the date of Substantial Completion of the Work or any portion of the Work, or within any longer period, to the extent required by the Contract Documents. A Progress Payment, or partial or entire use or occupancy of the Project by the UCFD will not constitute acceptance of the Work if not in accordance with the Contract Documents.
- 1.12.2** The CMAR will take meaningful steps to begin correction of nonconforming Work subject to this Article 1.12. These measures include but are not limited to timely correction of the Work. If the CMAR fails to initiate necessary measures for this Work within 7 days of receipt of written notice from the UCFD, the UCFD, in addition to any other remedies provided under the Contract Documents, may provide CMAR with written notice that the UCFD will commence correction of the nonconforming Work with its own forces.
- 1.12.3** If the UCFD does perform this corrective Work, the CMAR will be responsible for all reasonable costs incurred by the UCFD in performing this correction.
- 1.12.4** The CMAR will immediately respond to any nonconforming Work that creates an emergency.
- 1.12.5** The 1 year period referenced in this Article 1.12 applies only to the CMAR's obligation to correct nonconforming Work and is not intended to be a period of limitations for any other rights or remedies the UCFD may have regarding the CMAR's other obligations under the Contract Documents.

1.13 SUBCONTRACTOR AND MAJOR SUPPLIER SELECTION

The Parties have entered into a Preconstruction Agreement that contains Subcontractor and Major Supplier provisions. In selecting Subcontractors and Major Suppliers, the CMAR will comply with the provisions in the Preconstruction Agreement. [For horizontal construction, as defined in A.R.S. §34-101(15), the CMAR must self-perform not less than 45% of the Work as required by A.R.S. §34-605(G).]

ARTICLE 2 – UCFD’S SERVICES AND RESPONSIBILITIES

2.0 DUTY TO COOPERATE. The UCFD will, throughout the performance of the Work, cooperate with the CMAR and perform its responsibilities, obligations and services in a timely manner to facilitate the CMAR’s timely and efficient performance of the Work and so as not to delay or interfere with the CMAR’s performance of its obligations under the Contract Documents. The UCFD will furnish the CMAR a CADD file of the Construction Documents acceptable to the UCFD, at no cost to the CMAR.

2.1 CONTRACT ADMINISTRATOR/CONSTRUCTION ADMIN SUPERVISOR

2.1.1 The Construction Admin Supervisor is responsible for providing UCFD-supplied information and approvals in a timely manner to permit the CMAR to fulfill its obligations under the Contract Documents.

2.1.2 The Construction Admin Supervisor will also provide the CMAR with prompt notice if the Construction Admin Supervisor observes any failure on the part of the CMAR to fulfill its contractual obligations, including any default or defect in the Project or non-conformance with the drawings and specifications.

2.1.3 The UCFD may contract separately with the Design Team and may include partial construction administration services for the Project. A copy of the Design Team's contract will be furnished to the CMAR.

2.1.4 Both the Contract Administrator and Construction Admin Supervisor are responsible for construction administration of the Work. The Design Team, if authorized by the UCFD, will review, approve or take other appropriate action upon the CMAR's submittals such as Shop Drawings, Product Data and Samples in accordance with Article 1.6. Communications by and with the Design Team will be through the Contract Administrator and Construction Admin Supervisor.

2.1.5 The Contract Administrator or Construction Admin Supervisor and the Design Professional will interpret and decide matters concerning performance under the requirements of the Contract Documents. The Design Professional's response to these requests will be made to the UCFD with reasonable promptness. The UCFD will forward response to the CMAR and within the time limits agreed upon.

2.1.6 The Contract Administrator has the authority to authorize Change Orders up to the limits permitted by the Procurement Code.

2.2 UCFD’S SEPARATE CONTRACTORS. The UCFD is responsible for all Work performed on the Project or at the Site by separate contractors under the UCFD’s control. The UCFD will contractually require its separate contractors to cooperate with, and coordinate their activities, so as not to interfere with the CMAR, in order to enable timely completion of Work consistent with the Contract Documents. The CMAR agrees to reasonably cooperate and coordinate its activities with those of the separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.3 PERMIT REVIEW AND INSPECTIONS. Issuance of Right-of-Way and/or Building Permit is the responsibility of the UCFD's Design Engineer. The Town of Carefree issues Certificates of Occupancy.

2.4 FURNISHING OF SERVICES AND INFORMATION

2.4.1 The UCFD will be responsible for the payment or waiver of the following:

1. Town of Carefree, City of Scottsdale, or Town of Cave Creek review and permit(s) fees for building, encroachment, right-of-way, and demolition permits.
2. Town of Carefree, City of Scottsdale, or Town of Cave Creek review fees for grading and drainage, water, sewer and landscaping.
3. Utility design fees for permanent services.
4. Obtaining Clean Water Act Nationwide 404 Permits.
5. UCFD/Carefree Water Company Development Fees.
6. Environmental Permits and Licenses.

2.4.2 Unless expressly stated to the contrary in the Contract Documents, the UCFD will provide (at its own cost and expense) to the CMAR, the following information:

1. To the extent available, surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;
2. Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable the CMAR to perform the Work;
3. A legal description and Street or Physical address of the Site;
4. To the extent available, as-built record and historical drawings of any existing structures at the Site;
5. To the extent available, environmental studies, environmental impact statements, reports and impact statements describing the environmental conditions (including hazardous materials) known to exist at the site;
6. The UCFD will provide all UCFD standards and guidelines, supplementary conditions and special provisions that will be included in the plans and specifications for the Project. These may include but are not limited to: disposal of surplus material, special security provisions, investigation of underground facilities, traffic controls and regulations, special quality control testing and termite treatment requirements.

The UCFD is responsible for securing and executing all necessary Contracts with adjacent land or property owners that are necessary to enable the CMAR to perform the construction. The UCFD is further

responsible for all costs, including attorneys' fees, incurred in securing these necessary Contracts.

2.5 PROJECT MANAGEMENT SERVICES

- 2.5.1** The UCFD may contract separately with one or more Technical Consultants to provide project management assistance to the Project. The Technical Consultant's contract as well as the contracts of other firms hired by the UCFD will be furnished to the CMAR. The CMAR will not have any right however, to limit or restrict any contract modifications that are mutually acceptable to the UCFD and Technical Consultant.
- 2.5.2** The Technical Consultant services will augment the UCFD staffing resources to effectively manage the objectives of the UCFD and this Project with the goal of managing the key project communication, cost and time parameters.
- 2.5.3** The Technical Consultant may provide preprogramming and design standards.
- 2.5.4** The UCFD may contract with the Technical Consultant to provide some or all of the following services during the performance of the construction:
1. Oversight of the Construction. The UCFD may hire Technical Consultants to assist it in oversight of the Construction Project. The Technical Consultants will:
 2. Conduct Site visits at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed construction and to determine in general if the construction is being performed in accordance with the Construction Documents. The Technical Consultant will keep the UCFD informed of progress of the construction and will endeavor to guard the UCFD against defects and deficiencies in the construction. The Technical Consultant may have authority to reject construction which does not conform to the Construction Documents and to require additional inspection or testing of the construction in accordance with Articles 1.7 and 1.8;
 3. Review and recommend approval of the CMAR's Payment Requests;
 4. Interpret matters concerning performance under and requirements of the Contract Documents on written request of the UCFD. The Technical Consultant's response to these requests will be made with reasonable promptness and within any time limits agreed upon;
 5. Analyze, recommend and assist in negotiations of Change Orders;
 6. Conduct inspections to determine Substantial Completion and Final Acceptance;
 7. Receive and forward to the UCFD for the UCFD's review and records, written warranties and related documents required by the Contract Documents and assembled by the CMAR.

ARTICLE 3 – CONTRACT TIME

3.0 CONTRACT TIME

3.1 Contract Time will be 60 calendar days as indicated in the Notice to Proceed (NTP).

3.1.1 Contract Time will start with the Notice to Proceed (NTP) and end with Substantial Completion. The UCFD will issue a NTP letter establishing the mutually agreed upon NTP date for this Contract.

3.1.2 Failure on the part of the CMAR to adhere to the Project Schedule may be the basis for termination of this Contract by the UCFD.

3.1.3 Each GMP amendment to this Contract will establish a separate construction NTP date, Performance Period and Substantial Completion date for the entire Project. The Performance Period(s) may be sequential or may run concurrently.

3.1.4 The CMAR agrees to commence performance of the Work and achieve Performance Periods and the Contract Time.

3.1.5 All the times stated in this Article 3 are subject to adjustment in accordance with Article 5.

3.2 CONSTRUCTION SCHEDULE. Each approved GMP proposal will include a Project Schedule as prescribed in Article 3.7 with a Critical Path Method diagram construction schedule that will indicate the path of critical activities and establish the Performance Period encompassed by the GMP. The CMAR will maintain the construction schedule throughout the construction.

3.3 PUNCH LIST PREPARATION

A minimum of 30 days before Substantial Completion the CMAR, in conjunction with the UCFD, will prepare a comprehensive list of Punch List items, which the UCFD may edit and supplement. The CMAR will proceed promptly to complete and correct the Punch List items. Failure to include an item on the Punch List does not alter the responsibility of the CMAR to complete all Work in accordance with the Contract Documents. Warranties required by the Contract Documents will not commence until the date of Final Acceptance unless otherwise provided in the Contract Documents. Seven (7) days before the UCFD issues its Final Acceptance Letter, the CMAR will deliver to the UCFD all Operation and Maintenance Manuals necessary for the UCFD to assume responsibility for the operation and maintenance of that portion of the Work.

3.4 LIQUIDATED DAMAGES

The CMAR understands that if Substantial Completion is not attained within the Contract Time as adjusted, the UCFD will suffer damages, which are difficult to determine and accurately specify. The CMAR agrees that if Substantial Completion is not attained within the Contract Time as adjusted, the CMAR will pay as liquidated damages the amounts specified in Section 108.9 of the M.A.G. Standard Specifications, incorporated in this Contract by reference. These

amounts may be adjusted depending on the anticipated or actual loss caused by the delay and the difficulty of proof of loss.

3.5 PROJECT SCHEDULE

3.5.1 The Project Schedule will be initially submitted at the start of this Contract as required by Article 1 and updated and maintained throughout the Contract Services. An updated Project Schedule will be part of the GMP amendment.

3.5.2 The Project Schedule will be revised as required by conditions and progress of the Contract Services, but any revisions will not relieve the CMAR of its obligations to complete the Contract Services within the Contract Time(s), as these dates may be adjusted in accordance with the Contract Documents.

3.5.3 An Updated Project Schedule will be submitted monthly to the UCFD, 5 days before the CMAR's monthly Payment Request.

1. The CMAR will provide the UCFD with a monthly status report with each Project Schedule detailing the progress of Construction, including whether (i) the construction is proceeding according to schedule, (ii) discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, and (iii) other items that require resolution so as not to jeopardize the ability to complete the construction as presented in the GMP and within the Contract Time(s). The monthly status report and Project schedule shall be provided electronically to the Contract Administrator and Construction Admin Supervisor no later than the 25th of each month.
2. With each Project Schedule submitted, the CMAR will include a transmittal letter including the following:
 - Description of problem tasks (referenced to field instructions, Requests for Information (RFIs), Change Order or claim numbers) as appropriate.
 - Current and anticipated delays not resolved by approved change orders, including:
 - Cause of the delay.
 - Corrective action and schedule adjustments to correct the delay.
 - Known or potential impact of the delay on other activities, milestones, and the date of Substantial Completion.
 - Changes in construction sequence.
 - Pending items and status including but not limited to:
 - Pending Change Orders.
 - Time extension requests.
 - Other items.
 - Substantial Completion date status:
 - If ahead of schedule, the number of days ahead.

- If behind schedule, the number of days behind.
 - Other project or scheduling concerns.
- 3.5.4** The UCFD's review of and response to the Project Schedule is only for general conformance with the scheduling requirements of the Contract Documents. The review will not relieve the CMAR from compliance with the requirements of the Contract Documents or be construed as relieving the CMAR of its complete and exclusive control over the means, methods, sequences and techniques for executing the Contract Services.
- 3.5.5** The Project Schedule will include a Critical Path Method diagram schedule that will show the sequence of activities, the interdependence of each activity and indicate the path of critical activities.

The Critical Path Method diagram schedule will be in days and indicate duration, earliest and latest start and finish dates, and will be presented in a time scaled graphical format for the Project as a whole.

1. The activities making up the schedule will be of sufficient detail to assure that adequate planning has been done for proper execution of the Work and provide an appropriate basis for monitoring and evaluating the progress of the Work.
2. The Critical Path Method diagram construction schedule will be based upon activities which would coincide with the Schedule of Values.
3. The Critical Path Method diagram schedule will show all submittals associated with each Work activity and the review time for each submittal.
4. The schedule will show milestones, including milestones for UCFD-furnished information, and will include activities for UCFD-furnished equipment and furniture, if any, when those activities are interrelated with the CMAR's activities.
5. The schedule will include a critical path activity that reflects anticipated rain delay during the performance of the Contract. The duration will reflect the average climatic range and usual industrial conditions prevailing in the locality of the Site. Weather data will be based on information provided by the National Weather Service or other approved source.

3.6 COST ESTIMATES

Provisions pertaining to cost estimates may be found in the GMP Proposal, attached as Exhibit C.

3.7 CONSTRUCTION MANAGEMENT PLAN

As a part of the Preconstruction Agreement, the UCFD has required the CMAR to prepare a Construction Management Plan.

ARTICLE 4 – CONTRACT PRICE

4.0 The CMAR agrees to do all Work for each phase of the construction of the improvements and to completely construct the improvements and install the material, as applicable and called for by this Contract, free and clear of all claims, liens, and charges whatsoever, in the manner and under the conditions specified within the time, or times, stated in the GMP, as may be amended from time to time, as set forth in the GMP Proposal, attached as Exhibit C, and by reference made a part of this Contract.

4.1 CONTRACT PRICE

4.1.1 The Contract Price is a not to exceed price of \$823,901.06 as stated in detail in the GMP A1 Proposal, attached as Exhibit C.

4.1.2 The Contract Price is the sum of the GMP plus the UCFD's Project Contingency defined in Article 12 plus an allowance and is subject to adjustments made in accordance with Article 5.

4.1.3 The CMAR is responsible for payment of all transaction privilege (sales) taxes due on construction income, whether or not these taxes are specifically separated in the bid amount, including amounts owed to the State of Arizona, County of Maricopa, Town of Carefree, or other municipalities and agencies as applicable.

4.1.4 Unless otherwise provided in the Contract Documents, the Contract Price is to include all sales, use, consumer and other taxes throughout the term of this Contract, whether or not yet effective or merely scheduled to go into effect.

4.1.5 Any Contingencies and Allowances as agreed upon between the UCFD and the CMAR will be in the GMP.

4.2 CMAR CONSTRUCTION FEE FOR CHANGES. If the GMP requires an adjustment due to changes in the Work, the cost of any changes will be determined under Article 5.

4.3 GUARANTEED MAXIMUM PRICE (GMP)

4.3.1 At the end of the design phase or at a time determined by the UCFD, and as a part of the Work done under the Preconstruction Agreement, the UCFD will request the CMAR to provide a GMP, or series of GMP's if the CMAR determines phased construction would be in the UCFD's best interest. The approved GMP(s) is set forth in Exhibit C, attached to this Contract.

4.3.2 The CMAR guarantees to bring the completion of the construction of the Project within the GMP or the CMAR alone will be required to pay the difference between the actual cost and the GMP.

1. Buy out savings are any savings of the CMAR's GMP at the conclusion of the selection of Subcontractors. Buy out savings may be

used during construction by the UCFD as a UCFD Project contingency. Unused savings will be returned to the UCFD.

2. Any savings realized during construction may be incorporated into the construction of the Project to fund additional scope items. Unused savings will be returned to the UCFD.

4.3.3 The GMP is composed of the Total Cost of the Work (Direct Costs) plus the CMAR's Indirect Costs which are not-to-exceed cost reimbursable, actual costs or fixed fee amounts defined as:

1. The Total Cost of the Work (Direct Costs) is a negotiated and not-to-exceed amount defined by the individual work items and their associated negotiated unit prices as part of the hard construction work as defined in Article I as performed by the CMAR through self-performed work, Sub-Contractors' work and any other third party as set forth in Article 1.13 requirements for selection of subcontractors and major suppliers. It includes the costs for all direct labor, materials and equipment incorporated in the completed construction, materials testing prescribed in Article 1.8 and warranty of the work.
2. The CMAR's Indirect Costs include the costs for General Conditions, Payment and Performance Bonds, Insurance, the CMAR Construction Fee and Taxes.
 - a. The General Conditions are costs for the negotiated amount of Project supervision and other indirect costs according to construction terms as defined in Article 12. These costs are not reflected in other GMP items. Costs may include, but are not limited to, the following: Project Manager, Superintendent, Full-time General Foremen and administrative office personnel. Other costs may include: temporary office, fees not specifically listed in Articles 1.2 and 2.4 or as qualified in Exhibit B, fencing and other facilities, office supplies, office equipment, minor expenses, utilities, vehicles, fuel, sanitary facilities, and telephone services at the site.
 - b. Payment Bonds, Performance Bonds and Insurance are actual costs applied to Cost of Work and General Conditions Costs as detailed in the GMP Proposal.
 - c. The CMAR Construction Fee is a negotiated fixed fee that is proposed by the CMAR for management and related services of the CMAR Project. The fee includes the CMAR's profit and home office overhead, whether at the CMAR's principal or branch offices, including the administrative costs, home office costs and any limitations or exclusions that may be included in the General Conditions.
 - d. Taxes include all sales, use, consumer and other taxes which are legally enacted when negotiations of the GMP were concluded, whether or not yet effective or merely scheduled to go into effect. Taxes are actual costs and are a not-to-exceed reimbursable amount.

4.3.4 The GMP is cumulative. The amount of any GMP amendment will be negotiated separately and will reflect the CMAR's risk from that point forward in the Project.

4.4 GMP PROPOSAL. The GMP Proposal will be that as provided in the Preconstruction Agreement, and the GMP Proposal is attached as Exhibit C.

4.5 GMP APPROVAL. The approval of the GMP will be in accordance with the provisions of the Preconstruction Agreement, attached to this Contract as Exhibit B.

4.6 TAX/LICENSE

The CMAR must secure and maintain, during the life of the Contract, State of Arizona and Town of Carefree Transaction Privilege (sales) Tax Licenses.

To obtain a State of Arizona Privilege (Sales) Tax License Application, fill out the JT-1 Form that can be obtained at the following web address and then submitted to the Arizona Department of Revenue:

<https://azdor.gov/forms/tpt-forms/joint-tax-application-tpt-license>

or apply online at the following web address:

<https://azdor.gov/transaction-privilege-tax/tpt-license/applying-tpt-license>

The Town of Carefree imposes a 3% Transaction Privilege (Sales) Tax and a 4% Construction Transaction Privilege (Sales) Tax. These taxes are collected by the Arizona Department of Revenue. More information on Carefree's Transaction Privilege Tax can be obtained on the Town's website at the following address: <http://www.carefree.org/197/Privilege-Tax>.

4.7 RESPONSIBILITY FOR PRIVILEGE (SALES) TAXES

The CMAR is responsible for payment of all applicable State of Arizona, Town of Carefree, or any other transaction privilege (sales) taxes due on construction income whether or not these taxes are specifically separated in the bid amount. The taxes are to be reported on either a progressive billing (accrual) basis or cash receipts basis, depending on the method chosen at the time application was made for the Privilege (sales) Tax License.

Privilege (sales) tax exemptions/deductions may be applicable to certain projects. The CMAR is advised to consider this as it prepares its bid. Please reference A.R.S. Title 42 at the following website: <https://www.azleg.gov/arsDetail/?title=42>

For further questions regarding tax treatment, please contact the Arizona Department of Revenue at (602) 255-2060 and the Town of Carefree Accounting Dept. at (480) 488-3686.

ARTICLE 5 – CHANGES TO THE CONTRACT PRICE AND TIME

5.0 DELAYS TO THE WORK

5.1 DELAYS TO THE WORK

- 5.1.1** Delays may be compensable, concurrent, excusable or non-excusable as defined in Article 12.
- 5.1.2** If the CMAR is delayed in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom CMAR is responsible, the Contract Times for performance may be reasonably extended by Change Order.
- 5.1.3** The CMAR must request an increase in the Contract Time by written notice including an estimate of the probable effect of delay on progress of the Work. In the case of a continuing delay only one request is necessary.
1. Written notice will be received within 14 days of the commencement of the cause of the delay.
 2. If written notice is received more than 14 days after commencement of the cause of the delay, the period of delay will be considered to commence 14 days before the giving of the notice.
- 5.1.4** By way of example and subject to Article 11.7, events that may entitle the CMAR to an extension of the Contract Time include acts or omissions of the UCFD or anyone under the UCFD's control (including separate contractors), Acts of God or public enemy, changes in the Work, Differing Site Conditions, Hazardous Conditions, unusual delay in transportation, and excessive inclement weather conditions not reasonably anticipated, war or other national emergency making performance temporarily impossible or illegal, or strikes or labor disputes not brought about by any act or omission of the CMAR.
- 5.1.5** If excessive inclement weather conditions are the basis for a request for additional Contract Time, these requests will be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction.
- 5.1.6** It is understood, however, that permitting the CMAR to proceed to complete any Work, or any part of the Work, after the date to which the time of completion may have been extended, will in no way act as a waiver on the part of the UCFD of any of its legal rights under this Contract.
- 5.1.7** In the event that the CMAR sustains damages as a result of expenses incurred by a delay for which the UCFD is responsible, the CMAR and the UCFD will negotiate to determine the amount of these damages. This provision is made in compliance with Arizona Revised Statutes Section

34-609 (E) and is effective only if the delay caused by the UCFD is unreasonable under the circumstances and was not within the contemplation of the parties. This provision will not be construed to void any provision of this Contract pertaining to notice of delays, arbitration or other settlement provisions applicable to disputes, or provisions relating to liquidated damages.

1. In addition to the CMAR's right to a time extension for those events stated in this Article 5.0, the CMAR may also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price will not be adjusted for those events described in this Article that are beyond the control of both the CMAR and the UCFD, including the events of war, acts of terrorism, floods, labor disputes (but not including CMAR's own work force and those of its subcontractors), earthquakes, epidemics, excessive inclement weather conditions not reasonably anticipated, and other acts of God.

5.2 DIFFERING SITE CONDITIONS

- 5.2.1** If the CMAR encounters a Differing Site Condition(s), the CMAR may be entitled to an adjustment in the Contract Price or Contract Time(s) to the extent the CMAR's cost or time of performance are the direct result of a Differing Site Condition(s).
- 5.2.2** Upon encountering a Differing Site Condition, the CMAR will provide prompt written notice to the UCFD of the condition, which notice will not be later than 7 days after the condition has been encountered. The CMAR must give the UCFD's Contract Administrator written notice of and an opportunity to observe, such condition before disturbing or altering the Differing Site conditions. The failure of the CMAR to give written notice and make the Claim as required by this Article and Article 7.1.5 shall constitute a waiver by the CMAR of any rights arising out of or relating to such Differing Site Conditions. The CMAR will, to the extent reasonably possible, provide notice before the Differing Site Condition has been substantially disturbed or altered. (Final costs must be submitted within thirty (30) days after notice is received by the UCFD, unless extended by written agreement of the parties.)
- 5.2.3** In order for the CMAR to obtain any additional compensation or time extensions for Differing Site Conditions, the CMAR must demonstrate that it encountered a material difference at the Site, as defined in Article 12, that required it to expend additional cost or time. The CMAR will also establish that it actually and reasonably relied upon the representations found in the Contract Documents concerning the Site conditions.

5.3 APPLICATION FOR EXTENSION OF TIME

- 5.3.1** If performance by the CMAR is delayed for a reason set forth in Article 5, the CMAR may be allowed a reasonable extension of time in conformance with this Article. Before the CMAR's time extension request may be considered, the CMAR shall notify the UCFD of the condition which allegedly has caused or is

causing the delay, and shall submit a written application to the UCFD identifying:

1. Liquidated damage assessment rate, as specified in the Contract;
2. Original total GMP;
3. The original Contract start date and completion date;
4. Any previous time extensions granted (number and duration);
5. The extension of time requested.

5.3.2 In addition, the application for extension of time shall set forth in detail;

1. The nature of each alleged cause of delay in completing the Work; and
2. The date upon which each such cause of delay began and ended and the number of dates attributable to each such cause; and
3. A statement that the CMAR waives all claims except for those delineated in the application, and the particulars of any claims which the CMAR does not agree to waive. For time extensions for Substantial Completion and final completion payments, the application shall include a detailed statement of the dollar amounts of each claim item reserved; and
4. A statement indicating the CMAR's understanding that the time extension is granted only for purposes of permitting continuation of Contract performance and payment for Work performed and that the UCFD retains its right to conduct an investigation and assess liquidated damages as appropriate in the future.

5.4 ERRORS, DISCREPANCIES AND OMISSIONS

5.4.1 If the CMAR observes errors, discrepancies or omissions in the Contract Documents, it will promptly notify the UCFD and request clarification. The CMAR will provide a copy of any notice to the UCFD Contract Administrator.

5.4.2 If the CMAR proceeds with the Work affected by any errors, discrepancies or omissions, without receiving clarifications, it does so at its own risk. Adjustments involving these circumstances made by the CMAR before clarification by the Design Professional are at the CMAR's risk.

5.5 UCFD REQUESTED CHANGE IN WORK. The UCFD reserves the right to make, at any time during the progress of the Work, any alterations as may be found necessary or desirable.

5.5.1 Any alterations and changes will not invalidate this Contract nor release the surety, and the CMAR agrees to perform the Work as altered, the same as if it had been a part of the original Contract Documents. The CMAR will notify the

surety of the changes and will assure that the alterations and changes are adequately covered by the surety bond.

- 5.5.2** Upon receipt of a request for Change in Work, the CMAR will prepare a proposal in significant detail according to Article 5.11. The CMAR's proposal will include a detailed description of any schedule impact.
- 5.5.3** Legal Requirements. The Contract Price or Contract Times will be adjusted to compensate the CMAR for the effects of any changes in the Legal Requirements enacted after the date of the Contract or the date of the GMP, affecting the performance of the Work.

5.6 CHANGE ORDERS

- 5.6.1** The UCFD and the CMAR will negotiate Change Orders in good faith and as expeditiously as possible in order to arrive at appropriate adjustments for a Change Order. Upon reaching an agreement, the parties will prepare and execute an appropriate Change Order reflecting the terms of the adjustment. The change in the Work may or may not include an adjustment in the Contract Price or Contract Time.
- 5.6.2** All changes in the Work authorized by Change Orders will be performed under the conditions of the Contract Documents. The decision to issue Change Orders rests solely with the UCFD and any decision to issue a Change Order must be promptly complied with by the CMAR, subject to the provisions of Article 5.4. The Contract Administrator has the authority to authorize Change Orders up to the limits permitted by the UCFD's Board of Directors.
- 5.6.3** The execution of a Change Order by the CMAR shall constitute conclusive evidence of the CMAR's agreement to the ordered changes in work, this Contract as thus amended, the Contract Price, and the time for performance by the CMAR. The CMAR, by executing the Change Order, waives and forever releases any claim against the UCFD for any additional time or compensation for matters relating to, arising out of, or resulting from the work included within or affected by the executed Change Order of which the CMAR knew or should have known.
- 5.6.4** The UCFD may direct the CMAR to perform additional work under the contract by issuing a Construction Change Directive when time and/or cost of the work is not in agreement between the UCFD and the CMAR. During the pendency of a resolution of the price and/or time adjustments between the UCFD and the CMAR, the CMAR may not suspend work and will comply with the Construction Change Directive.

5.7 UNILATERAL DETERMINATION OF CHANGE ORDER VALUE

If no mutual agreement occurs between the UCFD and the CMAR, the change in Contract Price, if any, shall be derived by determining the reasonable actual costs incurred or savings achieved, resulting from revisions to the Work. Such reasonable actual costs or savings shall include a component for direct job site overhead and profit, but shall not include home-office overhead or other indirect

costs and components. The calculation of actual costs shall conform to Article 5.11.2. Any such costs or savings shall be documented in the format and with such content and detail as the UCFD requires. The CMAR shall promptly submit such documentation and other backup as the UCFD may require in evaluating the actual costs incurred.

5.8 ADDITIONAL CHANGE ORDER COST REQUIREMENTS

The cost of all items listed in the CMAR's proposal shall be directly related to the Change Order. Indirect costs not specifically related to the Change Order shall not be considered. The CMAR's or Subcontractor's submittals shall include the cost of materials, sales tax, cost of all transport, equipment costs and any direct Project expenses. CMAR's or Subcontractor's Direct Labor Costs shall be limited to the hourly rate of directly involved workmen, employer contributions toward CMAR standard benefits, pensions, unemployment or social security (if any), and employer costs for paid sick and annual leave. CMAR's or Subcontractor's Indirect Costs may include license fees, bond premiums, supervision, and vehicle expense directly related to the Change order.

5.9 LIMITATION OF COMPENSABLE ITEMS

5.9.1 For Change Orders, the total cost or credit to the UCFD shall be based on the following schedule:

1. CMAR's Materials Costs.
2. CMAR's Direct Labor Costs.
3. CMAR's Equipment Costs (includes owned/rented equipment).
4. Applicable Subcontractor Costs.
5. Subtotal of Costs to the CMAR.
6. CMAR's Overhead and Profit.
7. Total Cost or Credit to the UCFD.

5.10 FIELD ORDERS

5.10.1 The UCFD has authority to initiate Field Orders that do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Field Orders will be imposed by written order and will be binding on the UCFD and the CMAR. The CMAR will carry out any written orders promptly.

5.10.2 Field Orders will not involve an adjustment in the Contract Price or Contract Times unless or until an adjustment becomes a Change Order.

5.10.3 The CMAR may make minor changes in the Work, but the CMAR will promptly inform the UCFD, in writing, of any changes and record the changes, if appropriate, on the Project Record Documents maintained by the CMAR.

5.11 CONTRACT PRICE ADJUSTMENTS

5.11.1 The increase or decrease in Contract Price resulting from a Change in the Work will be determined by one of the following methods stated in order of preference:

1. Using direct cost labor and material rates established in the contract documents as a basis of the Contract Price adjustment;
2. Using unit prices found in the Contract or as subsequently agreed between the parties;
3. A mutually agreed upon accepted, allowance, properly itemized and supported by sufficient substantiating data to permit evaluation by the UCFD; and
4. A negotiated CMAR Construction Fee for the Change in Work equal to additional Indirect Costs resulting from the Change in the Work plus any negotiated profit.

5.11.2 If an increase or decrease cannot be agreed to as provided in Articles 5.7 and 5.8, the cost of the Change of the Work will be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable CMAR Construction Fee, according to the methodology used to establish the contract GMP. The CMAR will maintain a documented, itemized accounting evidencing the expenses and savings associated with the changes.

5.11.3 If unit prices are included in the Contract Documents or are subsequently agreed to by the parties, but application of the unit prices will cause substantial inequity to the UCFD or the CMAR because of differences in the character or quantity of the unit items as originally contemplated, the unit prices will be equitably adjusted.

5.11.4 If the UCFD and the CMAR disagree upon the amount to be paid, whether the CMAR is entitled to be paid for any services required by the UCFD or if there other disagreements over the Scope of Work, proposed changes to the Work, or the time required to complete the Work, the UCFD and the CMAR will resolve the dispute in accordance with Article 7.

1. As part of the negotiation process, the CMAR will furnish the UCFD with a good faith estimate of the costs to perform the disputed services or the additional time required in accordance with the UCFD's interpretations.
2. If the parties are unable to agree and the UCFD expects the CMAR to perform the services in accordance with the UCFD's interpretations, the CMAR will proceed to perform the disputed services, conditioned

upon the UCFD issuing a written order to the CMAR (i) directing the CMAR to proceed and (ii) specifying the UCFD's interpretation of the services that are to be performed.

5.11.5 Emergencies. In any emergency affecting the safety of persons or property, or both, the CMAR will act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price or Contract Time(s), or both, resulting from emergency work will be determined as provided in this Article 5.

ARTICLE 6 – PROCEDURE FOR PAYMENT

6.0 For and in consideration of the faithful performance of the Work required to be done by the Contract Documents, and in accordance with the directions of the UCFD and to its satisfaction, the UCFD agrees to pay the CMAR the Cost of the Work performed and any applicable costs for general conditions, insurance, bonding, and taxes, but no more than the GMP as adjusted by any Change Orders and provisions of Article 5. Payment for the specific Work under this Contract will be made in accordance with payment provisions of this Article 6.0.

6.1 GMP PAYMENT REQUEST

6.1.1 At the Preconstruction conference described in Article 1.3, the CMAR will submit for the UCFD's review and approval a Schedule of Values. The Schedule of Values will (i) be based on the bids accepted from the successful Subcontractors (ii) include values for all items comprising the GMP including any UCFD allowances, and (iii) serve as the basis for monthly progress payments made to the CMAR throughout the Work.

6.1.2 At least 5 working days before the date established for a Payment Request, the CMAR will meet with the Contract Administrator to review the progress of the Work, as it will be reflected on the CMAR Payment Request. The CMAR Payment Request will constitute the CMAR's representation that the Work has been performed consistent with the Contract Documents, has progressed to the point indicated in the CMAR Payment Request, and that title to all the Work will pass to the UCFD free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project.

6.1.3 The CMAR's Payment Request may request payment for equipment and materials not yet incorporated into the Project if construction progress is in reasonable conformance with the approved schedule.

1. For equipment and materials properly stored at the Site, the equipment and materials will be protected by suitable insurance and the UCFD will receive the equipment and materials free and clear of all liens and encumbrances.
2. For materials and equipment stored off the Site, the UCFD must approve the storage. The material and equipment must be stored within Maricopa County and be accessible for the UCFD's inspection. Title to the materials and equipment will protect the UCFD's interest and will include applicable insurance, bonding, storage and transportation to the Site.
3. The UCFD will be named as an Additional Insured on all insurance required for all stored materials or equipment.

6.1.4 The CMAR will submit a Payment Request in a format acceptable to the UCFD on a date established by the UCFD and the CMAR. The Payment Request will be submitted to the Contract Administrator as identified in Article 7.3. This submittal will include, at a minimum, a narrative

description of the tasks accomplished during the billing period, a listing of any Deliverables submitted, and the Subcontractors' actual request for payment plus similar narrative and listing of their work.

- 6.1.5** Payments for these services negotiated as a fixed unit price will be made in accordance with actual measured quantities completed during the preceding month as itemized on the Schedule of Values and stated in Exhibit C.2. Payment for services negotiated as a lump sum will be made in accordance with the percentage of the services completed during the preceding month as itemized on the Schedule of Values in Exhibit C. Those services negotiated, as a not-to-exceed reimbursable sum will be paid in accordance with the actual costs of the service expended during the preceding month. The UCFD will review Payment Requests and make recommendations for approval or denial within 7 days after the UCFD's receipt of each properly submitted and accurate Construction Payment Request, but in each case less the total of payments previously made, and less amounts properly withheld as retention under Article 6.3. Payment Requests will be considered approved and certified for payment after 7 days unless before that time, the Contract Administrator issues a specific finding setting forth in detail those items in the Request for Payment that are not approved for payment.
- 6.1.6** The CMAR agrees at its own cost and expense, to perform all construction, as called for by this Contract free and clear of all claims, liens, and charges whatsoever, in the manner and under the conditions specified within the time, or times, stated in this Contract.
- 6.1.7** Each Schedule of Values will be submitted as prescribed in this Contract and others, and subject to adjustment in accordance to this Contract and will serve as the basis for monthly progress payments made to the CMAR throughout the construction. It is understood that the Work under this Project will be accomplished under multiple GMPs.
- 6.1.8** The CMAR will submit to the UCFD on the monthly anniversary of the construction NTP date beginning with the first month after the construction NTP date the "Construction Payment Request".

6.2 PAYMENT OF GMP

- 6.2.1** The UCFD will make payment in accordance with A.R.S. §34-609. Payment will be made no later than 14 days after the CMAR Payment Request is certified and approved by the UCFD's Contract Administrator, less amounts properly retained under Article 6.3. The CMAR will pay all sums due to the subcontractors and suppliers for services and materials within 7 days after the CMAR has received payment from the UCFD.
- 6.2.2** The UCFD will pay the CMAR all amounts properly due. If the UCFD determines that the CMAR is not entitled to all or part of a CMAR Payment Request, it will notify the CMAR in writing within 7 days after the date the CMAR Payment Request is received by the UCFD. The notice will indicate the specific amounts the UCFD intends to withhold, the reasons and contractual basis for the withholding, and the specific measures the CMAR must take to rectify the UCFD's concerns. The

CMAR and the UCFD will attempt to resolve the UCFD's concerns. If the parties cannot resolve these concerns, the CMAR may pursue its rights under the Contract Documents, including those under Article 7.

6.3 RETENTION OF GMP

6.3.1 The UCFD will retain 10% of each CMAR Payment Request amount, provided, however, that when 50% of the Work has been completed by the CMAR, on CMAR's request one-half of the amount retained, including any substituted securities, will be paid to the CMAR if the CMAR is making satisfactory progress on the Contract, and there is no specific cause or claim requiring a greater amount to be retained. After the Contract is 50% completed, no more than 5% of the amount of any subsequent progress payments may be retained if the CMAR is making satisfactory progress on the Contract. If, however, the UCFD determines that satisfactory progress is not being made on the Contract, the UCFD may reinstate the 10% retention for all remaining progress payments.

6.3.2 In lieu of retention, the CMAR may provide an assignment of time certificates of deposit (CDs) from a bank licensed by the State of Arizona, securities guaranteed by the United States, securities of the United States, the State of Arizona, Arizona counties, Arizona municipalities, Arizona school districts, or shares of savings and loan institutions authorized to transact business in Arizona.

1. Securities deposited in lieu of retention must be deposited into a separate account with a bank having a branch located in the Town of Carefree or neighboring community.
2. CDs and Securities will be assigned exclusively for the benefit of the UCFD in accordance with the UCFD's requirements.

6.4 SUBSTANTIAL COMPLETION

6.4.1 It is acknowledged and understood that the Carefree Water Consolidation Project will be completed under multiple GMP's, with the work under each GMP identified as a "Project" for purposes of this and subsequent Contracts. Substantial Completion will be for the entire "Project" (as defined in each GMP) unless a partial Substantial Completion is identified in the approved GMP schedule and stated in the Notice to Proceed letter. Substantial Completion will be in accordance with its definition in Article 12, and with the criteria in the Notice to Proceed.

6.4.2 Before notifying the UCFD as required in Article 6.4.3 below, the CMAR must inspect the Work and prepare and submit to the UCFD a comprehensive list of items to be completed or corrected. The CMAR will proceed promptly to complete and correct items on the list. Failure to include an item on the list does not alter the responsibility of the CMAR to complete all Work in accordance with the Contract Documents.

6.4.3 The CMAR will notify the UCFD when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is substantially complete.

- 6.4.4** Within 5 days of the UCFD's receipt of the CMAR's notice, the UCFD and the CMAR will jointly inspect the Work to verify that it is substantially complete in accordance with the requirements of the Contract Documents.
- 6.4.5** If the Work is substantially complete, the UCFD will prepare and issue a Certificate of Substantial Completion that will establish (i) the date of Substantial Completion of the Work or portion of the Work, (ii) the remaining items of Work that have to be completed within 30 calendar days before Final Acceptance, (iii) provisions (to the extent not already provided in the Contract Documents) establishing the UCFD's and the CMAR's responsibility for the Project's security, maintenance, utilities and insurance pending Final Acceptance and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.
- 6.4.6** The UCFD, at its option, may use a portion of the Work which has been determined to be substantially complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items in Article 6.4.5 above, (ii) the CMAR and the UCFD have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) the UCFD and the CMAR agree that the UCFD's use or occupancy will not interfere with the CMAR's completion of the remaining Work.
- 6.4.7 Substantial Completion.** Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, the UCFD may release to the CMAR all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, not to exceed two and one half times (2.5) the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

6.5 FINAL ACCEPTANCE

Upon receipt of written notice that the Work or identified portions of the Work are ready for final inspection and acceptance, the UCFD and the CMAR will jointly inspect to verify that the remaining items of Work have been completed as described in Article 6.4. Upon verification that the items have been satisfactorily completed, the UCFD will issue a Final Acceptance Letter.

6.6 FINAL PAYMENT

- 6.6.1** After receipt of a final CMAR Payment Request, and provided that the CMAR has completed all of the Work in conformance with the Contract Documents, the UCFD will make final payment 14 days after the UCFD has issued its Final Acceptance Letter.
- 6.6.2** At the time of submission of its final CMAR Payment Request, the CMAR will provide the following information:
1. An affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other

items performed, furnished or incurred for or in connection with the Work which will in any way affect the UCFD's interests;

2. An affidavit regarding settlement of claims executed by the CMAR waiving, upon receipt of final payment by the CMAR, all claims, except those claims previously made in writing to the UCFD and remaining unsettled at the time of final payment; and
3. Consent of the CMAR's surety, if any, to final payment.

6.7 EXTENSION OF TIME FOR FINAL PERFORMANCE

In the event the CMAR is delayed in performing any task, which at the time of the delay is then critical, or which during the delay becomes critical, as the sole and exclusive result of any act or omission by the UCFD, or someone acting on the UCFD's behalf, or by UCFD authorized Change Orders, unusually severe weather not reasonably anticipatable, fire, or other Acts of God, occurring without the fault or negligence of the CMAR, the date for achieving Substantial Completion, or, as applicable, final completion, will be appropriately adjusted by the UCFD upon the written claim of the CMAR to the UCFD filed in full compliance with the Contract Documents. A task is critical within the meaning of this Article if the task is on the critical path of the most recently approved Progress Schedule so that a Delay in performing the task will Delay the ultimate completion of the Project. ANY CLAIM FOR AN EXTENSION OF TIME BY THE CMAR MUST STRICTLY COMPLY WITH THE REQUIREMENTS OF ARTICLE 7 BELOW. IF THE CMAR FAILS TO MAKE SUCH CLAIM AS REQUIRED IN THIS ARTICLE, ANY CLAIM FOR AN EXTENSION WILL BE WAIVED AND SHALL BE DISMISSED.

6.8 PAYMENTS TO SUBCONTRACTORS OR SUPPLIER

6.8.1 The CMAR will pay its Subcontractors or suppliers within 7 calendar days after receipt of each progress payment from the UCFD, unless otherwise agreed in writing by the CMAR and Subcontractor or supplier. The CMAR will pay for the amount of the Work performed or materials supplied by each Subcontractor or supplier as accepted and approved by the UCFD with each progress payment. In addition, any reduction of retention by the UCFD to the CMAR will result in a corresponding reduction to Subcontractors or suppliers who have performed satisfactory work. The CMAR will pay Subcontractors or suppliers the reduced retention within 7 calendar days of the payment of the reduction of the retention to the CMAR. No Contract between the CMAR and its Subcontractors and suppliers may materially alter the rights of any Subcontractor or supplier to receive prompt payment and retention reduction as provided in this Contract.

6.8.2 If the CMAR fails to make payments in accordance with these provisions, the UCFD may take any of one or more of the following actions and the CMAR agrees that the UCFD may take these actions:

1. To hold the CMAR in default under this Contract;

2. Withhold future payments including retention until proper payment has been made to Subcontractors or suppliers in accordance with these provisions;
3. Reject all future offers to perform work for the UCFD from the CMAR for a period not to exceed one year from Substantial Completion date of this project; or
4. Terminate this Contract.

6.8.3 If the CMAR's payment to a Subcontractor or supplier is in dispute, the CMAR and Subcontractor or supplier agree to submit the dispute to any one of the following dispute resolution processes within 14 calendar days from the date any party gives notice to the other: (a) binding arbitration; (b) a form of alternative dispute resolution (ADR) agreeable to all parties, or (c) a UCFD facilitated mediation. When a disputed claim is resolved through ADR or otherwise, the CMAR and Subcontractor or supplier agrees to implement the resolution within 7 calendar days after the resolution date.

6.8.4 Should the UCFD fail or delay in exercising or enforcing any right, power, privilege, or remedy under this Article, this failure or delay will not be considered a waiver, release or modification of the requirements of this Article or of any of the terms or provisions of this Contract.

6.8.5 The CMAR will include these prompt payment provisions in every subcontract, including procurement of materials and leases of equipment for this Contract.

6.9 RECORD KEEPING AND FINANCE CONTROLS

6.9.1 Records of the CMAR's direct personnel payroll, reimbursable expenses pertaining to this Project and records of accounts between the UCFD and the CMAR will be kept on a generally recognized accounting basis.

From the effective date of this Contract and until 3 years after the date of final payment by the UCFD to the CMAR, the UCFD, its authorized representative, and the appropriate federal or state agencies, reserve the right to audit the CMAR's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate Contract Documents and any Change Orders or Contract Modifications. The UCFD or its authorized representative will have access, during normal working hours, to all necessary Contractor and Subcontractor facilities, and will be provided adequate and appropriate workspace, in order to conduct audits in compliance with the provisions of this Article. The UCFD will give the Contractor or Subcontractor reasonable advance notice of intended audits.

The UCFD reserves the right to decrease the Contract Price or payments made on this Contract if, upon audit of the CMAR's records, the audit discloses the CMAR has provided false, misleading, or inaccurate cost and pricing data.

- 6.9.2** The CMAR will include similar provisions in all of its Contracts with Subconsultants and Subcontractors providing services under the Contract Documents to ensure the UCFD, its authorized representative, and the appropriate Federal and State agencies, have access to the Subconsultants' and Subcontractors' records to verify the accuracy of cost and pricing data.
- 6.9.3** The UCFD reserves the right to decrease Contract Price or payments, or both, made on this Contract if the above provision is not included in Subconsultant's and Subcontractor's contracts, and one or more Subconsultants or Subcontractors, or both, do not allow the UCFD to audit their records to verify the accuracy and appropriateness of pricing data.
- 6.9.4** If an audit discloses overcharges, of any nature, by the CMAR to the UCFD in excess of 1% of the total contract billings, the actual cost of the UCFD's audit will be reimbursed to the UCFD by the CMAR. Any adjustments or payments, or both, which must be made as a result of any audit or inspection of the CMAR's invoices and records will be made within a reasonable amount of time (not to exceed 90 days) after presentation of the UCFD's findings to the CMAR.
- 6.9.5** This audit provision includes the right to inspect personnel records as required by Section 11.35.

ARTICLE 7 – CLAIMS AND DISPUTES

7.0 REQUESTS FOR CONTRACT ADJUSTMENTS AND RELIEF

7.1 REQUESTS FOR CONTRACT ADJUSTMENTS AND RELIEF

- 7.1.1** If either the CMAR or the UCFD believes that it is entitled to relief against the other for any event arising out of or related to the Work, that party will provide written notice to the other party of the basis for its claim for relief. The claims shall set forth in detail all known facts and circumstances supporting the claim; final costs associated with any claim upon which notice has been given must be submitted in writing to the UCFD within thirty (30) days after notice has been received.
- 7.1.2** That notice will, if possible, be made before incurring any cost or expense and in accordance with any specific notice requirements contained in applicable Articles of the Contract.
- 7.1.3** Written notice will be given within a reasonable time, not to exceed ten (10) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later.
- 7.1.4** Notice must include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of the request. ANY NOTICE OF CLAIM NOT FILED WITH THE UCFD WITHIN SUCH TIME AND IN COMPLIANCE WITH THE PRECEEDING PROVISIONS SHALL BE CONSIDERED TO HAVE BEEN WAIVED AND SHALL BE DISMISSED.
- 7.1.5** In the event the Contractor seeks to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the UCFD therefore, unless emergency conditions exist, the CMAR shall strictly comply with the requirements of this section and such claim shall be made by the CMAR before proceeding to execute any work for which a claim is made. Failure to comply with this condition precedent shall constitute a waiver by the CMAR of any claims for compensation.
- 7.1.6** The CMAR must continue its performance under this contract regardless of the existence of any claims by the CMAR.
- 7.1.7** In a claim by the CMAR against the UCFD for compensation in excess of the Contract sum, any liability of the UCFD to the CMAR shall be strictly limited and computed in accordance with the Contract documents and shall in no event include indirect costs (such as home office overheads or consequential damages of the CMAR or any estimated costs or damages.

7.2 DISPUTE AVOIDANCE AND RESOLUTION

- 7.2.1** The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or

disagreements do arise, the CMAR and the UCFD each commit to resolving any disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

- 7.2.2** The CMAR and the UCFD will first attempt to resolve disputes or disagreements at the field level through discussions between the CMAR's Representative, the Project Manager and the Construction Admin Supervisor.
- 7.2.3** If a dispute or disagreement cannot be resolved through the CMAR's Representative, and the UCFD's Contract Administrator, the CMAR's Senior Representative and the UCFD's Senior Representative, upon the request of either party, will meet as soon as conveniently possible, but in no case later than 30 days after the request is made, to attempt to resolve the dispute or disagreements.
- 7.2.4** Before any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreements. Should the Parties' Senior Representatives be unable to resolve the dispute or disagreement, the parties shall submit the matter to binding private arbitration. Any settlement agreement signed by the parties pursuant to the arbitration shall be binding.
- 7.2.5** Duty to Continue Performance. Unless provided to the contrary in the Contract Documents, the CMAR will continue to perform the Work and the UCFD will continue to satisfy its payment obligations to the CMAR pending the final resolution of any dispute or disagreement between the CMAR and the UCFD.

7.3 REPRESENTATIVES OF THE PARTIES

7.3.1 Contract Administrators

The UCFD designates the individual listed below as its Senior Representative ("UCFD's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Article 7.2:

Greg Crossman, PE
District Manager
7181 Ed Everett Way, P.O. Box 702, Carefree, AZ 85377
(480) 488-9100
greg@carefreewaterco.com

The UCFD designates the individual listed below as its Contract Administrator:

Greg Crossman, PE
District Manager
7181 Ed Everett Way, P.O. Box 702, Carefree, AZ 85377
(480) 488-9100
greg@carefreewaterco.com

The UCFD designates the individual listed below as its Construction Admin Supervisor:

Greg Crossman, PE
District Manager
7181 Ed Everett Way, P.O. Box 702, Carefree, AZ 85377
(480) 488-9100
greg@carefreewaterco.com

7.3.2 CMAR's Representatives

The CMAR designates the individual listed below as its Senior Representative ("CMAR's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Article 7.2:

Daniel J. Spitz, P.E., Vice President
Achen-Gardner Construction, LLC
550 South 79th Street
Chandler, AZ 85266
(480) 940-1300
dspitza@achen.com

The CMAR designates the individual listed below as its Project Manager:

Brian Froelich, Project Manager
Achen-Gardner Construction, LLC
550 South 79th Street
Chandler, AZ 85266
(480) 940-1300
bfroelich@achen.com

ARTICLE 8 – SUSPENSION AND TERMINATION

8.0 UCFD’S RIGHT TO STOP WORK

The UCFD may, at its discretion and without cause, order the CMAR in writing to stop and suspend the Work. Immediately after receiving this notice, the CMAR must discontinue advancing the Work specified in this Contract. The suspension may not exceed 180 consecutive days. If the UCFD suspends the Work for 181 consecutive Days or more, the suspension will be a Contract termination for convenience.

The CMAR may seek an adjustment of the Contract Price or Contract Time, or both, if its cost or time to perform the Work has been adversely impacted by any suspension or stoppage of the Work by the UCFD.

8.1 TERMINATION FOR CONVENIENCE

8.1.1 Upon receipt of written notice to the CMAR, the UCFD has the right to terminate this Contract or abandon any portion of the Project for which services have not been performed by the CMAR.

1. The CMAR will estimate the value of the Work it has completed and submit its appraisal to the UCFD for evaluation. The UCFD will have the right to inspect the Work to appraise the Work completed.
2. The CMAR will receive compensation for services performed to the date of termination as provided in Article 6.5 of this Contract and the fee will be paid in accordance with Article 6.5.2 and will be an amount mutually agreed upon by the CMAR and the UCFD. If there is no mutual agreement, the final determination will be made in accordance with Article 7.
3. The CMAR will not be entitled to anticipated profit or anticipated overhead but is entitled to recover apportioned profit and overhead proportional to the amount of the Work completed. In no event will the fee exceed that stated in Article 8.1.4 of this Contract or as may be subsequently amended.
4. The UCFD will make the final payment within 60 days after the CMAR has delivered the last of the partially completed items and the final fee has been agreed upon.
5. If the UCFD terminates this Contract in accordance with the provisions of this Article and proceeds to construct the Project through its employees, agents or third parties, the UCFD’s rights to use the work product will be as provided in Article 8.3.

8.1.2 Upon any termination during construction services, the CMAR will proceed with the following obligations:

1. Stop Work as specified in the notice.
2. Place no further subcontracts or orders.

3. Terminate all subcontracts to the extent they relate to the Work terminated.
4. Assign to the UCFD all right, title and interest of the CMAR under the subcontracts terminated, in which case the UCFD will have the right to settle or to pay any termination settlement proposal arising out of those terminations.
5. Take any action that may be necessary for the protection and preservation of the property related to the Contract that is in the possession of the CMAR and to which the UCFD has or may acquire an interest.
6. Comply with the requirements of Article 6.6.2 (1), (2) and (3).

8.1.3 The CMAR will submit complete termination inventory schedules no later than 60 days from the date of the notice of termination.

8.1.4 The UCFD will pay CMAR the following:

1. The direct value of its completed Work and materials supplied as of the date of termination;
2. The reasonable costs and expenses attributable to any termination; and
3. The CMAR will be entitled to profit and overhead on completed Work only, but will not be entitled to anticipated profit or anticipated overhead. If it appears the CMAR would have sustained a loss on the entire Work had the Project been completed, the CMAR will not be allowed profit and the UCFD will reduce the settlement to reflect the indicated rate of loss.

8.1.5 The CMAR will maintain all records and documents for 3 years after final settlement. These records will be maintained and subject to auditing as prescribed in Article 6.8.

8.2 CANCELLATION FOR CAUSE

The UCFD may also cancel this Contract or any part of this Contract with 7 days' notice for cause in the event of any default by the CMAR, or if the CMAR fails to comply with any of the terms and conditions of this Contract. Unsatisfactory performance despite a reasonable opportunity to cure as judged by the Contract Administrator, and failure to provide the UCFD, upon request, with adequate assurances of future performance will all be causes allowing the UCFD to cancel this Contract for cause. In the event of cancellation for cause, the CMAR will be entitled to amounts due and owing to the CMAR under this Contract for work performed, but will also be liable to the UCFD for any and all damages available under the Contract sustained by reason of the default that gave rise to the cancellation.

8.3 UCFD’S RIGHT TO PERFORM AND CANCEL FOR CAUSE

- 8.3.1** If the CMAR persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Subconsultants or Subcontractors, or both, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time, as these times may be adjusted, or (vi) perform material obligations under the Contract Documents, then the UCFD, in addition to any other rights and remedies provided in the Contract Documents or by law, has the rights stated in Articles 8.3.3, 8.3.4 and 8.3.5.
- 8.3.2** In the event the CMAR is in violation of any applicable Federal, State, County or UCFD law, regulation or ordinance, the UCFD may cancel this Contract immediately upon giving notice and a reasonable opportunity to cure to the CMAR. In the event the UCFD cancels this Contract or any part of the services, the UCFD will notify the CMAR in writing, and immediately upon receiving notice, the CMAR will discontinue advancing the Work under this Contract and proceed to close all operations.
- 8.3.3** If the UCFD provides the CMAR with a written order to correct deficiencies, to provide adequate maintenance of traffic, adequate cleanup, adequate dust control, or to repair damage resulting from abnormal weather conditions, and the CMAR fails to comply within the time frame specified, the UCFD may have work accomplished by other sources at the CMAR’s expense.
- 8.3.4** Upon the occurrence of an event as stated in Article 8.3, the UCFD may provide written notice to the CMAR that it intends to cancel the Contract unless the problem cited is cured, or commenced to be cured, within 7 days of the CMAR’s receipt of notice.
- 8.3.5** If the CMAR fails to cure, or undertake reasonable efforts to cure the problem, then the UCFD may give a second written notice to the CMAR of its intent to cancel within an additional 7 day period.
- 8.3.6** If the CMAR, within this second 7 day period, fails to cure, or undertake reasonable efforts to cure the problem, then the UCFD may declare the Contract canceled for cause by providing written notice to the CMAR of this declaration.
- 8.3.7** Upon declaring the Contract canceled in accordance with Article 8.3.6, the UCFD may enter upon the premises and take possession of all materials and equipment, for the purposes of completing the Work.
- 8.3.8** Upon cancellation or abandonment, the CMAR will deliver to the UCFD all drawings, special provisions, field survey notes, reports, and estimates, entirely or partially completed, in any format, including but not limited to written or electronic media, together with all unused materials supplied by the UCFD. Use of incomplete data will be the UCFD’s sole responsibility.
- 8.3.9** The CMAR will appraise the Work it has completed and submit its appraisal to the UCFD for evaluation.

- 8.3.10** If through any cause, the CMAR fails to fulfill in a timely and proper manner its obligations under this Contract, or if the CMAR violates any of the covenants, agreements, or stipulations of this Contract, the UCFD may withhold any payments to the CMAR for the purpose of setoff until such time as the exact amount of damages due the UCFD from the CMAR is determined by a court of competent jurisdiction.
- 8.3.11** In the event of cancellation for cause, the CMAR will not be entitled to receive any further payments under the Contract Documents until the Work is finally completed in accordance with the Contract Documents. At that time, the CMAR will only be entitled to be paid for Work performed and accepted by the UCFD before its default.
- 8.3.12** If the UCFD's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then the CMAR will be obligated to pay the difference to the UCFD. These costs and expense will include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by the UCFD in connection with the eProcurement and defense of claims arising from the CMAR's default.
- 8.3.13** If the UCFD improperly cancels the Contract for cause; the cancellation for cause will be converted to a termination for convenience in accordance with the provisions of Article 8.1.

ARTICLE 9 – INSURANCE AND BONDS

9.0 INSURANCE REQUIREMENTS

9.1 INSURANCE REQUIREMENTS

- 9.1.1** At the same time as execution of this Contract, the CMAR shall furnish the UCFD a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona.
- 9.1.2** The CMAR, Subcontractors and Subconsultants must procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property, which may arise from or in connection with the performance of the Work by the CMAR, his agents, representatives, employees, or Subcontractors.
- 9.1.3** The insurance requirements are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract.
- 9.1.4** The UCFD in no way warrants that the minimum limits contained in this Contract are sufficient to protect the CMAR from liabilities that might arise out of the performance of the Contract services under this Contract by the CMAR, his agents, representatives, employees, Subcontractors or Subconsultants and the CMAR is free to purchase any additional insurance as may be determined necessary.
- 9.1.5** Claims Made. In the event any insurance policies required by this Contract are written on a “claims made” basis, coverage shall continue uninterrupted throughout the term of this Contract by keeping coverage in force using the effective date of this Contract as the retroactive date on all “claims made” policies. The retroactive date for exclusion of claims must be on or before the effective date of this Contract, and can never be after the effective date of this Contract. Upon completion or termination of this Contract, the “claims made” coverage shall be extended for an additional three (3) years using the original retroactive date, either through purchasing an extended reporting option; or by continued renewal of the original insurance policies. Submission of annual Certificates of Insurance, citing the applicable coverages and provisions specified herein, shall continue for three (3) years past the completion or termination of this Contract.

- 9.2 MINIMUM SCOPE AND LIMITS OF INSURANCE.** The CMAR will provide coverage and with limits of liability not less than those stated below.

9.2.1 Commercial General Liability - Occurrence Form

Commercial General Liability: CMAR must maintain “occurrence” form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$2,000,000 Products and Completed

Operations Annual Aggregate, and a \$2,000,000 operations, independent contractors, products completed operations, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be “follow form” equal or broader in coverage scope than underlying insurance.

9.2.2 Automobile Liability - Any Auto or Owned, Hired and Non-Owned Vehicles

Vehicle Liability: CMAR must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on CMAR owned, hired, and non-owned vehicles assigned to or used in the performance of the CMAR’s work or services under this Contract. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be “follow form” equal or broader in coverage scope than underlying insurance.

9.2.3 Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance: CMAR must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CMAR employees engaged in the performance of work or services under this Contract and must also maintain Employers’ Liability insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

9.2.4 Professional Liability

Professional Liability: If the Contract is the subject of any professional services or work performed by the CMAR, or if the CMAR engages in any professional services or work adjunct or residual to performing the work under this Contract, the CMAR must maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed by the CMAR, or anyone employed by the CMAR, or anyone whose acts, mistakes, errors and omissions the CMAR is legally liable, with a liability limit of \$1,000,000 each claim and \$2,000,000 all claims. In the event the Professional Liability insurance policy is written on a “claims made” basis, coverage will extend for 3 years past completion and acceptance of the work or services, and the CMAR, or its selected Design Professional will submit Certificates of Insurance as evidence the required coverage is in effect. The Design Professional must annually submit Certificates of Insurance citing that the applicable coverage is in force and contains the required provisions for a 3 year period.

If there is no Professional Liability work or service as a part of this Contract, the UCFD will waive the Professional Liability insurance requirement in writing.

9.3 SELF-INSURED RETENTIONS. Any self-insured retentions and deductibles must be declared and approved by the UCFD. If not approved, the UCFD may

require that the insurer reduce or eliminate any self-insured retentions with respect to the UCFD, its officers, officials, agents, employees, and volunteers.

9.4 OTHER INSURANCE REQUIREMENTS. The policies are to contain, or be endorsed to contain, the following provisions:

9.4.1 Coverage Terms and Required Endorsements.

1. The Commercial General Liability, and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The Town of Carefree, Arizona Utilities Community Facilities District (UCFD), the Carefree Water Company (Water Company), and the Town of Carefree (Town), its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the CMAR including the UCFD's, Water Company's, and Town's general supervision of the CMAR; Products and Completed operations of the CMAR; and automobiles owned, leased, hired, or borrowed by the CMAR.
2. The UCFD, Water Company, and Town, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the CMAR even if those limits of liability are in excess of those required by this Contract.
3. The CMAR's insurance coverage must be primary insurance with respect to the UCFD, Water Company, and Town, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the UCFD, Water Company, and Town, its officers, officials, agents, and employees must be in excess of the coverage provided by the CMAR and must not contribute to it.
4. The CMAR's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Coverage provided by the CMAR must not be limited to the liability assumed under the indemnification provisions of this Contract.
6. The policies must contain a waiver of subrogation against the UCFD, Water Company, and Town, its officers, officials, agents, and employees, for losses arising from Work performed by the CMAR for the UCFD.
7. The CMAR, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Contract for a minimum period of 3 years following completion and acceptance of the Work. The CMAR must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Contract insurance requirements, including naming the UCFD, Water Company, and Town, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.

9.4.2 Workers' Compensation and Employers Liability Coverage: The insurer must agree to waive all rights of subrogation against the UCFD, Water Company, and Town, its officers, officials, agents, employees, and volunteers for losses arising from Work performed by the CMAR for the UCFD, Water Company, or Town.

9.5 SUBCONSULTANT'S AND SUBCONTRACTOR'S INSURANCE. Unless the CMAR's Subconsultants and Subcontractors can provide the same level of coverage as detailed in Article 9.2 and name the UCFD, Water Company, and Town and the CMAR as Additional Insureds, the CMAR's certificates must include all Subcontractors and Subconsultants as insureds under its policies or the CMAR must maintain separate certificates and endorsements for each Subcontractor and Sub consultant. All coverages for Subcontractors and Subconsultants must be in the amounts shown in Article 9.2. Certificates must contain a provision that the insurance will not be canceled or materially altered without at least 30 days advance notice to the UCFD. The UCFD, Water Company, and Town must also be named as a Loss Payee under the Builders' Risk-Installation coverage, if applicable.

9.6 NOTICE OF CANCELLATION. If the CMAR receives notice that any of the required policies of insurance are materially reduced or cancelled, it will be the CMAR's responsibility to provide prompt notice to the Contract Administrator of same to the UCFD, unless such coverage is immediately replaced with similar policies. Each insurance policy required by the insurance provisions of this Contract must provide the required coverage and must not be suspended, voided, canceled by either party, reduced in coverage or in limits except until after 30 days written notice has first been given, by certified mail, return receipt requested to:

Town of Carefree, Arizona Utilities Community Facilities District
7181 Ed Everett Way
P.O. Box 702
Carefree, Arizona 85377

9.7 ACCEPTABILITY OF INSURERS. Without limiting any obligations or liabilities of the CMAR, the CMAR must purchase and maintain, at its own expense, the required minimum insurance with duly licensed or approved non-admitted insurers in the State of Arizona with an A.M. Best rating of not less than B++6 with policies and forms satisfactory to UCFD. Failure to maintain insurance as required may result in termination of this Contract at the UCFD's option.

9.8 VERIFICATION OF COVERAGE

9.8.1 The CMAR must furnish the UCFD Certificates of Insurance (ACORD form or equivalent approved by the UCFD) and with original endorsements effecting coverage as required by this Contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

9.8.2 All certificates and endorsements are to be received and approved by the UCFD before Work commences except for Builders' Risk Insurance, which must be received and approved as provided in Article 9.2.5. Each insurance policy required by this Contract must be in effect at or before

the earlier of commencement of Work under the Contract Documents or the signing of this Contract except for Builders' Risk Insurance which must be in effect before commencement of Work and remain in effect for the duration of the Project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

9.8.3 All certificates of insurance required by this Contract must be sent directly to the UCFD. **The project number and project description must be included on the Certificates of Insurance.** The UCFD reserves the right to require complete certified copies of all insurance policies required by this Contract, at any time.

9.9 APPROVAL. Any modification or variation from the insurance requirements in this Contract must be approved by the Risk Management Division, whose decision is final. This action will not require a formal contract amendment but may be made by administrative action.

9.10 BONDS AND OTHER PERFORMANCE SECURITY

9.10.1 Before execution of this Contract, the CMAR must provide a performance bond and a labor and materials bond, each in an amount equal to the full amount of the GMP. Bonds must be submitted in accordance with Title 34, Chapter 6 of the Arizona Revised Statutes and will be in substantially the same form as Exhibits C and D attached to this Contract. Ken looking into.

9.10.2 Each bond must be executed by a surety company or companies holding a Certificate of Authority to transact surety business in the State of Arizona, issued by the Director of the Arizona Department of Insurance. A copy of the Certificate of Authority must accompany the bonds. The Certificate must have been issued or updated within 2 years before the execution of this Contract.

9.10.3 The bonds must be made payable and acceptable to the UCFD.

9.10.4 The bonds must be written or countersigned by an authorized representative of the surety and the bonds must have attached a certified copy of the Power of Attorney of the signing official.

1. If one Power of Attorney is submitted, it must be for twice the total GMP amount.

2. If two Powers of Attorney are submitted; each must be for the total GMP amount. Personal or individual bonds are not acceptable.

9.10.5 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract Documents, the CMAR must promptly furnish a copy of the bonds or permit a copy to be made.

9.10.6 All bonds submitted for this Project must be provided by a company which has been rated "A- or better" by the A.M. Best Company.

ARTICLE 10 – INDEMNIFICATION

10.0 CMAR’S GENERAL INDEMNIFICATION. To the fullest extent permitted by law, upon the assertion of a claim, the CMAR, its successors, assigns and guarantors, must defend, indemnify and hold harmless the UCFD, the Water Company, and the Town, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, investigation and litigation, for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, related to, arising from or out of, or resulting from any negligence, recklessness, or intentional wrongful conduct to the extent caused by the CMAR or any of its owners, officers, directors, agents, or employees performing work or services under this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages by any of the CMAR employees. This indemnity includes any claim or amount arising out of, or recovered under, the Worker’s Compensation Law or arising out of the failure of the CMAR to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the UCFD, Water Company, and Town shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the UCFD, Water Company, or Town, be indemnified by the CMAR from and against any and all claims. It is agreed that the CMAR will be responsible for primary investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this Contract, the CMAR agrees to waive all rights of subrogation against the UCFD, Water Company, or Town its officers, agents, representatives, directors, officials, and employees for losses arising from the work performed by the CMAR for the UCFD, Water Company, or Town.

Insurance provisions in this Contract are separate and independent from the indemnity provisions of this Article and will not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph will not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

10.1 INTELLECTUAL PROPERTY

10.1.1 The CMAR must pay all royalties and license fees associated with its performance of services.

10.1.2 The CMAR must defend any action or proceeding brought against the UCFD, Water Company, or Town based on any claim that the Work, or any part of it, or the operation or use of the Work or any part of it, constitutes infringement of any United States patent or copyright, now or subsequently issued. The UCFD, Water Company, or Town will give prompt written notice to the CMAR of any action or proceeding and will reasonably provide authority, information and assistance in the defense of the action. The CMAR will indemnify and hold harmless the UCFD from and against all damages, expenses, losses, royalties, profits and costs, including but not limited to attorneys’ fees and expenses awarded against the UCFD, Water Company, or Town or the CMAR in any action or

proceeding. The CMAR agrees to keep the UCFD, Water Company, and Town informed of all developments in the defense of these actions. The UCFD, Water Company, or Town may be represented by and actively participate through its own counsel in any suit or proceedings if it so desires.

- 10.1.3** If the UCFD, Water Company, or Town are enjoined from the operation or use of the Work, or any part of the Work, as the result of any patent or copyright suit, claim, or proceeding, the CMAR must at its sole expense take reasonable steps to procure the right to operate or use the Work. If the CMAR cannot procure the right within a reasonable time, the CMAR must promptly, at the CMAR's option and at the CMAR's expense, (i) modify the Work so as to avoid infringement of any patent or copyright or (ii) replace the Work with Work that does not infringe or violate any patent or copyright.
- 10.1.4** Articles 10.1.2 and 10.1.3 above will not be applicable to the extent any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer specified by the UCFD, Water Company, or Town and not offered or recommended by the CMAR to the UCFD, Water Company, or Town or (ii) arising from modifications to the Work by the UCFD, Water Company, or Town or its agents after acceptance of the Work, or (iii) relating to the copyrights of any specification, drawings, or any Design Documents provided by the UCFD, Water Company, or Town, the Design Professional, any consultant retained by the UCFD, Water Company, or Town, or by a Subcontractor or Supplier.
- 10.1.5** The obligations contained in this Article 10.1 will constitute the sole Contract between the parties relating to liability for infringement or violation of any patent or copyright.

ARTICLE 11 – GENERAL PROVISIONS

11.0 The CMAR is advised to contact the UCFD and the Town of Carefree to determine the requirements for obtaining a permit for marshaling areas it proposes to use. Marshaling areas must be fenced. The CMAR must obtain written approval from the property owner for marshaling area use. This approval must contain any requirements which are a condition of this approval. Marshaling yard requirements according to M.A.G. Subsection 107.6.1 and UCFD and Town of Carefree requirements will apply.

11.1 CONTRACT DOCUMENTS

11.1.1 Contract Documents are as defined in Article 12.

11.1.2 The Contract Documents form the entire Contract between the UCFD and the CMAR. No oral representations or other Contracts have been made by the parties except as specifically stated in the Contract Documents.

11.1.3 In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Contract Documents will take precedence in the order in which they are listed in the definition of Contract Documents in Article 12. As to drawings and plans, given dimensions will take precedence over scaled measurements, and large scale plans over small-scale plans. Contract specifications will take precedence over Contract plans.

11.1.4 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards.

11.1.5 This Contract, the Plans, Standard Specifications and Details, Special Provisions, Performance Bond, Payment Bond, Certificates of Insurance, and Change Orders (if any) are by reference made a part of this Contract.

11.1.6 Work Product

1. All work products (electronically or manually generated) including but not limited to: cost estimates, studies, design analyses, original mylar drawings, Computer Aided Drafting and Design (CADD) file diskettes, and other related documents which are prepared or procured in the performance of this Contract (collectively referred to as documents) are to be and remain the property of the UCFD and are to be delivered to the UCFD before the final payment is made to the CMAR. In the event these documents are altered, modified or adapted without the written consent of the CMAR or the Subconsultants, which consent the CMAR or the Subconsultants will not unreasonably withhold, the UCFD agrees to hold the CMAR and the Subconsultants harmless to the extent permitted by law from the legal liability arising

out of the UCFD's alteration, modification or adoption of the documents.

2. The copyrights, patents, trade secrets or other intellectual property rights associated with the ideas, concepts, techniques, inventions, processes or works of authorship developed, created by the CMAR, its Subconsultants or personnel, during the course of performing this Contract or arising out of the Project will belong to the CMAR.

- 11.2 AMENDMENTS.** The Contract Documents may not be changed, altered, modified, or amended in any way except in writing signed by a duly authorized representative of each party.
- 11.3 TIME IS OF THE ESSENCE.** The UCFD and the CMAR mutually agree that time is of the essence with respect to the dates and times contained in the Contract Documents.
- 11.4 MUTUAL OBLIGATIONS.** The UCFD and the CMAR commit at all times to cooperate fully with each other and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.
- 11.5 COOPERATION AND FURTHER DOCUMENTATION.** The CMAR agrees to provide the documents, as the UCFD will reasonably request to implement the intent of the Contract Documents.
- 11.6 ASSIGNMENT.** Neither the CMAR nor the UCFD will, without the written consent of the other assign, transfer or sublet any portion of this Contract or part of the Work or the obligations required by the Contract Documents.
- 11.7 FORCE MAJEURE.** Neither party will be responsible for delays or failures in performance resulting from acts beyond their control. These acts will include, but not be limited to, riots, acts of war, acts of terrorism, epidemics, labor disputes not arising out of the actions of the CMAR, governmental regulations imposed after the fact, fire, communication line failures, or power failures.
- 11.8 FUNDS APPROPRIATION.** If the UCFD Council does not appropriate funds to continue this Contract and pay for required charges, the UCFD may terminate this Contract at the end of the current fiscal period. The UCFD agrees to give written notice to the CMAR at least 30 days before the end of its current fiscal period and will pay the CMAR for all approved charges incurred through the end of this period.
- 11.9 CONSTRUCTION METHODS.** If the UCFD provides the CMAR with a written order to provide adequate maintenance of traffic, clean-up, dust control or to correct deficiencies or damage resulting from abnormal weather conditions, and the CMAR fails to comply in the time frame specified, the UCFD may have work accomplished by other sources at the CMAR's expense.
- 11.10 UTILITY RELOCATIONS FOR CONSTRUCTION METHODS.** If any utility is relocated or rebuilt to accommodate the CMAR's construction methods and available equipment, the expense will be borne by the CMAR.

- 11.11 DAMAGED UTILITIES DURING CONSTRUCTION.** Any utilities damaged during construction will be replaced at the CMAR's expense as required by the M.A.G. Standard Specifications.
- 11.12 THIRD PARTY BENEFICIARY.** The Contract Documents will not be construed to give any rights or benefits to anyone other than the UCFD and the CMAR, and all duties and responsibilities undertaken in accordance with the Contract Documents will be for the sole and exclusive benefit of the UCFD and the CMAR and not for the benefit of any other party.
- 11.13 GOVERNING LAW.** The Contract and all Contract Documents are considered to be made under and will be construed in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions. Any action to enforce any provision of this Contract or to obtain any remedy under this Contract will be brought in the Superior Court, Maricopa County, Arizona. Such action must be filed, tried and remain in this Court for any and all proceedings. For this purpose, each party expressly and irrevocably consents to the jurisdiction and venue of this Court, and the CMAR hereby waives the right to have such action removed to Federal District Court.
- 11.14 SEVERABILITY.** If any provision of the Contract Documents or the application of them to any person or circumstance is invalid, illegal or unenforceable to any extent, the remainder of the Contract Documents and their application will not be affected and are enforceable to the fullest extent permitted by law. In accordance with the provisions of ARS § 41-194.01, should the Attorney General give notice to the UCFD that any provisions of the Contract violates state law or the Arizona Constitution, or that it may violate a state statute or the Arizona Constitution, and the Attorney General submits the offending provision to the Arizona Supreme Court, the offending provision(s) shall be immediately severed and struck from the Contract and the UCFD and the CMAR shall, within 10 days after such notice, negotiate in good faith to resolve any issues related to the severed provision(s). If the parties are unable to negotiate a resolution to any issues related to the severed provision(s), the UCFD may terminate this Contract in accordance with the provisions of Article 8 hereof.
- 11.15 LEGAL REQUIREMENTS.** The CMAR will perform all Work in accordance with all Legal Requirements and will provide all notices applicable to the Work as required by the Legal Requirements.
- 11.16 INDEPENDENT CONTRACTOR.** The CMAR is and will be an independent contractor and not an employee or agent of the UCFD.
- 11.17 UCFD'S RIGHT OF CANCELLATION.** All parties to this Contract acknowledge that it is subject to cancellation by the UCFD as provided by Section 38-511, Arizona Revised Statutes.
- 11.18 SURVIVAL.** All warranties, representations and indemnifications by the CMAR will survive the completion or termination of this Contract.
- 11.19 COVENANTS AGAINST CONTINGENT FEES.** The CMAR warrants that no person other than a bona fide employee working solely for the CMAR has been employed or retained to solicit or secure this Contract or any Contract or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this covenant, the UCFD will have the right to annul this

Contract without liability or at its discretion to deduct from the Contract Price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee, together with costs and attorney's fees.

11.20 SUCCESSORSHIP. The CMAR and the UCFD agree that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs and assigns. This Contract extends to and is binding upon the CMAR, its successors and assigns, including any individual, company, partnership or other entity with or into which the CMAR merges, consolidates or is liquidated, or any person, corporation, partnership or other entity to which the CMAR sells its assets.

11.21 ATTORNEY'S FEES. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Contract, or on account of any breach or default, the prevailing party will be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which will be considered to have accrued on the commencement of the action and is enforceable whether or not the action is prosecuted to judgment.

11.22 HEADINGS. The headings used in this Contract, or any other Contract Documents, are for ease of reference only and will not in any way be construed to limit or alter the meaning of any provision.

11.23 NO WAIVER. The failure of either party to enforce any of the provisions of the Contract Documents or to require performance of the other party of any of the provisions of this Contract will not be construed to be a waiver of those provisions, nor will it affect the validity of the Contract Documents, or the right of either party to enforce each and every provision.

11.24 NOTICE. All notices or demands required to be given, in accordance with the terms of this Contract, will be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses stated below, or to any other address the parties may substitute by written notice given in the manner prescribed in this paragraph. Notice given by facsimile or electronic mail (email) will not be considered adequate notice.

To UCFD:	Greg Crossman, PE UCFD Manager 7181 Ed Everett Way P.O. Box 702 Carefree, AZ 85377 (480) 488-9100 greg@carefreewaterco.com
To CMAR:	Brian Froelich, Project Manager Achen-Gardner Construction, LLC 550 South 79 th Street Chandler, AZ 85266 (480) 940-1300 bfroelich@achen.com

11.25 EQUAL EMPLOYMENT OPPORTUNITY. During the performance of this Contract the CMAR will comply with all provisions of Executive Order 11246 of

September 24, 1965, and the rules, regulations and relevant orders of the Federal government's Affirmative Action guidelines to ensure that employees or applicants applying for employment will not be discriminated against because of race, color, religion, sexual orientation, gender identity, or national origin. The CMAR must include the terms of this provision in all contracts and subcontracts for Work performed under this Contract, including supervision and oversight. The CMAR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CMAR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

11.26 NO PREFERENTIAL TREATMENT OR DISCRIMINATION: In accordance with the provisions of Article II, Section 36 of the Arizona Constitution, the UCFD will not grant preferential treatment to or discriminate against any individual or group on the basis of race, sex, color, ethnicity or national origin. **Additional UCFD Rights Regarding Security Inquiries.** In addition to the foregoing, the UCFD reserves the right to: (1) have an employee/prospective employee of the CMAR be required to provide fingerprints and execute other documentation as may be necessary to obtain criminal justice information pursuant to A.R.S. §41-1750(G)(4); (2) act on newly acquired information whether or not the information should have been previously discovered; (3) unilaterally change its standards and criteria relative to the acceptability of the CMAR's employees or prospective employees, or both; and, (4) object, at any time and for any reason, to an employee of the CMAR performing Work (including supervision and oversight) under this Contract.

11.26.1 Terms of this Provision Applicable to all of CMAR's Contracts and Subcontracts. The CMAR will include the terms of this provision for employee background and security checks and screening in all contracts and subcontracts for work performed under this Contract, including supervision and oversight.

11.26.2 Materiality of Security Inquiry Provisions. The Security Inquiry provisions of this Contract are material to the UCFD's entry into this Contract and any breach by the CMAR may, at the UCFD's sole option and unfettered discretion, be considered to be a breach of contract of sufficient magnitude to terminate this Contract. Termination will subject the CMAR to liability for its breach of contract.

11.27 HAZARDOUS MATERIALS. Upon discovery of hazardous materials, the CMAR will comply with all applicable laws/ordinances and regulations and take all appropriate health and safety precautions.

11.27.1 Unless included in the Work, if the CMAR encounters onsite or as material to be incorporated in the Work, any material which he reasonably believes to contain asbestos, polychlorinated biphenyl (PCB), or other hazardous substances or materials regulated by public health laws, he will immediately stop work and report the condition to the UCFD.

- 11.27.2** If the material is found to contain asbestos, PCB or other hazardous substances or materials regulated by public health laws, the CMAR will not resume work in the affected area until the material has been abated or rendered harmless. The CMAR and the UCFD may agree, in writing, to continue Work in non-affected areas onsite.
- 11.27.3** An extension of Contract Time may be granted in accordance with Article 6.
- 11.27.4** The CMAR will comply with all applicable laws/ordinances and regulations and take all appropriate health and safety precautions upon discovery.
- 11.27.5** Despite the provisions of this Article 11.27, the UCFD is not responsible for Hazardous Conditions introduced to the Site by the CMAR, Subcontractors or anyone for whose acts they may be liable. The CMAR will indemnify, defend and hold harmless the UCFD, Water Company, and Town and their officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the Site by the CMAR, Subcontractors or anyone for whose acts they may be liable.

11.28 TRAFFIC CONTROL

- 11.28.1** The Town Engineer or designee must approve the timing and sequence of complete street closures at least 2 weeks before the closure. This approval is necessary to provide coordination with other roadway projects and special events.
- 11.28.2** Adequate barricades and lighted warning signs must be installed and maintained by the CMAR throughout the duration of the Project. All traffic control must be in accordance with the City of Phoenix Traffic Control Manual or the approved barricade plan unless otherwise specified in the Special Provisions.
- 11.28.3** The CMAR must submit a construction schedule and a barricade plan to the Construction Admin Supervisor for approval or modification at least 72 hours before construction is initiated. After review, the Construction Admin Supervisor will forward the construction schedule and barricade plan to the Town Engineer. The Construction Admin Supervisor will return the approved barricade plan to the Contractor or ask for additional information.
- 11.28.4** The CMAR will comply with all provisions of the City of Phoenix Traffic Barricade Manual and any other traffic control provisions as may be provided in the technical specifications or in the approved barricade plan.

11.29 MATERIAL SOURCE. No material source has been designated by the UCFD for use on this Project. MAG Specification, Section 106 will apply as will 2008 ADOT Standard Specifications, Section 106.1, 106.2, 106.7 & 106.8, which outline controls and Section 1001-1, -2, & -4, concerning approval of Contractor

furnished material source and supplemental Contracts in regards to environmental analysis and the liability for materials testing costs.

- 11.29.1** A CMAR and Subcontractor furnished source will be defined as a material source, which is neither an ADOT furnished source nor a commercial source, as defined in this Contract.
- 11.29.2** A commercial source will be defined as a material source in which the owner or producer has been for at least one year regularly engaged during regular business hours on a continuous basis in the processing and selling of sand, rock, ready mixed Portland cement concrete, asphaltic concrete and other similar products normally produced and sold to all parties. The company will have an Arizona retail sales tax license.
- 11.29.3** The CMAR and Subcontractor furnished material sources situated in the 100-year flood plain of any stream or watercourse, and located within 1.0 mile upstream and 2.0 miles downstream of any highway structure or surfaced roadway crossing will not be allowed.
- 11.29.4** The location of any new material source or existing non-commercial material source proposed for use on this Project will be reviewed by the appropriate agency having flood plain management jurisdiction over the area of proposed source location. The CMAR and Subcontractor will obtain a letter from the agency addressed to the Contract Administrator certifying that the proposed source location conforms to the requirements of this Contract and applicable Standard Specifications as referenced.
- 11.30** The CMAR will familiarize itself with the nature and extent of the Contract documents, work to be performed, all local conditions, and Federal, State and Local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the work.
- 11.31** The CMAR will take whatever steps, procedures or means necessary to remove, move, displace and save all native plants within the contract work area in accordance with the Town of Carefree Zoning Ordinance, Section 9.13, Landscaping, and all applicable state and county statutes, ordinances, codes and other policy requirements and recognized methods, procedures, techniques and equipment for protection, salvage, and handling of all plants to be moved from the construction area. This is not a pay item unless specified upon the Schedule of Bid Items.
- 11.32 ENDANGERED HARDWOODS.** Any construction, building addition or alteration project which is financed by monies of this state or its political subdivisions will not use endangered tropical hardwood unless an exemption is granted by the Director of the State of Arizona, Department of Administration.
- 11.33 HOURS OF WORK**
 - 11.33.1** All construction activity and associated work will be restricted to the following hours:

Monday thru Saturday	6:00 a.m. to 7:00 p.m.
Sunday and Holidays	10:00 a.m. to 7:00 p.m.

Construction activity will include any work requiring the use of manually operated or power assisted tools or equipment and vehicles used to excavate, erect or deliver materials associated with construction.

11.33.2 The UCFD may establish other times of work as necessary based on the geographical location of the jobsite in relation to surrounding occupancies, buildings and structures.

11.33.3 The CMAR must submit a written request to the UCFD for a variance from the required work hours at least 7 days before the date for which the variance is desired. Variances will not be granted for more than 30 days at a time. A new application must be made for each additional variance. The CMAR must notify adjacent property owners of the intended work and the duration of the requested variance. Proof of notification must be presented to the UCFD before the variance can be granted.

1. The application for the variance must demonstrate justifiable cause why the work must be done outside the prescribed time period (e.g. pouring concrete during “summer hours”). A variance will not be granted based solely on convenience or for work that can be completed during daytime construction hours.
2. The application for a variance must state the construction permit number, the address of the work, type of work, time period of the work, and the duration of the variance.

11.34 COMPLIANCE WITH FEDERAL AND STATE LAWS. The CMAR understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. The CMAR agrees that the performance of this Work will be in accordance with these laws and to permit the UCFD to verify compliance. The CMAR will also comply with A.R.S. §34-301, “Employment of Aliens on Public Works Prohibited”, and A.R.S. §34-302, as amended, “Residence Requirements for Employees”. The CMAR will include the terms of this provision in all contracts and subcontracts for Work performed under this Contract, including supervision and oversight.

Under the provisions of A.R.S. §41-4401, the CMAR warrants to the UCFD that the CMAR and all its subcontractors will comply with all Federal Immigration laws and regulations that relate to their employees and that the CMAR and all its subcontractors now comply with the E-Verify Program under A.R.S. §23-214(A).

A breach of this warranty by the CMAR or any of its subcontractors will be considered a material breach of this Contract and may subject the CMAR or Subcontractor to penalties up to and including termination of this Contract or any subcontract.

The UCFD retains the legal right to inspect the papers of any employee of the CMAR or any subcontractor who works on this Contract to ensure that the CMAR or any subcontractor is complying with the warranty given above.

The UCFD may conduct random verification of the employment records of the CMAR and any of its subcontractors to ensure compliance with this warranty. The CMAR agrees to indemnify, defend and hold the UCFD harmless for, from and against all losses and liabilities arising from any and all violations of these statutes related to the performance of this Work.

The UCFD will not consider the CMAR or any of its subcontractors in material breach of this Contract if the CMAR and its subcontractors establish that they have complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A). The “E-Verify Program” means the employment verification pilot program as jointly administered by the United States Department of Homeland Security and the Social Security Administration or any of its successor programs.

The provisions of this Article must be included in any contract the CMAR enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. “Services” are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property. The CMAR will take appropriate steps to assure that all subcontractors comply with the requirements of the E-Verify Program. The CMAR’s failure to assure compliance by all its’ subcontractors with the E-Verify Program may be considered a material breach of this Contract by the UCFD.

11.34.1 Compliance with Americans with Disabilities Act

The CMAR acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. The CMAR will provide the services specified in this Contract in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation; provided, however, that the CMAR shall not be responsible for violations that occur based on compliance with the drawings, specifications, or other Design Documents provided by UCFD, the UCFD’s consultants, or the Design Professional. The CMAR agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Contract and further agrees that any violation of this prohibition on the part of the CMAR, its employees, agents or assigns will constitute a material breach of this Contract.

11.35 DATA CONFIDENTIALITY

11.35.1 As used in this Contract, data means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by or obtained by the CMAR in the performance of this Contract.

- 11.35.2** The parties agree that all data, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the CMAR in connection with the CMAR's performance of this Contract is confidential and proprietary information belonging to the UCFD.
- 11.35.3** Except for Subcontractors, Material and Equipment Suppliers, Consultants or other like parties necessary to complete the Work or as required by the UCFD, the CMAR will not divulge data to any third party without first obtaining the written consent of the UCFD. The CMAR will not use the data for any purposes except to perform the services required under this Contract. These prohibitions will not apply to the following data provided the CMAR has first given the required notice to the UCFD:
1. Data, which is or becomes publicly available other than as a result of a violation of this Contract;
 2. Data, which was in the CMAR's possession legally and without restrictions before its performance under this Contract. unless the data was acquired in connection with the Work performed for the UCFD;
 3. Data, which was acquired by the CMAR in its performance under this Contract and which was disclosed to the CMAR by a third party, who to the best of the CMAR's knowledge and belief, had the legal right to make any disclosure and the CMAR is not otherwise required to hold the data in confidence; or
 4. Data, which is required to be disclosed by virtue of law, regulation, or court order to which the CMAR is subject.
- 11.35.4** In the event the CMAR is required or requested to disclose data to a third party, or any other information to which the CMAR became privy as a result of any other contract with the UCFD, the CMAR will first notify the UCFD as required in this Article of the request or demand for the data. The CMAR will give the UCFD sufficient facts so that the UCFD can be given an opportunity to first give its consent or take the action that the UCFD may consider appropriate to protect the data or other information from disclosure.
- 11.35.5** The CMAR, unless prohibited by law, shall promptly deliver, as stated in this Article, a copy of all data in its possession and control to the UCFD. All data will continue to be subject to the confidentiality requirements of this Contract.
- 11.35.6** The CMAR assumes all liability for maintaining the confidentiality of the data in its possession and agrees to compensate the UCFD if any of the provisions of this Article are violated by the CMAR, its employees, agents or Subconsultants. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this Article will cause irreparable harm that justifies injunctive relief in court.

11.36 TAXES AND INDEMNIFICATION

The fee listed in this Contract includes any and all taxes applicable to the activities authorized by this Contract. The UCFD will have no obligation to pay additional amounts for taxes of any type. CMAR and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the CMAR. CMAR shall, and require all subcontractors to hold the UCFD harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

11.37 CONFLICT OF INTEREST

11.37.1 To evaluate and avoid potential conflicts of interest, the CMAR will provide written notice to the UCFD, as stated in this Article, of any work or services performed by the CMAR for third parties that may involve or be associated with any real property or personal property owned or leased by the UCFD. The notice will be given 7 business days before commencement of the Project by the CMAR for a third party, or 7 business days before an adverse action as defined below. Written notice and disclosure will be sent to the UCFD's Senior Representative identified in Article 7.3.

11.37.2 Actions that are considered to be adverse to the UCFD under this Contract include but are not limited to:

1. Using data as defined in this Contract acquired in connection with this Contract to assist a third party in pursuing administrative or judicial action against the UCFD;
2. Testifying or providing evidence on behalf of any person in connection with an administrative or judicial action against the UCFD; and
3. Using data to produce income for the CMAR or its employees independently of performing the services under this Contract, without first obtaining the written consent of the UCFD.

11.37.3 The CMAR represents that except for those persons, entities and projects identified to the UCFD, the services to be performed by the CMAR under this Contract are not expected to create an interest with any person, entity, or third party project that is or may be adverse to the interests of the UCFD.

11.37.4 The CMAR's failure to provide a written notice and disclosure of the information as required in this Article on Conflicts of Interest will constitute a material breach of this Contract.

11.38 COMMENCEMENT OF STATUTORY LIMITATION PERIOD AND STATUTE OF REPOSE

11.38.1 Before Final Completion. As to acts or failures to act occurring before the relevant date of Final Completion, any applicable statute of limitations will commence to run and any alleged cause of action will have accrued in any and all events not later than the date of Final Completion.

11.38.2 Between Punch List Preparation and Final Completion. As to acts or failures to act occurring between the relevant date of Punch List Preparation and before Final Completion, any applicable statute of limitation will begin to run and any alleged cause of action will have accrued in any events not later than the date of Final Completion.

11.38.3 After Completion. As to acts or failures to act occurring after the date of Final Completion, any applicable statute of limitations will commence to run and any alleged cause of action will have accrued in any and all events not later than the date of any correction of the Work or failure to correct the Work by the CMAR, or the date of actual commission of any other act or failure to perform any duty or obligation by the CMAR or the UCFD, whichever occurs last.

11.38.4 Statute of Repose. The time period for the applicable Statute of Repose will begin to run at the time specified in A.R.S §12-552 as it is amended or renumbered from time to time.

11.39 NO BOYCOTT OF ISRAEL

Unless preempted by applicable law, by entering into a contract with the UCFD, the CMAR certifies that it is not currently engaged in and agrees for the duration of the Contract to not engage in a boycott of Israel as defined in A.R.S. § 35-393.

11.40 EXISTING WORK OCCURRING NEAR TRAFFIC SIGNAL EQUIPMENT

The CMAR will use due care when excavating at or near intersections where traffic signal underground conduit is located. The CMAR will notify the authorized Inspector, 48 hours in advance, of any work at the intersections. The CMAR will be responsible for the installation and maintenance of temporary overhead traffic signal cable as specified by the Public Works Department when underground conduit is to be severed by excavations at the intersection. The Town Engineer will have all underground traffic conduit located and will provide the necessary Traffic Signal Technicians to assist the CMAR in identifying wiring phases and direction of conduit runs upon 24 hours notice from the CMAR and at least 1 day before the CMAR's scheduled wiring and installation of temporary cables. The CMAR will be responsible for the wiring and connection of all temporary cable within the pull boxes and terminal compartments. The Town Engineer will provide a Traffic Signal Technician to assist the CMAR with connecting field wiring within the traffic signal control cabinet. The CMAR will provide, at CMAR's expense, 2 off-duty uniformed Police Officers to direct traffic while the traffic signal is turned off and the wiring is transferred. The CMAR will be responsible as specified by the Public Works Department for the repair and restoration of all traffic signal overhead and underground items that have been

damaged or modified. Intersections with communications or CCTV cameras will be restored to full functionality within 24 hours, if they are disturbed during construction. The authorized Inspector will contact the Public Works Department, 24 hours in advance, to coordinate the outage. The Town of Carefree does not allow the splicing of Magnetic Detector Loops.

11.41 TEMPORARY TRAFFIC SIGNALS

The CMAR will provide and install temporary traffic signals if at any time during construction the alignment of the traffic lanes is such that two traffic signal indications for any movement are not within a 20 degree cone of vision from the driver's eye located ten feet behind the stop bar position as specified in Section 4D.15 of the MUTCD. The CMAR will submit a temporary traffic signal plan to the Construction Admin Supervisor for approval at least 14 days in advance of installation of the temporary traffic signal equipment. For short durations, the CMAR may obtain approval from the Construction Admin Supervisor to utilize a uniformed Police Officer to direct traffic through the intersection when the above criteria are not met. The CMAR shall be responsible for notifying the Town of Carefree of all changes that will have an effect on the normal flow of traffic operation. (See TMC note above)

11.42 TEMPORARY VEHICLE DETECTION

For all construction projects in the Town of Carefree within duration of 15 days or more, temporary vehicle detection will be required for all approaches at signalized intersections that currently have loop detection which will be disturbed by the construction. In addition, traffic signal communications (telephone or other) to the central signal computer and CCTV (if present) will be maintained continuously during the course of the project. Work under this item will consist of furnishing all labor, equipment and materials necessary to install temporary traffic signal detection, and maintain signal communications. The CMAR or sub-contractor through the life of the project will maintain the detection zones and communications by ensuring full functionality 24 hours a day, 7 days a week. The CMAR will be responsible for the ongoing operation of the detection equipment, which may require redeployment of detection zones as traffic barricading and lane use changes require.

The work will be performed as specified in Sections 11.38 – 11.40, herein and as directed by the Construction Admin Supervisor and Public Works Department.

ARTICLE 12 – DEFINITIONS

“Addenda” – Written or graphic instruments issued before the submittal of the GMP Proposal(s), which clarify, correct, or change the GMP Proposal(s) requirements.

“Allowance Items” - The work items that have been designated "Allowance" are a best estimate of the cost of work for which a scope has yet to be confirmed, determined, or a unit price finalized. The allowance quantity and unit price values are not guaranteed, and are subject to adjustment by mutual agreement between the UCFD and the CMAR as the scope and/or price is confirmed. Associated increases/decreases in cost will be funded/credited with a Change Order to the project. All Allowance items, when involved, are to include Contractor Fee for Overhead and Profit, Insurance, Bonds, and Sales Tax. Parties realize invoices from material suppliers and subcontractors may take in excess of 30 days to receive.

“Alternate Systems Evaluations” - Alternatives for design, means, and methods or other scope of work considerations that are evaluated using value engineering principles and have the potential to reduce construction costs while still delivering a quality and functional Project that meets UCFD requirements.

“As-built Document” – “As-built in construction is equivalent to “as-is.” Drawings deemed “as-built” are final drawings that include all changes made during the actual construction process. These drawings represent the actual existing constructed conditions as opposed to designs or a proposed condition. The As-built Documents should be per Arizona Revised Statute 32-152.

“Blueline or Blackline Prints” – Prints that allows comparison of document versions to show what has been revised.

“Change Order” – means a written order to the CMAR executed by the UCFD after execution of this Contract, directing a change in the Work. A Change Order may include a change in the Contract Price (other than a change attributable to damages to the CMAR for delay as provided in Article 5 hereof) or the time for the CMAR’s performance, or any combination thereof. Where there is a lack of total agreement on the terms of a Change Order or insufficient time to execute a bilateral change, the UCFD may also direct a change in the Work in the form of a Construction Change Directive, which will set forth the change in the Work and the change, if any, in the contract amount or time for performance, for subsequent inclusion in a Change Order; Construction Change Directives shall include a not-to-exceed preliminary price, against which the CMAR may begin billing (subject to the requirements for pay applications provided elsewhere herein) as the work is performed.

“CMAR Construction Fee” is a negotiated fixed fee that is proposed by the CMAR for the project as defined in Article 4.3.

“Claim” means a written request for either payment of additional monies or extension of contract time, submitted in accordance with the terms of this Contract or applicable law.

“Clarifications and Assumptions List” means a list prepared by the CMAR and accepted by the Contract Administrator. Generally, the List identifies the CMAR’s means and methods used in developing the GMP and identifies unresolved construction or site issues that may

impact construction progress. The List of Clarifications and Assumptions may need additional confirmation or study by the project design team to avoid cost impact to the GMP.

“Construction Change Directive” means an alternate mechanism for directing the CMAR to perform additional work under the Contract when time and/or cost of the work is not in agreement between the UCFD and the CMAR.

“Construction Admin Supervisor” means a UCFD employee who coordinates the daily construction activities with the contractor, and with their inspection staff that performs quality control inspections, enforces project plans and specifications and adopted UCFD codes and ordinances.

“Construction Documents” means the plans; specifications and drawings prepared by the Design Professional after correcting for permit review requirements and incorporating addenda and approved change orders.

“Contingency, UCFD’s” - means a construction fund to cover cost growth during the Project used at the discretion of the UCFD usually for costs that result from the UCFD’s direct changes or unforeseen site conditions. The amount of the UCFD’s Project Contingency may be set solely by the UCFD and will be in addition to the project costs included in the CMAR’s GMP package. The UCFD’s Project Contingency is an amount to cover changes initiated by the UCFD, which may be incorporated into the GMP as an allowance at the UCFD’s discretion.

“Contingency, CMAR’s (or Contractor’s)” – means a construction fund to cover increases in the Cost of Work of the Project due to unforeseen circumstances. The CMAR’s Contingency shall be negotiated between the Parties and shall be reflective of the risk inherent in the state of completion of the Construction Documents at the time the GMP Proposal is submitted. Funding of the CMAR’s Contingency shall be at the sole discretion of the UCFD. Use by the Contractor of the CMAR’s Contingency shall be subject to the review and approval of the UCFD’s Contract Administrator, which shall not be unreasonably withheld.

“Contract Administrator” means the person designated in Article 7.3.

“CMAR’s Representative” means the person designated in Article 7.3.2.

“CMAR’s Senior Representative” means the person designated in Article 7.3.2.

“Contract Documents” means the following items and documents in descending order of precedence executed by the UCFD and the CMAR: (i) all written modifications, addenda and Change Orders; (ii) this Contract, including all exhibits and attachments; (iii) written Supplementary Conditions; (iv) Construction Documents; (v) GMP Plans and Specifications; and (vi) the Preconstruction Agreement.

“Contract Time(s)” means the Day(s) set forth in Article 3 subject to adjustment in accordance with this Contract.

“Cost of the Work” means the direct costs necessarily incurred by the CMAR in the proper performance of the Work as defined in Article 4.3.

“Day(s)” mean calendar days unless otherwise specifically noted in the Contract Documents.

“Delay” means an unanticipated event or interference with the progress of a critical path work activity being performed at the time that causes the completion date of the Project to be extended. Delays may be caused by the UCFD, the CMAR, third parties or Force Majeure events. Delays may be excusable, compensable, non-compensable or concurrent.

“Delay, Compensable” means delay that results from the UCFD’s actions or inactions that entitle the CMAR to both a time extension and delay damages.

“Delay, Concurrent” means two or more delays, within the same timeframe, both of which would independently impact the Project’s critical path. If one delay is caused by the UCFD and the other by the CMAR, the CMAR will generally be entitled to an excusable, non-compensable time extension, to the degree the delays may “overlap.”

“Delay, Excusable” means an unforeseeable delay caused by an event beyond the control and without the fault or negligence of the CMAR (including its suppliers and subcontractors). Excusable delays may be compensable or non-compensable, depending upon whether the terms of the Contract or the law allows recovery of delay costs. Unless otherwise shown, it will generally be presumed that these delays are non-compensable.

“Delay, Non-Excusable” means a delay within the control of the CMAR, its suppliers and subcontractors, or a delay resulting from a risk taken by the CMAR under the terms of the Contract. The CMAR will not be due any time extension or delay damages, and may be responsible for paying to the UCFD, actual or liquidated damages for the delay.

“Deliverables” means the work products prepared by the CMAR in performing the scope of work described in this Contract or required by the Project Team.

“Design Team” refers to licensed design professionals that have been selected to work on the Project by the UCFD.

“Design Phase Services Agreement” means the Preconstruction Agreement entered into between the CMAR and the UCFD as referenced in this Contract. This Agreement will contain the provisions associated with the development of the GMP Proposal by the CMAR. Wherever a conflict exists between this Contract and the Preconstruction Agreement, the terms of this Contract will control.

“Differing Site Conditions” - Comply with M.A.G Standard Specifications Subsection 102.4.

“Drawings” (“Plans”) - Documents which visually represent the scope, extent, and character of the Work to be furnished and performed by the CMAR during the construction phase and which have been prepared or approved by the Design Professional and the UCFD. Drawings include documents that have reached a sufficient stage of completion and released by the Design Professional solely for the purposes of review or use in performing constructability or biddability reviews and in preparing cost estimates (e.g. conceptual design Drawings, preliminary design Drawings, detailed design Drawings at 30%, 60%, 90% or 100%), but “*not for construction*”. Drawings do not include shop drawings.

“Effective Date of this Contract” - The date specified in this Contract on which the Contract becomes effective, but if no date is specified, the date on which the UCFD executes this Contract.

“Field Order” means a written field directive prepared and signed by the UCFD, directing a change in work that may or may not include an adjustment in contract price or contract time.

“Final Acceptance” means the completion of all the Work as prescribed in Article 6.5.

“General Conditions” are negotiated indirect costs of the Work necessarily incurred by the CMAR as defined in Article 4.3.

“Guaranteed Maximum Price (GMP) Plans and Specifications” means the documents used to establish the GMP and made part of this Contract by reference.

“Guaranteed Maximum Price” or “GMP” means the sum of the maximum cost of the Work as given in the GMP proposal including the CMAR’s direct costs, indirect costs as defined in Article 4.3.

“Guaranteed Maximum Price (GMP) Proposal” - The offer or proposal of the CMAR submitted on the prescribed form stating the GMP prices for the entire Work or portions of the Work to be performed during the construction phase.

“Hazardous Substance” - means:

- (a) Any substance designated pursuant to sections 311(b) (2) (A) and 307(a) of the clean water act.
- (b) Any element, compound, mixture, solution or substance designated pursuant to section 102 of CERCLA.
- (c) Any hazardous waste having the characteristics identified under or listed pursuant to section 49-922.
- (d) Any hazardous air pollutant listed under section 112 of the federal clean air act (42 United States Code section 7412).
- (e) Any imminently hazardous chemical substance or mixture with respect to which the administrator has taken action pursuant to section 7 of the federal toxic substances control act (15 United States Code section 2606).
- (f) Any substance which the director, by rule, either designates as a hazardous substance following the designation of the substance by the administrator under the authority described in subdivisions (a) through (e) of this paragraph or designates as a hazardous substance on the basis of a determination that such substance represents an imminent and substantial endangerment to public health.

“Indirect Costs” are the General Conditions, Payment and Performance Bonds, Insurance, Taxes, and Permitting and Licensing Fees as defined in Article 4.3.

“Informational Submittals” – Submittals are required (common with construction projects) for the architect and engineer to verify that the correct products and quantities will be installed on a project.

“Legal Requirements” means all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-governmental entity having jurisdiction over the Project or Site, the practices involved in the Project, Site, or any Work.

“Liquidated Damages” means an amount the CMAR will pay as required in Article 3.4.

“Must” and “will” as used in this Contract are mandatory.

“Notice to Proceed” means a written notice given by the UCFD to the CMAR fixing the date on which the CMAR will start to perform the CMAR’s obligations under this Contract.

“Owner Agent,” “UCFD’s Agent” or “Owner Representative” see “UCFD’s Senior Representative.”

“Payment Request” means a monthly progress payment request that is based on a monthly estimate of the dollar value of the Work completed.

“Preconstruction Services” means advice given during the design phase. Preconstruction Services will be contracted for between the UCFD and the CMAR in accordance with the provisions of Article 1.3.1, as required by A.R.S. §34-603(C) (1) (c). Services may include the following: design review, project scheduling, constructability reviews, alternate systems evaluation, cost estimates, GMP preparation, and subcontractor bid phase services.

“Preconstruction Agreement” means the Contract between the UCFD and the CMAR for the services provided by the CMAR during the design phase which may include the following: design recommendations, project scheduling, constructability reviews, alternate systems evaluation, cost estimate, GMP preparation, and subcontractor bid phase services.

“Product Data” means illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the CMAR to illustrate materials or equipment for some portion of the Work.

“Professional Certification” – Professional certification is a designation which indicates that a person is qualified to perform a job or task. Professional certification can be trade certification or professional designation.

“Project” means the Work to be completed in the execution of this Contract as described in the Recitals and in Exhibit A attached.

“Project Record Documents” means the documents created pursuant to Article 1.6.

“Project Record Drawing Prints” – Set of current design drawings used by construction contractor for reference during construction. These drawings are typically marked up during the construction process, and are used to develop the subsequent “as-built” drawings.

“Project Team” – Consists of the Design Professional, the CMAR, the Contract Administrator, the UCFD’s representatives and other stakeholders who are responsible for making decisions regarding the Project.

“Punch List” means those minor items of Work to be completed before Final Acceptance which do not prevent the Project from being used for the purpose for which it is intended and which will not prevent the issuance of a Certificate of Occupancy.

“Samples” means physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

“Savings” means the difference between the Guaranteed Maximum Price and the Final Cost of the Work (including CMAR’s Fee). One Hundred Percent (100%) of savings will accrue to the UCFD, unless otherwise agreed in the itemization of the Guaranteed Maximum Price.

“Schedule of Values (SOV)” means the Document specified in the construction phase, which divides the Contract Price into pay items so that the sum of all pay items equals the Contract Price for the construction phase Work, or for any portion of the Work having a separate specified Contract Price. The SOV may or may not be output from the Progress Schedule depending on whether the Progress Schedule is cost-loaded or not.

“Shop Drawings” mean drawings, diagrams, schedules and other data specially prepared for the Work by the CMAR or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

“Site” means any site, land, or premises on which the Project is to be located or constructed including multiple areas within the Town of Carefree, Town of Cave Creek, and City of Scottsdale. The CMAR will require all subcontractors to include the street addresses or descriptors, as applicable, in their contracts.

“Specifications” means those sections of the Contract Documents for the construction phase consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain applicable administrative details.

“Subcontractor” means any person or entity retained by the CMAR as an independent contractor to perform a portion of the Work and must include material men and suppliers. All subcontractors must be selected in accordance with the selection plan stated in Article 1.13.

“Substantial Completion” means when the Work, or when an agreed upon portion of the Work is sufficiently complete so that the UCFD can occupy and use the Project or a portion of it for its intended purposes. This may include, but is not limited to: (a) approval by the Fire Marshall and local authorities (Certificate of Occupancy); (b) issuance of elevator permit; (c) demonstration to the UCFD that all systems are in place, functional, and displayed to the UCFD or its representative; (d) installation of all materials and equipment; (e) UCFD review and acceptance of all systems; (f) UCFD review and acceptance of draft O&M manuals and record documents; (g) UCFD operation and maintenance training completed; (h) HVAC test and balance completed (provide minimum 30 days before projected substantial completion); (i) completed landscaping and site work; and (j) final cleaning.

“Supplier” means a manufacturer, fabricator, supplier, distributor, material man or vendor having a direct contract with the CMAR or any Subcontractor to furnish materials or equipment to be incorporated in the construction phase work by the CMAR or any Subcontractor.

“UCFD” or “District” or “Owner” means the Town of Carefree, Arizona Utilities Community Facilities District, a special purpose tax-levying district and municipal corporation and political subdivision of the State of Arizona. For purposes of this Contract, the use of the terms “UCFD” or “District” or “Owner” shall be include by reference the Carefree Water Company (“Water Company”) and the Town of Carefree (“Town”).

“UCFD’s Project Contingency” is an allowance established solely by the UCFD to be used at the sole discretion of the UCFD to cover any increases in Project costs that result from UCFD directed changes or unforeseen site conditions. The UCFD’s Project Contingency will be added to the GMP amount provided by the CMAR, the sum of which will be the full contract price for construction. Taxes will be applied by the CMAR at the time that the

UCFD's Project Contingency is used. Any CMAR Construction Fee on changes using the UCFD's Project Contingency will be determined under Article 5.

"UCFD's Senior Representative" means the person designated in Article 7.3.

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

END OF CONTRACT - SIGNATURES ON NEXT PAGE.

TOWN OF CAREFREE, ARIZONA UTILITIES
COMMUNITY FACILITIES DISTRICT

PROJECT NO. 2021-W01, CONTRACT NO. C2021-06

This Contract has been executed by the parties above named on the date and year written above, to be retained by the District Clerk.

The CMAR agrees that this Contract, as awarded, is for the stated work and understands that payment for the total work will be made on the basis of the indicated amount(s), under the terms and conditions of the Contract.

CONSTRUCTION MANAGER AT RISK:
ACHEN-GARDNER CONSTRUCTION, LLC, an Arizona Limited Liability Company

By: _____

Print name: _____

Title: _____

**THE TOWN OF CAREFREE, ARIZONA
UTILITIES COMMUNITY FACILITIES DISTRICT**
Arizona municipal corporation

ATTEST:

Les Peterson, Chairman

Kandace French Contreras, District Clerk

REVIEWED:

Greg Crossman, PE
District Manager

APPROVED AS TO FORM:

Michael W. Wright, District Attorney

**EXHIBIT A
PROJECT DESCRIPTION
SCOPE OF WORK – GMP A1**

Contractor shall perform all work and furnish all materials and labor for site preparation of the construction of the Tom Darlington Water Storage Reservoir as defined in GMP A1 attached as Exhibit C.

**EXHIBIT B
PRECONSTRUCTION AGREEMENT**

PRECONSTRUCTION PHASE SERVICES CONTRACT

C2021-01

IS ON FILE AT THE DISTRICT CLERK'S OFFICE

EXHIBIT C

GMP A1

INDEX OF ATTACHMENTS

GMP PROPOSAL (10/20/2021)

Town of Carefree, Arizona Utilities Community Facilities District
Carefree Water Consolidation Project
TOC Project Number: 2021-W01/ AGC Project Number: 3878103

- **ATTACHMENT A: PROJECT DESCRIPTION.....PAGE 3**
- **ATTACHMENT B: THE WORK.....PAGE 4**
 - **B.1: PROPOSAL LIST OF DOCUMENTS.....PAGE 4**
 - **B.2: PROJECT CONSTRUCTION PHASE KEY PERSONNEL.....PAGE 5**
- **ATTACHMENT C: GMP PROPOSAL SCHEDULE OF VALUES.....PAGE 6**
 - **C.1: GMP PROPOSAL SOV.....PAGE 6**
 - **C.1.1 CMAR CONTINGENCY SOV.....PAGE 7**
 - **C.2: CLARIFICATIONS, INCLUSIONS & EXCLUSIONS.....PAGE 8**
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- **ATTACHMENT D: PROJECT SCHEDULE.....PAGE 22**

ATTACHMENT A – PROJECT DESCRIPTION

GMP PROPOSAL (10/20/2021)

**Town of Carefree, Arizona Utilities Community Facilities District
Carefree Water Consolidation Project
TOC Project Number: 2021-W01/ AGC Project Number: 3878103**

The Town of Carefree, Arizona Utilities Community Facilities District (the UCFD), through the Carefree Water Consolidation Project, seeks to expand service to more than 20% of Carefree residents who are currently being furnished potable water by the Town of Cave Creek in what are identified as Neighborhoods A, B, and C. This complex project will involve a variety of water system improvements at more than 20 project “sites”. Including the installation of various water lines up to 12” diameter (possibly even 16” diameter), the construction of a new 300,000 gallon concrete potable water storage reservoir, and upgrades or improvements to multiple booster pump stations.

The Work will generally be consistent with that shown in the 60% plan labeled Carefree Water Company Town of Carefree, Arizona Boulder Water Storage Tank (sheet 9 of 17 and applicable notes on sheets 1-5) from Burgess & Niple Inc. Stamped by Jeffery Marnicio plotted on 8/6/21 at 1:35:19PM (clear and grub and excavation) and provided to all Contractors participating in the CMAR Request for Proposal process, with the understanding that significant changes can occur in the development of the 100% plans.

The areas included in GMP A.1 are as follows:

- Preliminary work as needed and detailed in the attached schedule of values and excavation of the new 300,000-gallon concrete potable water storage reservoir.

ATTACHMENT B.1 – PROPOSAL LIST OF DOCUMENTS

GMP PROPOSAL (10/20/2021)

**Town of Carefree, Arizona Utilities Community Facilities District
Carefree Water Consolidation Project
TOC Project Number: 2021-W01/ AGC Project Number: 3878103**

The GMP proposal included herein was developed based off of the following items:

- 60% plans labeled Carefree Water Company Town of Carefree, Arizona Boulder Water Storage Tank (sheet 9 of 17 and applicable notes on sheets 1-5) from Burgess & Niple Inc. Stamped by Jeffery Marnicio plotted on 8/6/21 at 1:35:19PM
- MAG Specifications.
- Achen-Gardner's Design Phase Proposal and associated Design Phase Services Contract for this project, Town of Carefree Project No. 2021-W01, Contract No. C2021-01 executed on March 2nd, 2021.
- Achen-Gardner's Design Phase Proposal including all attachments dated 2/24/21.
- Achen-Gardner's GMP#1 Proposal including all attachments dated 8/6/21.
- Request for Statement of Qualifications Construction Manager at Risk Services (2020)
- Statement of Qualifications Dated 10/29/20
- Carefree Water Company UCFD CMAR Construction Services (Early Procurement) Carefree Water Consolidation Project No.: 2012-W01 Contract No.: C2021-04 (Including GMP1 proposal dated 8/6/2021)

ATTACHMENT B.2 – KEY CONSTRUCTION PHASE PERSONNEL

GMP PROPOSAL (10/20/21)

**Town of Carefree, Arizona Utilities Community Facilities District
Carefree Water Consolidation Project
TOC Project Number: 2021-W01/ AGC Project Number: 3878103**

Achen-Gardner’s project key personnel for construction phase are as follows:

Name:	Title:	Phone:	E-Mail:
Brian Froelich	Project Manager	602-376-0103	bfroelich@achen.com
Mark Gierszewski	Project Superintendent	602-980-1621	mgierszewski@achen.com
Mike Gewecke	Field Operations Manager	602-370-2003	mgewecke@achen.com
Howdy Hale	Specialty Superintendent	602-397-2704	hhale@achen.com
Abigail Goode	Project Engineer	602-377-4593	agoode@achen.com
Lynne Stocker	Project Manager	602-775-1783	lstocker@achen.com

Additional team members to provide support during the construction phase are as follows:

Name:	Title:	Phone:	E-Mail:
Dan Spitza	President	602-397-3658	dspitza@achen.com
Andy Mortensen	Project Lead Estimator	480-940-1300	amortensen@achen.com
Jason Robinson	Director Water/Wastewater Plants	602-359-4081	jrobinson@achen.com

(Note: Additional key construction phase personnel will be added or removed to this list as necessary.)

GMP A.1 -Town Carefree - Carefree Water Consolidation Project TOC PROJECT 2021-W01 AGC PROJECT 3878103					ATTACHEMENT C1 10/20/2021	
Bid Item No.	Description	Quantity	Unit	Unit Price	Total	
RESERVOIR EXCAVATION						
6040	NATIVE PLANT SALVAGE AND MAINTENANCE	1.00	LS	\$ 7,500.00	\$ 7,500.00	
6050	ACCESS ON SHOULDER	1.00	LS	\$ 3,133.38	\$ 3,133.38	
6060	CLEAR AND GRUB	1.50	AC	\$ 9,004.37	\$ 13,506.56	
6070	TANK EXCAVATION	5,360.00	CY	\$ 31.67	\$ 169,751.20	
6080	DN TANK DESIGN SERVICES	1.00	LS	\$ 50,000.00	\$ 50,000.00	
6090	10" X 10" TAPPING SLEEVE & VALVE	1.00	AL	\$ 5,820.54	\$ 5,820.54	
SUBTOTAL FOR RESERVOIR EXCAVATION					\$ 249,711.68	
GENERAL CONDITIONS						
7060	CONSTRUCTION SURVEY & AS-BUILTS	1.00	LS	\$ 2,610.00	\$ 2,610.00	
7070	SWPPP PERMIT & IMPLEMENTATION	1.00	LS	\$ 11,375.00	\$ 11,375.00	
7080	CONSTRUCTION WATER & DUST CONTROL	1.00	LS	\$ 28,945.18	\$ 28,945.18	
7090	SWEEPING	1.00	LS	\$ 10,920.00	\$ 10,920.00	
8000	TEMPORARY SITE FENCE	1.00	LS	\$ 8,491.02	\$ 8,491.02	
8010	GENERAL CONDITIONS	2.00	MO	\$ 42,286.12	\$ 84,572.24	
8020	MOBILIZATION	1.00	LS	\$ 11,124.33	\$ 11,124.33	
8030	TRAFFIC CONTROL	1.00	LS	\$ 15,096.94	\$ 15,096.94	
8040	FLAGGERS ALLOWANCE	1.00	AL	\$ 10,000.00	\$ 10,000.00	
SUBTOTAL GENERAL CONDITIONS					\$ 183,134.71	
RUNNING TOTAL NO. 1 DIRECT COST					\$ 432,846.39	
5100	CONTRACTOR FEE FOR OVERHEAD & PROFIT	12.50%			\$ 54,105.80	
SUBTOTAL CONTRACTOR FEE					\$ 54,105.80	
RUNNING TOTAL NO. 2 DIRECT COST AND CONTRACTOR FEE					\$ 486,952.18	
5200	INSURANCE	1.75%			\$ 8,521.66	
5300	BONDS	0.70%			\$ 3,468.32	
SUBTOTAL INSURANCE AND BOND					\$ 11,989.98	
RUNNING TOTAL NO.3 DIRECT COST, CONTRACTOR FEE, INSURANCE AND BOND					\$ 498,942.16	
5400	SALES TAX 65% of 10.3%	6.695%			\$ 33,404.18	
5401	SALES TAX CREDIT FOR WATERLINE MATERIAL PURCHASE				\$ -	
SUBTOTAL SALES TAX					\$ 33,404.18	
RUNNING TOTAL NO.4 DIRECT COST, CONTRACTOR FEE, INSURANCE, BOND AND SALES TAX					\$ 532,346.34	
5500	CMAR CONTINGENCY	1.00	LS	\$ 291,554.72	\$ 291,554.72	
SUBTOTAL CONTINGENCY					\$ 291,554.72	
RUNNING TOTAL NO.5 DIRECT COST, CONTRACTOR FEE, INSURANCE, BOND, SALES TAX, AND CONTINGENCY					\$ 823,901.06	
TOTAL GMP A.1 -Town Carefree - Carefree Water Consolidation Project					\$ 823,901.06	

Bid Item No.	Description	Quantity	Unit	Unit Price	Total
CMAR CONTINGENCY - HARD DIG AND UNFORSEEN CONDITIONS					
5500.1	HARD DIG	2,680.00	CY	\$ 80.38	\$ 215,418.40
5500.2	UNFORSEEN CONDITIONS	1.00	LS	\$ 21,642.32	\$ 21,642.32
SUBTOTAL FOR CMAR CONTINGENCY HARD DIG					\$ 237,060.72
RUNNING TOTAL NO. 1 DIRECT COST					\$ 237,060.72
5100	CONTRACTOR FEE FOR OVERHEAD & PROFIT	12.50%			\$ 29,632.59
SUBTOTAL CONTRACTOR FEE					\$ 29,632.59
RUNNING TOTAL NO. 2 DIRECT COST AND CONTRACTOR FEE					\$ 266,693.31
5200	INSURANCE	1.75%			\$ 4,667.13
5300	BONDS	0.70%			\$ 1,899.52
SUBTOTAL INSURANCE AND BOND					\$ 6,566.66
RUNNING TOTAL NO.3 DIRECT COST, CONTRACTOR FEE, INSURANCE AND BOND					\$ 273,259.97
5400	SALES TAX 65% of 10.3%	6.695%			\$ 18,294.75
5401	SALES TAX CREDIT FOR WATERLINE MATERIAL PURCHASE				\$ -
SUBTOTAL SALES TAX					\$ 18,294.75
RUNNING TOTAL NO.4 DIRECT COST, CONTRACTOR FEE, INSURANCE, BOND AND SALES TAX					\$ 291,554.72
TOTAL CMAR CONTINGENCY - HARD DIG AND UNFORSEEN CONDITIONS					\$ 291,554.72

ATTACHMENT C.2 – GMP CLARIFICATIONS, INCLUSIONS, & EXCLUSIONS

GMP PROPOSAL (10/20/2021)

**Town of Carefree, Arizona Utilities Community Facilities District
Carefree Water Consolidation Project
TOC Project Number: 2021-W01/ AGC Project Number: 3878103**

1. Scheduling and Phasing:

- a. For the purpose of this GMP, adverse weather conditions such as average days of rain per month, is assumed to be one (1) each per month. A weather-related delay may be claimed on days where rainfall did not actually occur, but follows a day of heavy rain that has impacted the schedule. That is, the 2 days of weather-related delays will not result in delays to the project schedule. If the project experiences additional weather-related delays beyond this amount, the Contractor shall be entitled to negotiate a commensurate extension of time associated with the delays and/or a Price adjustment for additional costs associated with but not limited to General Conditions, accelerations, etc. Based on the proposed NTP of November 16, 2021 and substantial completion of GMP A.1 on January 15, 2022, the project duration is 60 calendar days.
- b. Work Hours – This GMP is based on a 8-hour day time work shift Monday to Friday. (re: Attachment D – Schedule). Night and weekend work shall be for restrictive activities as agreed upon with the Town or as required to fulfill off-peak activities as coordinated with and agreed to by the Town. Overtime hours are excluded except as is included in this GMP A.1 Estimate. If owner directed overtime is required, the premium cost will be compensated for out of CMAR contingency or negotiated Change Order.

2. General Clarifications:

- a. Re: Schedule of Values – This GMP will be administered as a measured quantity x Town approved unit price type contract. Final contract price / payout will be based on field measured final completed quantities, Town approved unit prices (see Attachment C.1 dated 10/20/21) and applied fee structure (re: Items 5100-5401 percentages), guaranteed not-to-exceed the GMP amount (see GMP SUMMARY ATTACHMENT C.1). It is understood that these individual OWNER approved unit prices include the cost associated with the risk of delivering the work and are not subject to adjustment unless mutually agreed to.
- b. This Project is proposed to be administered as a Measured Quantity/Unit Price Guaranteed Not-to-Exceed Contract (re: to Attachment s C1). The Schedules of Values (Direct Costs) are defined by the individual work items and their associated unit prices (re: Attachment C1, Running Total #1) plus negotiated general conditions, fee structures, and markups (re: Attachment C1, Subtotals #2, #3, #4, and #5 and associated Items 5100-5401). Fee and mark-ups shall apply to all direct costs, General Conditions, change orders, and use of CMAR Contingency. Final contract price/payout shall be based on field measured, final completed quantities, approved unit prices, and approved change orders. It is understood that

these individual negotiated and approved unit prices include the costs associated with the risk of delivering the work.

- c. Other Contractor Coordination – The CMAR agrees to make a good faith effort in coordinating its work with that of “other” contractors working within the project limits.
- d. Re: Scope of Work - It is understood that the documents listed in Attachment B.1 (i.e. plans, specifications, etc.) have been used to prepare this GMP. Item “descriptions” and “units” (or unit of measure) included in Attachment C shall serve to assist in the clarification of and definition of the scope of work included under each item of work (i.e. “Bid Item”). The cost associated with any changes, revisions, additions and / or deletions directed by the Town will be compensated for and funded through owner change order, or future GMP as mutually agreed to by all parties. Final contract price / payout will be based on paid invoices, and approved change orders (See Attachment C.1).
- e. Re: Subcontractor and Supplier pricing - GMP based on recommended awarded subcontractor and supplier resource values and associated proposal / quote clarifications / inclusions / exclusions / qualifications included in the GMP Subcontractor and Supplier Selection Recommendations (See Attachment C.2.1).
- f. Re: NTP - the Notice to Proceed date is to be mutually agreed upon. Our proposal assumes a NTP on November 16, 2021.
- g. Deliverables Scope, as modified and agreed to in the Construction Manager at Risk – Preconstruction services contract dated March 2nd, 2021.
- h. List of Clarifications and/or Assumptions included in this Attachment and/or any of the other GMP Attachments shall take precedence over all Contract Agreements, Plans and Specifications and Town General Conditions articles and/or provisions.
- i. Construction Management Plan is not required and is not included in this GMP.
- j. Proposed project schedule, excludes logic associated with acquiring temporary construction easements or permanent right-of-way (ROW) of any kind. This GMP assumes that all right-of-way and easements required to construct the Project will be acquired by Town staff no later than Notice to Proceed, or in a time period not to impact the proposed sequencing and schedule of the Project. Any delays, associated costs, or schedule accommodations outside those shown on the schedule are not included in the overall duration presented in this Attachment or in the GMP.
- k. This GMP excludes all costs associated with Town of Carefree permit & plan review fees, QA (i.e. inspection) costs, impact fees, utility company fees and/or any other permit or fee not detailed in Attachment C and related Attachments.

- l. Definition of “Lump Sum” – Work Items that have been designated “Lump Sum” are a single fixed unit price of one each Lump Sum (LS).
- m. All approved quantity over-runs will be paid for out of CMAR Contingency or change order.
- n. This GMP excludes the additional cost associated with COVID 19 safety procedures, as would be additional to those currently utilized by Achen Gardner at the time of writing this GMP. This relates to accommodate temporary water services, and to sanitary facilities during temporary shutdowns of services to accommodate tie-ins, etc. Any additional cost incurred to the project specifically for COVID 19 protection will be charged to owner contingency or a change order to the project. This includes but is not limited to additional temporary hand wash stations and/or restrooms for businesses or residents, service and cleaning worksite portable restrooms (more than twice per week), and cleaning the field office (more than once per week).
- o. Any person on site, regardless of who they are employed by, will be required to follow the COVID-19 procedures outlined in Achen-Gardner’s project safety manual and any additional requirements deemed necessary by the government or construction team as the project progresses.
- p. Allowance Items –Work Items that have been designated “Allowance” are a best estimate of the cost of work for which a scope has yet to be confirmed/determined or a Unit Price finalized. The Allowance Quantity and Unit Price values are not guaranteed, and are subject to adjustment by mutual agreement between the Town and CM@Risk as the scope and/or price is confirmed. Final adjustments to Attachment C1, Item Nos. 6080 and 8040 shall be made based on final allowance scope of work completed. Associated increases/decreases in cost will be funded/credited from/to the CMAR Contingency Item when defined by Owner

3. General Bid Item Inclusions/Clarifications:

- a. Bid Item 6040: NATIVE PLANT SALVAGE AND MAINTENANCE – Price is based off quote provided to Achen Gardner by Tree Relocators Inc. and the estimated cost of plant maintenance for a 60 calendar day duration. Achen Gardner will follow the previously completed plant survey by Tree Relocators to either protect in place or salvage any designated plants in need of this service. To salvage the plants Achen Gardner will have Tree Relocators spade transplant those specimens deemed salvageable to locations on site as determined by the Town of Carefree. Any additional plant maintenance above what is stated here will be paid for by owner contingency or change order.
- b. Bid Item 6050: ACCESS ON SHOULDER – This cost will cover all work needed to extend the shoulder of the road from the edge of pavement on Tom Darlington to the West property line. Length is the distance of the West property line. This is to insure safe entrance and exit for all construction vehicles to the site. Achen Gardner will place signs indicating to the traveling public not to follow construction vehicles. Once this work is completed Achen Gardner will restore the shoulder to pre-construction conditions unless otherwise directed.

- c. Bid Item 6060: CLEAR AND GRUB- This item will cover all cost associated with removing any vegetation not included in the native plant salvage and maintenance (Bid Item 6040).
- d. Bid Item 6070: TANK EXCAVATION- This line item is for the cost of excavating the area using conventional methods for the tank construction to subgrade +/- 0.2. Excavation is to outer limits of the winding track, sloped at 2:1 to daylight. This includes haul off and disposal of excess material
- e. Bid Item 7080: CONSTRUCTION WATER & DUST CONTROL – Duration is based off 60 calendar days. Price based on Town of Carefree furnishing construction water at no cost to Achen Gardner Construction.
- f. Bid Item 8000: TEMPORARY SITE FENCE – Achen Gardner will install a temporary 8-foot construction fence with green screen (tan is not available). The cost for this line item is limited to 60 calendar days. Any additional days need to be covered by an additional GMP or Change Order to the project.
- g. Bid Item 8030: Traffic control – Achen Gardner will use the shoulder on the east side of the north bound lanes to create a construction site access pull off. Allowing approved traffic to enter the site without negatively impacting north bound traffic. Additionally Achen Gardner will temporarily pave a section of the median directly across from the site entrance/exit to allow exiting construction vehicles to complete a left hand turn out of the construction site on to the south bound travel lanes. Achen Gardner will set up a closure of the high speed south bound travel lane directly across from the sites entrance/exit to be used as an entrance lane for construction vehicles in to south bound traffic. Achen Gardner will remove the south bound traffic control set up from end of work shift Friday to start of work shift Monday morning unless otherwise agreed to by Achen Gardner and Town. Any additional Traffic control deemed necessary but not described in this GMP will be paid for by the Town as a change order to the project.

4. General Exclusions:

- a. Re: Hazardous Materials – This GMP proposal excludes any and all costs associated with handling and / or disposing of hazardous wastes not introduced by Achen-Gardner.
- b. The furnishing of any utility pole supports of any kind.
- c. Our Proposal excludes cost impacts due to project shut downs for special events or Holiday moratoriums.
- d. Price excludes any temporary water or sewer service. If temporary water or sewer service is required, the cost will be paid for with a change order, unless the temporary service is used by the CMAR for their purposes.
- e. Excludes cost for future additional excavation needed due to natural or human interference with the site unless specifically agreed to by Achen Gardner and the Town of Carefree.

- f. Unstable Grade – This GMP Proposal excludes any work associated with unstable grade. If required, these costs will be compensated for under CMAR Contingency or Change Order should the condition arise.
- g. Excludes material testing for sub base of tank construction area. This will be done in a future GMP.
- h. Excludes the cost associated with any additional work required due to ground water interference. If required, these costs will be compensated for under CMAR Contingency or Change Order should the condition arise.
- i. Price excludes filling any/all abandoned pipelines. Abandoned pipelines shall be drained and capped.
- j. Price excludes Public Outreach.
- k. Price excludes Slurry Seal.
- l. Excludes the cost of any haul permit fees.
- m. Excludes fine grading, select fill, and leveling course.

5. Allowance Bid Items:

The following Allowance bid items were estimated based on current market pricing. The Allowance dollar amounts do not include overhead, profit, insurance, bonds, and sales tax. These markups will be applied and paid per Line Items #5100, 5200, 5300, 5400 and 5401 (respectively)

- a) *10”X10” Tapping Sleeve & Valve* (Bid Item 6090) \$5,820.54
 - i. This Allowance Bid Item is to be utilized to cover associated with furnish and install the tapping sleeve per the plan location.
- b) *Flaggers* (Bid Item #8040) \$10,000.00
 - i. This Allowance bid item is to be utilized for the cost associated with any Achen-Gardner employee, subcontractor flagman, or any temporary labor hired by Achen-Gardner that is used for Flagging.

6. CMAR Contingency (or Contractor's) \$291,554.72:

This Contingency is a construction fund to cover increases in the Cost of Work of the Project due to unforeseen circumstances or undermined scope. The CMAR's Contingency shall be negotiated between the Parties and shall be reflective of the risk inherent in the state of completion of the Construction Documents at the time the GMP Proposal is submitted. Funding of the CMAR's Contingency shall be at the sole discretion of the UCFD. Use by the Contractor of the CMAR's Contingency shall be subject to the review and approval of the UCFD's Contract Administrator, which shall not be unreasonably withheld. This is a best estimate of the scope listed below, and any additional cost above the \$291,044.76 is to be paid with a change order to the project. The Contingency Item No. 5500 dollar amounts does include overhead, profit, insurance, bonds, and sales tax. As detailed on Exhibit C.1, these markups will be applied and paid per Line Items #5100, 5200, 5300, 5400 and 5401 on agreed to direct costs

The following items are an estimate for the CMAR Contingency (Line Item 5500):

- a) Hard Dig Line Item 5500.1: Base Bid Item 6070's excavation productions were based on using a CAT 349 Excavator at a rate of 500 CY per 8 Hour Shift and were applied to the total excavation quantity. Hard dig contingency of \$264,937.40 was calculated assuming 50% hard dig excavation based on the following:
 - a. Soil report by Ninyo & Moore on 9/8/2021
 - b. Achen-Gardner past experience in the area
 - c. Hard dig cost of \$80.38 per CY (applied in lieu of, not in addition to, item 6070), plus overhead, profit, insurance, bonds, and sales tax.

Hard Dig Qualifying Criteria: Exploratory excavations shall be performed at the reservoir site under the Pre-Construction contract for the Project once site access is created and after CMAR mobilization to the site. Project Team Representatives consisting of Carefree, CVL, Achen-Gardner, and ICE (if available) will witness these excavations and mutually agree to the characteristics of hard dig conditions that are encountered during the exploratory excavations. Hard dig criteria may include excavation production rates, soil/rock characteristics at the site, equipment response to digging conditions, and other appropriate criteria as mutually agreed by the Representatives. When hard dig conditions, as mutually agreed upon, are encountered then the excavation will be paid for out of CMAR Contingency, Hard Dig Line Item 5500.1 as detailed above. If additional hard dig is needed above 50%, this is to be paid for out of unused CMAR Contingency or a Change Order to the project.

- b) Unforeseen Conditions: this is an estimate for unforeseen conditions that may include but not limited to quantity over-runs, material escalation, unstable grade, plant opening fees and cost increase for secondary source if primary is unable to deliver. Unforeseen Conditions invoiced towards CMAR Contingency will have direct cost plus overhead, profit, insurance, bonds, and sales tax. This makes up \$26,617.32 of the CMAR Contingency. If additional unforeseen conditions are needed, this is to be paid for out of unused CMAR Contingency or a Change Order to the project.

ATTACHMENT C.2.1 – SUBCONTRACTOR AND SUPPLIER RECOMENDATIONS

GMP PROPOSAL (10/20/2021)

**Town of Carefree, Arizona Utilities Community Facilities District
Carefree Water Consolidation Project
TOC Project Number: 2021-W01/ AGC Project Number: 3878103**

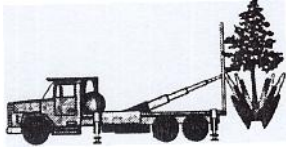
Subcontractor & Supplier Recommendation Clarifications, Inclusions, and Exclusions:

- GMP is based on the following recommended subcontractors and suppliers for the Carefree Water Consolidation Project. These recommendations are consistent with the projects subcontractor and supplier selection parameters. Unless otherwise specified in the GMP attachments, the GMP proposal is subject to all inclusions, exclusions, clarifications, and qualifications included on quotations and / or proposals included within the entirety of this attachment. Below is a table that summarizes the subcontractors and suppliers Achen-Gardner recommends for this project based off an analysis of best qualified, best price, and best overall value:

Recommended Sub or Supplier	Proposal	Best Price	Best Qualified	Best Value	# of Bidders	Notes
Tree Relocators	\$4,210.00	X	X	X	1	4
DN Tanks	\$50,000.00	X	X		1	4
EPS	\$2,610.00		X	X	1	4
National Construction Rentals	\$5,887.60	X	X	X	3	2
Ferguson	\$4,597.95		X	X	1	4
Offsite Sweeping (SWPPP)	\$14,400.00	X	X	X	1	4

Notes:

- 1.) These material supply costs are incorporated into the GMP's proposed unit prices included in Exhibit C.1. (not used)*
- 2.) Solicited multiple Subcontractors and Suppliers but only one provided a quote for this project.*
- 3.) Only Subcontractor that provides this service. (not used)*
- 4.) Only Solicited to previously selected Subcontractors or Suppliers from previously submitted GMPs*



6502 N. 81st Place
 Scottsdale, AZ 85250
 Phone# (480)947-6118
 Fax # (480)361-4824
 Neil's Cell (602)-376-9986

Bid Proposal

Customer: Achen-Gardner Construction, LLC **Order Date:** 10-16-21 **Completion Date:** **Payment Due Date:** **PO#:**

Address: N. Tom Darlington Drive **Phone:** 623-826-8841 **Fax #:**

City: Carefree **State:** AZ **Zip:** **Ordered By:** Ken K.

Importing or removing excess soil or trimming and removing debris not included, unless indicated

Date	Tag#	Size	Description	Taken From	Where Placed	Cost
1	4	3'	Barrel	on site	on site	\$150.00
2	5	3'	Barrel	on site	on site	\$150.00
3	8	10"	Palo Verde (spade)	on site	on site	\$795.00
4	9	4'	Saguaro	on site	on site	\$225.00
5	24	10"	Palo Verde (spade)	on site	on site	\$795.00
6	25	12"	Palo Verde (spade)	on site	on site	\$895.00
7	32	3'	Barrel	on site	on site	\$150.00
8			Backhoe			\$550.00
9	*		H2O Set Up (Incls. Battery Timer, Hose Bibb fitting, Poly Tubing, & Emitters)			\$500.00
10			* Builder to supply a double hose bibb riser & 1-1/2" ball valve w. male end @ water meter			
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
					Sub Total	\$4,210.00
					Sales Tax	0.000% \$0.00
					Total	\$4,210.00

By Law, Tree Relocators, Inc. must charge sales tax if contracted directly with homeowner or designated as a general contractor on the project.

In terms of the above contract, I agree to pay the total amount due within (20) days of completion date.

We (Tree Relocators, Inc.) offer limited or no guarantee on boxed trees (depending on time of year, soil conditions, & water maintenance agreement) & no guarantee on spaded trees, relocated or installed saguaros, cacti, & plants. No warranty on installed trees unless we are hired to do after care / water maintenance. We assume no responsibility for leaning or fallen saguaros and / or trees due to natural weather conditions such as; wind, rain, microburst, etc. No guarantee 2x4 bracing kits will prevent saguaros from falling or toppling over. We suggest all relocated trees have tree wire kits installed & left on for 1 year after transplant. Not responsible for grading changes after planting is complete. We shall have no liability for underground utilities, irrigation systems, lighting, sewer or water lines, & any objects not visible. In addition, there will be no liability for cracked or broken sidewalks or driveways, grass ruts, tire tracks, & paver indentions. All these liabilities become the customer's responsibility. If hard dig conditions are encountered additional charges will apply. Removal of saguaro arm/s is up to our discretion if we find necessary to safely move saguaro. Native Plant Survey plant locations are approximate & subject to errors. Contract expires after 1 year of its order date, & is contingent upon Tree Relocators, Inc. equipment being able to perform all work. Offer is good while supplies last. This proposal is subject to review & adjustment should the present scope of work or conditions change. Customer agrees with our Tree & Cacti Transplanting & Install Methodologies. Unless indicated otherwise Quote is to relocate items one time only. We reserve the right to cancel this contract or refuse to service at any time. Delinquent payment is subject to late fees. Trip Charges may apply if scheduled work isn't completed in consecutive days. We reserve the right to repossess installed plants if not paid in full within 30 days of installation date. Credit Card payments are subject to a 3% processing fee. I certify that I have read, understand, & agree to the above conditions.

Signature _____



October 13, 2021

Tom Christie
DYK Incorporated
P.O. Box 696
El Cajon, CA 92020
Phone: 619.440.8181

Project: Carefree Water Consolidation Project - Boulders Water Storage Tank
Project #3878100

Subject: Design Phase Services Agreement - DYK Incorporated.
300,000 Gallon AWWA D110 Type III Prestressed Concrete Tank

Mr. Christie,

This letter shall serve as confirmation of our intention to enter into a formal Subconsultant Agreement with your firm for a proposed 300,000 Gallons AWWA D110 Type III prestressed concrete tank for Carefree Water Company. This letter shall serve as a guarantee to pay for design phase services in the amount of \$50,000.00. Final issuance of the subcontract for construction is subject to final negotiations of all related terms, conditions, Firm Lump Sum Price, Scope of Work and subsequent negotiations between DYK Incorporated ("DYK") and Achen-Gardner Construction ("Achen-Gardner"), and the approval from Carefree Water Company.

Contingent upon our receipt of a signed copy of this letter, DYK is authorized to begin design phase services including design and estimating efforts required to implement the required work associated with the proposed 300,000 Gallon AWWA D110 Type III Prestressed Concrete Tank required for Carefree Water Company.

Pursuant to the terms of this letter and in the effort to expedite the schedule, DYK is here in authorized to begin reviewing design documentation (drawings, and specifications) to assist in garnering approval from the Carefree Water Company and Arizona Department of Environmental Quality. Upon submission of design drawings and specifications to Achen-Gardner, DYK is authorized to invoice for work completed to date, not to exceed a maximum of \$50,000 USD. DYK's design documentation may be included in the overall Engineer of Record's,

1

ACHEN-GARDNER CONSTRUCTION, LLC | www.achen.com

550 SOUTH 79TH STREET | CHANDLER, AZ 85226 | P: 480.940.1300 | P: 800.580.5548 | F: 480.940.4576

100% EMPLOYEE OWNED | ARIZONA LICENSES: 261745 A, 261746 B-1, 261747 B-4

Coe & Van Loo Consultants (CVL) design submittals. DYK's design shall not be put out to bid for construction by others.

Should a Subcontract Agreement be negotiated, this letter shall be automatically superseded by the Subcontract (per terms of attached sample Subcontract Agreement. See Exhibit "A").

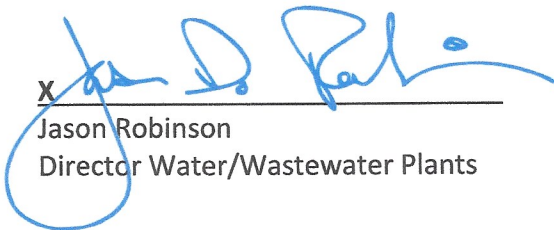
We are excited about the opportunity to work with your organization and look forward to a successful project for all parties. Should you have any questions or concerns, please feel free to contact us.

Sincerely,

Ken Kawamoto
Pre-Construction and Client Services Manager

Accepted By:

Achen-Gardner Construction

X 

Jason Robinson
Director Water/Wastewater Plants

DYK Incorporated

X 

Tom Christie
Executive Vice President

From: [Dave Hargrove](#)
To: [Erik Simms](#)
Subject: RE: Tank
Date: Friday, October 15, 2021 1:52:53 PM
Attachments: [image002.png](#)

Erik,

Sounds like you would need control, tank layout and excavation verification.

Calibration/Control: \$1,160.00
Tank Layout: \$725.00
Excavation Verification: \$725.00
Total: \$2,610.00

Thanks,

David Hargrove | EPS Group, Inc.

Survey Project Manager/CST III

1130 N Alma School Road, Suite 120 | Mesa, AZ 85201

C: 480.298.4900 | dave.hargrove@epsgroupinc.com

[LinkedIn](#) | [Instagram](#) | [Facebook](#)



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From: Erik Simms <ESimms@achen.com>
Sent: Friday, October 15, 2021 7:54 AM
To: Dave Hargrove <dave.hargrove@epsgroupinc.com>
Subject: Tank

Dave, we are still working on the CAD files but can you give me a conservative number for the Excavation only

ERIK SIMMS
Sr. Estimator

Main: 480.403.9409 | Cell: 602.694.1454 | Email: esimms@achen.com

ACHEN-GARDNER CONSTRUCTION
100% EMPLOYEE OWNED

th



PHOENIX OFFICE
(602) 253-5006



800-352-5675 • rentnational.com

QUOTE FOR SERVICES

COMPANY INFO: CUSTOMER # 56893		JOB SITE INFO: SITE # NEW			
Company: ACHEN GARDNER CONSTRUCTION LLC	Requested By: ERIK SIMMS	Phone: 602-694-1454	Job Name:		
E-mail: ESIMMS@ACHEN.COM	Other Phone:	Billing Address: 550 S 79TH ST CHANDLER, AZ 85226-4706	Address: 35437 N TOM DARLINGTON DR SCOTTSDALE, AZ 85266		
			Cross Street:		
			Site Contact: Phone:		
			Site E-mail:		
			Customer Ref #:		
Expected Install Date	Payment Terms	Prevailing Wage	Job Type		
Thu. Oct 28, 2021	N30	No	Construction		
Quantity	UOM	Description	Rental Term (up to)	Unit Price	Amount
800	FT	8 FT TEMPORARY FENCE	6 Months	3.69	
2	EA	8 X 12 GATE	6 Months	170.00	
824	FT	8 FT WINDSCREEN (GREEN)	6 Months	3.15	
Fence Notes:					

Fence Subtotal: 5,887.60

*Fence Minimum applies: If the total unit price times quantity for the above items does not exceed \$500, this minimum will be charged rather than the per unit price.
Note: Damaged, missing, and lease buyout charges are not included in minimum charge.*

Subtotal:	\$5,887.60	Sales Tax:	\$506.34	Grand Total:	\$6,393.94
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All prices include a one-time Delivery/Installation and a one-time Pick-Up/Removal.

Bids are based on quantity; if quantity changes, bid changes. Additional fees for hillside installations, hand carry, core drilling and inaccessibility. Deliveries and installs are scheduled Mon. - Fri. 7:00 a.m. - 3:00 p.m. Additional charges apply for weekends and after hours work. COD orders are to be paid in advance or upon delivery prior to installation. Orders with driven post(s) require 3-5 business days to complete underground markings. Remove and relocate charges are billed at the same rate as installation price. If services are subject to prevailing wage laws, any penalties or wages not included in this estimate will be paid by the lessee. Certified payroll is available upon request.

Customer's Signature: _____

Date: _____

Print Customer Name: _____

PO # _____

NOTE: Installation CANNOT be confirmed until quote is signed and returned. This bid expires in 14 days.

Date of Quote	Quote Number	Quote Prepared By	Email Address	Fax Signed Quote to
Wed. Oct 13, 2021	86519	NNUNEZ	NNUNEZ@RENTNATIONAL.COM	



FERGUSON WATERWORKS (3083)
 111 EAST BUCKEYE ROAD SUITE 5
 PHOENIX, AZ 85004-2725

Phone: 602-495-8420
 Fax: 602-262-4276

Deliver To: From: Hector Flores Comments:
--

11:34:32 OCT 15 2021

Page 1 of 1

FERGUSON WATERWORKS #3083
 Price Quotation
 Phone: 602-495-8420
 Fax: 602-262-4276

Bid No: B362355
Bid Date: 10/15/21
Quoted By: HBF

Cust Phone:
Terms: CASH ON DEMAND

Customer: ACHEN GARDNER BID ACCT
 BID ACCT ONLY
 CHANDLER, AZ 85226

Ship To: ACHEN GARDNER BID ACCT
 BID ACCT ONLY
 CHANDLER, AZ 85226

Cust PO#: PLEASE ADVISE

Job Name: 10X10 TAPN SLEEVE

Item	Description	Quantity	Net Price	UM	Total
MJTSAC1010	10X10 MJ TAPN SLV F/ AC	1	3000.000	EA	3000.00
C263810211194009	10 DI MJ X FLG OL GATE VLV C515	1	1557.360	EA	1557.36
BP150A307BZN12	10-12 ZN 150# A307B FLG BLT KIT	1	26.390	EA	26.39
ATSGA10	10 FF 1/8 TORUSEAL NSF61 FLG GSKT	1	14.200	EA	14.20

Net Total: \$4597.95
Tax: \$0.00
Freight: \$0.00
Total: \$4597.95

Quoted prices are based upon receipt of the total quantity for immediate shipment (48 hours). SHIPMENTS BEYOND 48 HOURS SHALL BE AT THE PRICE IN EFFECT AT TIME OF SHIPMENT UNLESS NOTED OTHERWISE. QUOTES FOR PRODUCTS SHIPPED FOR RESALE ARE NOT FIRM UNLESS NOTED OTHERWISE.

CONTACT YOUR SALES REPRESENTATIVE IMMEDIATELY FOR ASSISTANCE WITH DBE/MBE/WBE/SMALL BUSINESS REQUIREMENTS.

Seller not responsible for delays, lack of product or increase of pricing due to causes beyond our control, and/or based upon Local, State and Federal laws governing type of products that can be sold or put into commerce. This Quote is offered contingent upon the Buyer's acceptance of Seller's terms and conditions, which are incorporated by reference and found either following this document, or on the web at <https://www.ferguson.com/content/website-info/terms-of-sale>
 Govt Buyers: All items are open market unless noted otherwise.

LEAD LAW WARNING: It is illegal to install products that are not "lead free" in accordance with US Federal or other applicable law in potable water systems anticipated for human consumption. Products with *NP in the description are NOT lead free and can only be installed in non-potable applications. Buyer is solely responsible for product selection.



HOW ARE WE DOING? WE WANT YOUR FEEDBACK!

Scan the QR code or use the link below to complete a survey about your bids:

<https://survey.medallia.com/?bidsorder&fc=3083&on=15477>



PROJECT QUOTE

2113 East Jackson Street, Phoenix, AZ 85034

480-272-6393 | bids@offsitesweeping.com

CUSTOMER	Item	Description	#	Units	Price Per Unit	Amount
Achen-Gardner	Design	ADEQ Stormwater Pollution Prevention Plan Book/Binder + Plan	1	Per Site	\$1,000.00	\$1,000.00
PROJECT	Signage	96"x48" Dust Control Project Sign (required for sites 5 acres and up)	1	EA	\$600.00	\$600.00
Carefree Tom Darlington Water Tank	Installation	47"x3.5" SWPPP Sign (required for sites 1 acre and up)	1	EA	\$100.00	\$100.00
DATE	Installation	Stabilized Construction Entrance (30'x50'x6" w/ 1"-3" rock with fabric base)	1	EA	\$2,500.00	\$2,500.00
10/20/21	Installation	Man-made Concrete Washout Area (straw bales and plastic lining)	1	EA	\$1,000.00	\$1,000.00
PREPARED BY:	Mobilization	SWPPP Mobilization for initial install	1	Per Visit	\$500.00	\$500.00
Ayreson Burks	Maintenance	SWPPP Mobilization for addtl requested installation or maint. work	2	Per Visit	\$200.00	\$400.00
ACCEPT BY DATE:	Inspection	Inspections (per AZG2020-001 CGP) (24 per year @ 14 day interval)	24	Per Visit	\$200.00	\$4,800.00
1/18/22	Installation	9" Sediment Wattle (w/ wood stakes)	0	LF	\$3.30	\$0.00
	Inspection	Rain Event Inspection	0	Per Visit	\$200.00	\$0.00
	Installation	Wire Mesh Silt Fence (36" fabric, 24" wire w/ steel stakes)	1000	LF	\$3.50	\$3,500.00
	Installation	Curb Inlet Protection (6' long per unit)	0	EA	\$130.00	\$0.00
	Installation	Sand Bags	0	EA	\$4.00	\$0.00
	Installation	Catch Basin/Bubbler/Drywell Protection	0	EA	\$130.00	\$0.00
	Removal	Removal of Concrete	0	Per Load	\$750.00	\$0.00
	Installation	Concrete Washout Bins	0	Month	\$450.00	\$0.00
	Removal	Disposal of Concrete From Washout Bin	0	Per Load	\$450.00	\$0.00
	Sweeper	Street Sweeping 4 Hr. Min. (No travel or trip charges)	0	Per Hour	\$120.00	\$0.00
	Water Truck	Dust Control 6 Hr. Min.	0	Per Hour	\$100.00	\$0.00

THIS QUOTE INCLUDES THE FOLLOWING CONDITIONS:	TOTAL PRICE EXCLUDES TAXES
	\$14,400.00

1. Allow up to 3 weeks for the development of the Stormwater Pollution Prevention Plan Book.
2. All units will be done on the field unit measurement. This is not a lump sum quote.
3. Zero quantity line items in this quote are unit prices for items that are commonly needed on a project by project basis. Please use these unit prices for those items when deemed necessary.
4. If quantities change by more than 20%, Offsite reserves the right to re-price the project.
5. Offsite must have a completed contract on file before scheduling any work. Most require a minimum one-week lead time.
6. Quote is for original SWPPP install and does not include replacement of damaged or worn Control Measures.
 - a. If replacement of damaged or worn Control Measures are needed, use the unit prices within this quote to calculate cost.
7. Number of inspections performed may vary from quoted amount.
 - a. Offsite Sweeping shall bill only for the actual number of inspections that occur.
 - b. Rain event inspections shall be billed at quoted unit price, and on a per occurrence basis.
8. If the quotation is not accepted within 90 days of quotation date, Offsite reserves the right to modify prices, terms or quantities. Payment due within 30 days after each scope completion.
9. On site delays will be billed to the contractor for the crew's rate plus 10%.
10. Quote excludes taxes, surveying, staking, permits, and SWPPP plan changes/amendments.
11. Inspection recommendations for corrections will be decided by the owner.
12. We acknowledge all addendums associated with this project.

EXHIBIT D
STATUTORY PERFORMANCE BOND
PURSUANT TO TITLE 34, CHAPTER 6,
OF THE ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Contract Amount)

KNOW ALL MEN BY THESE PRESENTS:

That, _____ (hereinafter called the Principal) as Principal, and _____, a corporation organized and existing under the laws of the State of _____ with its principal office in the City of _____, (hereinafter called the Surety), as Surety, are held and firmly bound unto the Town of Carefree, Arizona Utilities Community Facilities District, County of Maricopa, State of Arizona in the amount of _____ Dollars (\$ _____), for the payment whereof, the said 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 Town of Carefree, AZ Utilities Community Facilities District, dated the 2nd day of November, 2021, for Contract No. C2021-06, Guaranteed Maximum Price (GMP) A1 – Tom Darlington Water Storage Reservoir – Site Preparation which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein. This GMP contract represents a portion of the work Project No. 2021-W01, Carefree Water Consolidation Project–Tom Darlington Water Storage Reservoir – Site Preparation.

NOW THEREFORE, the condition of this obligation is such, that if the Principal faithfully performs and fulfills all of the undertakings, covenants, terms, conditions and Contracts of the contract during the original term of the contract and any extension of the contract, with or without notice to the surety, and during the life of any guaranty required under the contract, and also performs and fulfills all of the undertakings, covenants, terms, conditions and Contracts 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 6, Arizona Revised Statutes, and all liabilities on this Bond shall be determined in accordance with the provisions of Title 34, Chapter 6, Arizona Revised Statutes, to the extent as if it were copied at length in this Contract. 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. The performance under this bond is limited to the construction to be performed under the contract and does not include any design services, Preconstruction services, financial services, maintenance services, operations services or any other related services included in the contract.

WITNESS our hands the _____ day of _____, 2021.

PRINCIPAL

BY:

SURETY (SEAL)

AGENCY OF RECORD

AGENCY ADDRESS

**EXHIBIT E
STATUTORY PAYMENT BOND**

PURSUANT TO TITLE 34, CHAPTER 6,
OF THE ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Contract Amount)

KNOW ALL MEN BY THESE PRESENTS:

That, _____ (hereinafter called the Principal), as Principal, and _____ a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____ (hereinafter called the Surety), as Surety, are held and firmly bound unto the Town of Carefree, Arizona Utilities Community Facilities District, County of Maricopa, State of Arizona, in the amount of _____ Dollars (\$_____), for the payment whereof, the said 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 Town of Carefree, Arizona Utilities Community Facilities District dated the ____ day of _____, 2021, for Contract No. C2021-06, Project No.2021-W01, Carefree Water Consolidation Project-Tom Darlington Water Storage Reservoir – Site Preparation 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 monies 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 the 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 6, of the Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of Title 34, Chapter 6, Arizona Revised Statutes, to the same extent as if they were copied at length in this Contract.

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

WITNESS our hands the ____ day of _____, 2021.

PRINCIPAL

BY:

SURETY (SEAL)

AGENCY OF RECORD

AGENCY ADDRESS

AFFIDAVIT REGARDING SETTLEMENT OF CLAIMS

CONTRACT NUMBER: C2021-06

PROJECT NUMBER: 2021-W01

PROJECT NAME: Carefree Water Consolidation Project – GMP A1 – Tom Darlington Water Storage Reservoir – Site Preparation

To: The Town of Carefree, Arizona Utilities Community Facilities District

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 total consideration of \$_____, including the final pay estimate of \$_____, 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 defend, indemnify and hold harmless the Town of Carefree, Arizona Utilities Community Facilities District (District) against any and all liens, claims of liens, suits, action, damages, charges and expenses whatsoever, which said District may suffer arising out of the failure of the undersigned to pay for all labor performances and materials furnished for the performance of said project construction items or services.

Signed and dated this _____ day of _____ 2021.

CONTRACTOR

BY:

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

The foregoing instrument was subscribed and sworn to before me this ____ day of _____, 2021.

NOTARY PUBLIC

My Commission Expires

**CONTRACTOR’S NOTICE OF
FINAL PAY ESTIMATE**

CONTRACT NUMBER: C2021-06

PROJECT NUMBER: 2021-W01

PROJECT NAME: Carefree Water Consolidation Project – GMP A1 – Tom Darlington Water Storage Reservoir – Site Preparation

To: The Town of Carefree, Arizona Utilities Community Facilities District

This notice confirms acceptance by Contractor of final contract payment in the amount of \$_____ which represents the balance due for subject project. This amount includes payment for all retentions held and adjusted final quantities.

TOTAL CONTRACT AMOUNT, including final pay estimate: \$_____.

Signed and dated this _____ day of _____ 2021.

BY: _____

Title: _____

For: _____

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

The foregoing instrument was subscribed and sworn to before me this _____ day of _____, 2021.

NOTARY PUBLIC

My Commission Expires

**CONTRACTOR'S NOTICE OF
FINAL ACCEPTANCE**

PROJECT NAME: Carefree Water Consolidation Project

PROJECT NUMBER: 2021-W01 – GMP A1 – Tom Darlington Water Storage Reservoir – Site Preparation

CONTRACTOR NAME: Achen-Gardner Construction LLC

FINAL CONTRACT AMOUNT:

Construction on the above project was completed on _____ and on _____ a final inspection was made of the subject improvements by this office. The work substantially conforms to the approved plans and specifications. We, therefore, accept those portions within the public right-of-way into our system for maintenance.

Approved By:

Contract Administrator

Construction Admin Supervisor

cc: District Clerk
District Treasurer